

# Elder Abuse

## *Participant Manual*



THE SUPREME COURT *of* OHIO  
JUDICIAL COLLEGE



# THE SUPREME COURT *of* OHIO

ELDER ABUSE

PARTICIPANT MANUAL



**SHARON L. KENNEDY**

CHIEF JUSTICE

**PATRICK F. FISCHER**

**R. PATRICK DEWINE**

**MICHAEL P. DONNELLY**

**MELODY J. STEWART**

**JENNIFER BRUNNER**

**JOSEPH T. DETERS**

JUSTICES

**ROBERT W. HORNER III**

ADMINISTRATIVE DIRECTOR



# THE SUPREME COURT *of* OHIO JUDICIAL COLLEGE

## ELDER ABUSE

### Course Developers and Faculty

**Hon. Laura J. Gallagher**

Cuyahoga County Probate Court

**Natasha Pietrocola**

Deputy Administrator

Cuyahoga County Division of Senior and Adult Services

**Sylvia Pla-Raith**

Director, Elder Justice Unit – Consumer Protection Section

Ohio Attorney General Dave Yost

**April Wehrle**

Senior Elder Services Coordinator, Elder Justice Unit – Consumer Protection Section

Ohio Attorney General Dave Yost

### The Supreme Court of Ohio Judicial College Staff

**M. Christy Tull**, Director

**Kim Eggerton**, Education Program Manager

**Alexandria Reasoner**, Program Coordinator

65 South Front Street, 6<sup>th</sup> Floor

Columbus, Ohio 43215

614.387.9445

adultguardianedu@sc.ohio.gov

SUPREME COURT OF OHIO JUDICIAL COLLEGE  
*Adult Guardianship Continuing Education: Elder Abuse*

Session Agenda

Welcome & Introductions

Judicial College Staff

**Introduction to Elder Abuse and Indicators**

**April Wehrle**  
*Senior Elder Services Coordinator, Elder Justice Unit – Consumer Protection Section; Ohio Attorney General Dave Yost*

**Adult Protective Services and The Ohio Revised Code**

**Natasha Pietrocola**  
*Deputy Administrator, Cuyahoga County Division of Senior and Adult Services*

**The Role of the Probate Court**

**Hon. Laura J. Gallagher**  
*Cuyahoga County Probate Court*

**Scams**

**Sylvia Pla-Raith**  
*Director, Elder Justice Unit – Consumer Protection Section; Ohio Attorney General Dave Yost*

**Adjourn**

## FACULTY BIOGRAPHIES

**HON. LAURA J. GALLAGHER** has been a judge of the Cuyahoga County Probate Court since March 2009. From February 2003 through February 2009, she served as Assistant County Prosecutor for Cuyahoga County and supervisor of the Support Establishment/Enforcement Unit. Judge Gallagher served as Magistrate in the Medina County Court of Common Pleas Juvenile/Probate Division from March 1996 through February 2003. Previously, she served as an Assistant County Prosecutor for Medina County for six years and for Cuyahoga County for more than three years. Judge Gallagher is a member of the Ohio State Bar Association, the Cleveland Metro Bar Association, the Ohio Probate Judges Association (President Elect), The Ohio Judicial Conference Probate Law and Procedure Committee, the Ohio Association of Probate Judges Forms Committee, The Supreme Court of Ohio Advisory Committee on Case Management, The Supreme Court of Ohio Commission on the Rules of Practice and Procedure, Adult Protective Services Interdisciplinary Team Steering Committee, The Lawyers Guild of the Catholic Diocese of Cleveland (Executive Committee, Strongsville Chamber of Commerce, Board of Directors Jesuit Retreat House and William K. Thomas Inns of Court. She received a BA, cum laude, Phi Beta Kappa from Miami University, Oxford, and a JD, cum laude, from Case Western Reserve School of Law.

**NATASHA PIETROCOLA** has spent more than 15 years working in social services and addressing diverse issues in the field of aging, including community-based long-term care, elder abuse, and social advocacy. Pietrocola has been a dedicated professional and advocate in raising community awareness about elder abuse victims. In addition, she the Chairperson of the Consortium Against Adult Abuse and the immediate past Chair Person of the Ohio Coalition for Adult Protective Services. Both groups promote services to protect vulnerable older adults in Ohio. Pietrocola is the deputy administrator of programs and services at Cuyahoga County Division of Senior and Adult Services. As deputy administrator, she manages the reports and investigations of allegations of abuse, neglect, self-neglect and/or exploitation of impaired, elderly residents age 60 and older and for other vulnerable adults who live in the community. Pietrocola has a Master of Business Administration from Cleveland State University, a master's degree in education and a bachelor's degree in psychology from the University of Toledo.

