



Elder Justice Advocate Program Handouts

Training Handouts: List

Handouts produced by Lifespan and/or the Elder Justice Advocate Program or are unavailable online are within this document; links for handouts from other sources are in the table below

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3	Elder Justice Advocate Project: Working with Older Adults: A “Pocket” Guide for Elder Justice Advocates	Included
4	Trauma-Informed vs. Non-Trauma-Informed Care	Included
5	For Your Reference: Brief Summaries of Some Relevant New York State Statutes	Included
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7	Stalking Resource Center: Stalking Fact Sheet	Link here
8	NNEDV Technology Safety Plan	Link here
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10	Age-Associated Financial Vulnerability: An Emerging Public Health Issue (Lachs & Han, 2015)	Link here
11	How to Avoid Common Scams that Target Older Adults (Brown, 2017)	Link here
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13	NCEA Research to Practice: Bruising in Older Adults: Accidental Bruising and Bruising from Physical Abuse	Link here
14	Training Institute on Strangulation Prevention: Signs and Symptoms of Strangulation	Link here
15	National Sexual Violence Resource Center Materials	Link here
16	Assessment of Older Adults with Diminished Capacity: A Handbook for Psychologists – Appendix G: Medical Conditions Affecting Capacity & Appendix H: Temporary and Reversible Causes of Confusion	Link here (see: pp. 179-184)
17	TBD BENCH CARD	
18	Office of Victim Services Advisory Bulletin	Link here
19	Highlights of Recent NYS Office of Victim Services Statutory Changes	Included



Elder Justice Advocate Project Case Scenarios

Mrs. Davis

The History

- Mrs. Davis has owned her home for 43 years and has always taken pride in her gardens. She is a widow; whose husband was an alcoholic and was physically abusive to her and their three children.
- Children:
 - Jeffrey - the oldest, spotty employment, single, mostly lived with parents
 - Kurt - middle child, committed suicide 20 years ago
 - Carol - youngest child, Bipolar, has been inpatient x2, has a decent relationship with Mrs. Davis

The Ongoing Behaviors: Jeffrey

- Jeffrey's behaviors have always been controlling but escalated after his father's death.
- Forcibly enters Mrs. Davis's room, intercepts all communication, berates and threatens her, threatens to commit suicide if she doesn't comply with his wishes.
- He tries to convince her that she has Alzheimer's because bills keep being missed or paid late.
- Mrs. Davis suspects that Jeffrey has opened credit cards in her name.
- He has destroyed furniture, ripped up rose bushes, pushed/slapped his mother.

The Incident(s)

- Mrs. Davis was able to meet with Victim Assistance from her local police dept. She was fearful of confronting him or taking any further action but kept the VAP's business card. Jeffrey found the card in her dashboard and became enraged.
- Jeffrey shoved his mother onto her bed, causing bruising to her collar bone and pain.
- A month later, Jeffrey threatened and disparaged Carol to family friends. Carol sought a TOP against Jeffrey.
- Jeffrey blamed Mrs. Davis for the TOP and threatened to kill his mother & sister, to burn down the house, and to destroy Mrs. Davis's remaining gardens.
- Carol was awarded a full stay-away OP. When Jeffrey was served he entered Mrs. Davis's room, strangled, and pushed her. She did not lose consciousness, but sustained bruising on her chest.
- Mrs. Davis attempted to contact the VAP later that day, but the call was routed to Jeffrey.
- Mrs. Davis left the house and obtained her own TOP; two hours after service, Mrs. Davis returned home, and Jeffrey was still removing items (including some of Mrs. Davis's) from the home. VAP called 911 re: being on the property after having been vacated and for the theft of Mrs. Davis's items.
- Community-based social worker assisted Mrs. Davis during and after the incident, finding 6-months of her bills & statements hidden under Jeffrey's mattress.

Afterwards

- Jeffrey was charged with Criminal Contempt 2nd, Assault 2nd, and petit Larceny.
- He pleaded guilty to Assault 3rd; larceny dropped; pleaded guilty to Criminal Contempt 2nd - sentenced to probation, restitution, 5-year criminal court OP.
- Afterwards, an "anonymous" report was made to the DMV regarding Mrs. Davis's driving.

Scenario 1:

- You receive a referral from a police officer for Mr. Jackson, a 75-year-old male who is living in the community. The officer states that she has been called out to the house numerous times, and that it's often for non-emergency situations (for example: the most recent call was because Mr. Jackson saw a neighbor throwing leaves on Mr. Jackson's lawn).
- You visit Mr. Jackson and discover that the house is in disrepair; you observe grime covering every visible surface, and unclear pathways throughout the house. It takes Mr. Jackson several minutes to get to the door to let you in.
- Mr. Jackson's self-care is lacking; you observe a significant odor about his person, his teeth appear long-neglected, and his clothing is in a state of disarray.
- Mr. Jackson appears to retain capacity; he is very clear as to date, time, and place. He can articulate his frustrations with his neighbor clearly.