**SYLVIA PLA-RAITH** has over 30 years of experience working in the interest of older adults and elder justice. As of November of 2015, she has served as the lead staff of the Attorney General's Elder Abuse Commission and the Director of the Elder Justice Unit. Prior to joining the Attorney General's Office, she served as the Chief Supervisor for Adult Protective Services in Cuyahoga County. In addition, Sylvia serves as the Chairperson of the Ohio Coalition for Adult Protective Services. Her vast experience includes, hands on elder abuse investigation, training, advocacy and policy development. Over the years, Sylvia has served on several boards and collaborative projects that focused the provisions of protective services and elder justice through community education, outreach, advocacy, and coalition building. Ms. Pla-Raith holds a Master of Arts degree in Health and Human Services from John Carroll University and a Bachelor of Science in Psychology from The Ohio State University.

**APRIL WEHRLE** has over 12 years of experience working in the interest of children and elder victims. Currently she services as the Senior Elder Services Coordinator of the Attorney General's Elder Justice Unit. Prior to joining the Attorney General's Office, April served as an Adult and Child Protective Services Supervisor in Delaware County Ohio. In addition, April serves on the Ohio Coalition for Adult Protective Services Directors of the Board. Her experience includes, hands on child and elder abuse investigation, training, and collaboration in the field of social justice. April holds a Bachelor of Science of Sociology and Black World Studies from Ohio Wesleyan University.

# Powerpoint





## ADG: Elder Abuse

### For Guardians of Adults The Supreme Court of Ohio Judicial College

PRESENTED BY:  
THE OHIO ATTORNEY GENERAL'S  
ELDER ABUSE COMMISSION



## Learning Objectives

- Identify signs of possible abuse, neglect and exploitation of an older victim.
- Examine the unique barriers that challenge older victims and ways to overcome these barriers.
- Explain methods for reporting abuse, neglect, or exploitation; and
- Describe ways to protect seniors from scams, exploitation and abuse.

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## The Elder Justice Unit (EJU)

- Reviews complaints involving elder abuse, fraud and neglect.
- Since 2014, the EJU has assisted more than 2,050 older Ohioans;
  - **199+ trainings, reaching more than 13,026 attendees**
- Liaison to APS, law enforcement, and other agencies.
- Victim advocacy and assistance.

## Why is EJU Needed?

### The Elder Justice Systems in Ohio are fragmented:

- Adult Protective Services (community)
- Long-Term Care Ombudsman (facility)
- Ohio Department of Health (facility)
- OAG - Health Care Fraud Unit (facility)
- Law Enforcement (community and facility)

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## Critical Elements

- Adults over the age of 65 are the **fasting growing** portion of the population.
- Abuse threatens the economic security, lives, health and welfare of **millions** of older Americans.

## Contributing Factors

- **Isolation**– self imposed or lack of mobility.
- Dementia or other type of cognitive decline.
- **Increasing older adult population.**
- Adult children have a sense of entitlement.
- Older adults are trusting and believe “pitches”.
- Substance abuse problems or mental illness.

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## What is Elder Abuse?

**When an older adult experiences:**

- Physical abuse
- Sexual abuse
- Emotional abuse
- Neglect by others
  - Abandonment
- Self-Neglect
- Exploitation

**\*Elder abuse can be life threatening.\***

## Physical Abuse

**Willful act carried out with the intent of causing pain or injury:**

- Bruises, welts, lacerations, or rope marks
- Fractured or broken bones, and skull fractures
- Open wounds, cuts, punctures, untreated injuries in various stages of healing
- Signs of being restrained
- Injuries are unexplained or explanations are implausible (do not fit what is observed)

## Continued..

- Burns from cigarettes, appliances, or hot water
- Internal injuries and bleeding from orifices
- Bilateral bruising to the arms (shaken, grabbed)
- Traumatic hairs or tooth loss



## Sexual Abuse

Is defined as non-consensual sexual contact of any kind with older adult. Sexual contact with any person incapable of giving consent is also considered sexual abuse. It includes, but is not limited to:

- Unwanted touching,
- All types of sexual assault or battery, such as rape, sodomy, coerced nudity
- Sexually explicit photographing.

## Sexual Abuse Indicators

- Genital or anal pain, irritation, or bleeding.
- Bruises on external genitalia or inner thighs.
- Difficulty walking or sitting.
- Torn, stained, or bloody underclothing.
- Sexual transmitted diseases.
- Inappropriate sex-role relationship.
- Inappropriate, unusual, or aggressive sexual behavior.

## Emotional Abuse

**Willful act executed to cause mental anguish, emotional pain or injury:**

- Threats of institutionalization
- Abusing a pet to hurt the person
- Humiliating statements
- Verbal aggression
- Social Isolation



## Emotional Abuse Indicators

- Weight loss/gain
- Stress-related conditions, (elevated blood pressure)
- Isolation
- Problems sleeping
- Cowers in presence of alleged perpetrator
- Exhibits depression/confusion
- Exhibits unusual behavior usually attributed to dementia (e.g. biting, rocking)

## Neglect by Caretaker

**Intentional or unintentional failure of designated caregiver to meet needs necessary for the victim's physical and mental well-being:**

- Food
- Clothing
- Shelter
- Personal care
- Socialization
- Medical care

COURTESY: DIXMOOR POLICE DEPT.



## Abandonment

The desertion of an adult by a caretaker without having made provision for transfer of the adult's care.



## Self-Neglect

The behavior of an older adult that threatens his/her own health or safety:

- A refusal or failure to provide himself/herself with adequate food, water, clothing, shelter, personal hygiene, medication, and safety precautions
- May be an indicator or result of some other type of elder abuse
- Self neglect is not a crime but it has connections to the criminal justice system



## Self-Neglect Indicators

- Poor personal hygiene (soiled clothing, head lice, presence feces and/or urine)
- Unclothed/improper clothing for weather
- Untreated medical conditions
- Absence of needed eyeglasses, dentures, hearing aids, walkers, wheelchairs, etc
- Absence of necessities (food, water, heat)
- Unsafe living environment (faulty wiring, inadequate sanitation)

## Financial Exploitation

- Illegal or improper use of an older adult's funds, property or assets
- **The CDC estimates elder financial abuse costs \$3.1 billion annually in the United States**
- Many of these crimes occur within a family setting, often dismissed as a “civil matter”

## Financial Abuse Indicators

- Victim report
- Unemployed adults living in home
- Sudden changes in banking habits
- New power of attorney
- Changing in will, property titles or other legal documents
- Unpaid bills
- Eviction/notice from facility

## The Role of APS



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## Adult Protective Services

- Civil investigation
- Limited by the ORC (5101.60 - 5101.73)
- Age, impairment, community dwelling
- Primary mission to put protective services in place
- Least restrictive solutions
- Autonomy/self-determinations
- Adult has right to refuse services

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## Duty to Report Abuse

- Any mandatory reporter who has **reasonable cause** to believe;
  - that an adult is being abused, neglected, or exploited; or
  - is in a condition which is result of abuse, neglect, or exploitation
- Shall **immediately** report to the County Department of Jobs and Family Services or designee.

**O.R.C. 5101.63**

## Immunity for Reporting

- **Any person** with reasonable cause to believe an adult is suffering abuse, neglect, or exploitation, who makes a report, testifies or acts responsibly in the discharge of their official duties:
  - **shall be immune from civil/criminal liability unless the person acted in bad faith or with malicious purpose**

**O.R.C. 5101.63**

## To Make a Report

- Name, address and approximate age of the adult
- List the vulnerabilities and/or weakness
- The name and address of the caretaker and if known the alleged perpetrator
- The reason(s) you suspect abuse, neglect and/or exploitation
- The nature and extent of the suspected allegation
- Level of suspected risk to the adult

**Call your local Adult Protective Services or  
1-855-OHIO-APS (1-855-644-6277)  
On-line Portal: <https://aps.jfs.ohio.gov/>**

## Investigate Allegations



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## APS Risk Assessment

- Assess the adult's mental status for memory impairment, cognitive deficits and orientation to person, place and time.
- Assess the client's physical status (ADLs/IADLs).
- Dependencies on others.
- Risk Factors– support system, illness, financial status, decision-makers.
- Social worker interviews people involved with the adult.
- Social worker reviews bills, banking, medical needs.

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## Adults May Reject Services

- May be unaware of the situation (capacity issues/deception).
- Do not want family members to be in trouble.
- Don't want to admit being taken advantage of.
- Fear the loss of their independence.
- Fear losing dependence upon the abuser.

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## Misunderstandings/Myths

- Legal and clinical capacity are synonymous.
- Belief that capacity is "all or nothing".
- Agreement with healthcare recommendations= capacity.
- The final decision rather than process of decision making reflects capacity.
- Presence of mental illness reflects a lack of capacity.
- Ability to engage in conversation indicates the presence of capacity.

Ganzini et al. 2003. *Psychosomatics* 2003; 44:237–243

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## When the Adult Says "No"





## Competency v. Capacity

- Legal term
- Determined by a judge or court
- Clinical term
- Determined by a psychologist, psychiatrist, or other care provider
- Can be "limited," or can have capacity in only one domain, continuum



## Incapacitated Person

Lacks **sufficient understanding or capacity** to make and carry out reasonable decisions concerning the person's self or resources, with or without the assistance of a caretaker. Refusal to consent to the provision of services shall not be the sole determination that the person is incapacitated.

**ORC 5101.60**

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## Reasonable Decisions

Means decisions made in daily **living that facilitate the provision** of food, shelter, clothing, and health care necessary for life support.



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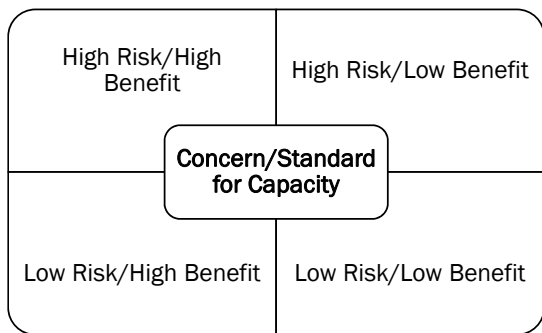
## General Capacity

- Awareness of the situation
- Factual understanding of the issues
- Appreciation of the likely consequences
- Rational manipulation of information
- Functioning in one's own environment
- Extent of demands on client

**\*\*\* The Mini Mental exam by itself isn't enough\*\*\***

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## Risk and Level of Evidence



## Probate Court Protective Service Orders (PSO)

- **ORC 5101.651:** Temporary restraining order
  - **ORC 5101.69:** Temporary restraining order to restrain person from interfering with provision of protective services
  - **ORC 5101.68:** General PSO
  - **ORC 5101.70:** Emergency PSO
  - **ORC 5101.701:** Ex-Parte Emergency PSO
  - **ORC 5010.73:** Denial or Obstruction of Access to Adult's Victim Residence
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## Case Sample

- History with APS
- "Informal" Son – Perpetrator/Suspect
- Allegation of Exploitation/Theft
- Probate Court Involvement
- Criminal Investigation
- Prosecution



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## Court Intervention



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## Rights of Individuals

- Right to live free of abuse, neglect and exploitation
- Right of less restrictive alternatives
- Right of proper notice
- Right to legal representation
- Right to be present at the hearing



## Ohio Protective Services and the Courts

- **ORC 5101.70 – Emergency Protection Order**
  - Hearing to be held no sooner than 24 hours and no later than 72 hours.
  - Emergency order is valid for 14 days
    - Renewed once for an additional 14 days
- **ORC 5101.68 – Protective Services Order**
  - Hearing to be held within 14 days
  - Right to Counsel
  - Order valid for 6 month – can be renewed for a year
- **ORC 5101.69 – Temporary Restraining Order**

## Incompetence

Any person who is *so mentally impaired* as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, *that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide*, or any person confined to a correctional institution within this state.

**ORC 2111.02**

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## Rule 66

Rules of Superintendence for the Courts of Ohio



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## Rule 66

### Rules of Superintendence for the Courts of Ohio

- **Responsibility of Court Establishing Guardianships**
  - Local rules to address emergency guardianships and complaints about guardian
- **Guardian Education**
  - Pre-Appointment and Continuing Education
- **General Responsibilities of Guardian**
  - Reporting abuse, neglect or exploitation, change of residence, reasons to limit or terminate guardianship, annual plan, filing of papers.
- **Responsibilities of Guardian to Ward**
  - Professionalism, due diligence, person centered planning, support system, communication, medical and end of life decisions, confidentiality.

## Proposed Revisions To Statute and Rule

- Emphasis on rights of Ward to visitors



## Positive Outcomes to Guardianships



## Frauds/Scams



## Watch for Scams Using...

- Telephone
- Social Media
- Websites
- Emails
- In-person Solicitations



## Why Are Older Ohioans Targeted?

- Trusting and polite
- More assets
- Less likely to report fraud
- Independent
- Isolated



## Warning Signs



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## Common Scams

- Grandparent scam
- Computer repair scam
- Credit repair scam
- Home improvement fraud
- Identity theft
- Fake check scam



## Fake Check Scam



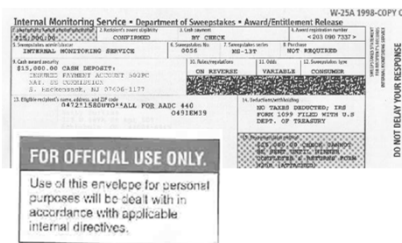
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## Common Scams

- Living trust scams
- Reverse mortgage abuse
- Insurance fraud
- Prizes/Sweepstakes fraud
- Investment fraud



## Prizes/Sweepstakes Scam



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## Coronavirus Scams

- Scammers have taken advantage of the pandemic and developed new coronavirus hoaxes that prey on fears of the virus.
- Older Ohioans — especially those who are experiencing cognitive decline and are isolated from loved ones due to social distancing — are at higher risk for falling victim to COVID-19-related phone or internet scams.

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## Take Action

- Plan in advance for your legal, medical and estate matters in advance.
- Seek independent advice from someone you trust before signing any documents.
- Know the person with whom you are speaking with before providing your personal information.
- Make sure proper screening and background check are completed before hiring someone for any services.

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## Robocall Enforcement Unit

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## Robocall BASICS

Robocalls are auto-dialed calls that deliver a pre-recorded message.

**Legal robocalls:** Calls from your doctor's office reminding you of an appointment, your dentist's school with weather-related information, etc.

**Illegal robocalls:** Calls that you have not consented to that generally try to get you to pay for something or give away personal information.

### Signs of an illegal robocall

#### DO

#### Robocall smarts

#### DON'T

#### Remember: JUST DON'T ANSWER.

#### DAVE YOST

For more information or assistance, visit [www.OhioProtects.org](http://www.OhioProtects.org) or call 800-282-0515.



## What is CyberCrime?

Cybercrime can be defined as “any criminal activity in which a computer (or device) is targeted and/or used.”



(Bloomberg, 2018)

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**CyberSmarts for OLDER ADULTS**

Many older adults are vulnerable to scams when using computers, tablets and smartphones. Whether using technology in public, or at home, you can help protect yourself and loved ones from fraud or financial exploitation.

**Internet Tips**

- Never click on a pop-up notice. Pop-up notices are often used to lure you into clicking on a link that may lead to a scam.
- Use a secure website. Whenever you purchase goods or the Service user, address tags with "https" and "lock" icon.
- Use an anti-virus program. Your device may not always be the highest level of protection.
- To reduce identity and privacy risks, log out of websites when you're finished.

**Wireless/WiFi Tips**

- Wi-Fi is widely available, even with the network name hidden. Beware of public Wi-Fi.
- Never disclose sensitive information - passwords and credit card numbers included - when using a public Wi-Fi connection.
- Assume that anyone can see what you're doing when you use a public network.
- Do not use your device to automatically connect to any public Wi-Fi network.

**Email Tips**

- Beep requests to unsubscribe requests for your personal information, even if the sender appears to have some relationship with you. Scammers may use a legitimate-looking email to lure you into clicking on a link that may lead to a scam.
- Do not click on links, open attachments or download anything from a suspicious message, even when they appear to be from a friend or family member.

**Computer maintenance tips**

- Backup and update an anti-virus and anti-spyware program.
- Update software on all devices and applications or devices regularly for updates. Software may be out of date. Do not buy software unless you are sure it is safe. Do not use software unless you are sure it is safe. Do not use software unless you are sure it is safe.

**TRY-IT TIP!** When creating the password, try a password that is easy to remember but hard to guess. Example: "Sp@ce2016!"

**Social-media tips**

- When on social media, do not give away too much information about you. Limit the amount of information about you that is visible to others and limit the amount of information about you that is visible to the public.
- Be aware of who you are connecting with. Do not connect with anyone you do not know.
- Be aware of who you are connecting with. Do not connect with anyone you do not know.

**TRY-IT TIP!** Scammers often disguise their names by using the same name as you. To verify the identity of the sender, try hovering your mouse over the sender's name. If you see a name that is not the sender's name, it may be a scammer.

**DAVE YOST**  
For more information on scams, visit [www.DaveYost.com](http://www.DaveYost.com) or call 800-286-0044.

## Protect Seniors Survey

- **32%** described themselves as “very confident” about their ability to safely engage in different online activities.
- **12%** have had negative social media experiences, such as being asked for money and having to block someone.
- **68%** use a single password or re-use passwords.

(Protect Seniors Online, 2016)

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## Protect Seniors Survey

- **50%** do not use a password on at least one of their internet-enabled devices.
- Approximately **1 in 5** older Adults do not have anti-virus software.
- **38%** say someone has tried to scam them.



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## Ask for Help

- OAG's Elder Justice Unit: (800) 282 - 0515
- Long-Term Care Ombudsman: (800) 282 - 1206
- ODJFS's Adult Protective Services: (855) OHIO - APS
- ProSeniors: (800) 488-6070
- Ohio Dept of Health: (800) 342 - 0553
- Ohio Dept of Commerce: (614) 466 - 8400

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## Resources

- Ohio Attorney General [www.ohioattorneygeneral.gov](http://www.ohioattorneygeneral.gov)
- Ohio Department of Aging  
[aging.ohio.gov/information/oda](http://aging.ohio.gov/information/oda)
- Ohio Long Term-Care Ombudsman -  
[www.aging.ohio.gov/services/ombudsman](http://www.aging.ohio.gov/services/ombudsman)
- Ohio Department of Job and Family Services Office for Children and Families - Adult Protective Services  
[www.jfs.ohio.gov/ocf/aps.stm](http://www.jfs.ohio.gov/ocf/aps.stm)
- Ohio Department of Health, Division of Quality Assurance  
[www.odh.ohio.gov/landing/phs\\_quality/quality.aspx](http://www.odh.ohio.gov/landing/phs_quality/quality.aspx)

## How to contact us

Elder Justice Unit  
Ohio Attorney General Dave Yost  
Help Center: 800-282-0515

[Sylvia.Pla-Raith@OhioAttorneyGeneral.Gov](mailto:Sylvia.Pla-Raith@OhioAttorneyGeneral.Gov)  
[April.Wehrle@OhioAttorneyGeneral.gov](mailto:April.Wehrle@OhioAttorneyGeneral.gov)



# List of Resources



## RESOURCES

### **Understanding Elder Abuse - A Guide to Ohioans**

<http://www.odjfs.state.oh.us/forms/num/JFS08098/pdf/>

### **Elder Justice Palm Card**

[https://www.ohioattorneygeneral.gov/Files/Publications-Files/Seniors-Publications/Elder-Justice-Initiative-Palm-Card-\(PDF\).aspx](https://www.ohioattorneygeneral.gov/Files/Publications-Files/Seniors-Publications/Elder-Justice-Initiative-Palm-Card-(PDF).aspx)

### **Adult Protective Services Fact Sheet**

[https://jfs.ohio.gov/factsheets/APS\\_FactSheet.pdf](https://jfs.ohio.gov/factsheets/APS_FactSheet.pdf)

### **Summary of H.B. 49**

<https://www.legislature.ohio.gov/legislation/legislation-summary?id=GA132-HB-49>

### **Tips Resource Flyer (Scams Targeting Ohioans)**

<https://www.ohioattorneygeneral.gov/Files/Publications-Files/Publications-for-Consumers/Consumer-Quick-Tips/Consumer-Tips-Resources-on-Avoiding-Scams>

### **Financial Fraud and Exploitation Older Adults**

<https://www.ohioattorneygeneral.gov/Files/Publications-Files/Seniors-Publications/Financial-Fraud-and-Exploitation-Older-Adults>

### **CyberSmarts for Older Adults**

<https://www.ohioattorneygeneral.gov/Files/Publications-Files/Seniors-Publications/Cybersmarts-for-Older-Adults-Flyer>

### **Robocalls**

[https://www.ohioattorneygeneral.gov/Files/Publications-Files/Publications-for-Consumers/Robocall\\_Basics\\_Flyer](https://www.ohioattorneygeneral.gov/Files/Publications-Files/Publications-for-Consumers/Robocall_Basics_Flyer)

NOTE: For additional resources, please visit the following websites:

Ohio Attorney General's: <https://www.ohioattorneygeneral.gov/Home>

Ohio Department of Job and Family Services: <https://jfs.ohio.gov/ocf/index.stm>







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