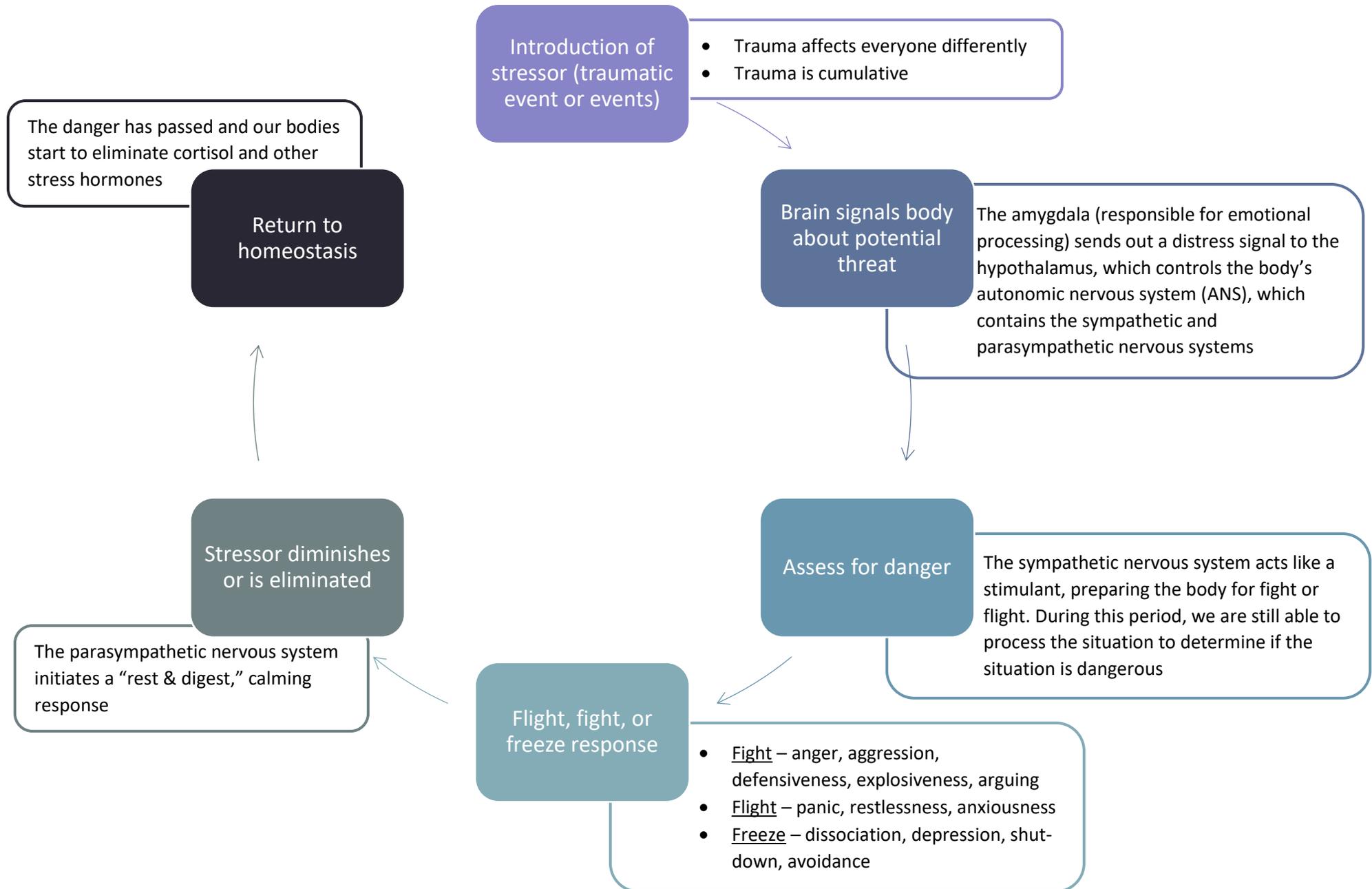
Scenario 2:

- You return to Mr. Jackson's house a few weeks later. This time, his adult son is there as well. Son has recently lost his job and has moved in with Mr. Jackson.
- Mr. Jackson tells you that his son has always struggled with keeping a job. He has schizophrenia, and while he does well when he is on his medications, he often goes off them because they make him feel "fuzzy. I'm not myself at all."
- You discover that the son has lived with Mr. Jackson off and on for most of his life.
- You note that Mr. Jackson's demeanor is more depressed; he makes less eye contact, slumps his shoulders, and has a flat affect.
- The house is notably worse than it was the last time you were there. Now there are flies all over, and one point of egress is completely blocked by son's belongings.
- Mr. Jackson tells you that he wants to have the house cleaned up, but every time he's done it, son returns home. Son states that he doesn't think the house is that bad; he's lived in much worse conditions. He does not appear to understand the dangers currently present.

Scenario 3:

- You haven't heard from Mr. Jackson in several years, when you get another referral from the same officer. She states that Mr. Jackson recently suffered a stroke, and that he has difficulty performing his ADLs. He also has aphasia.
- You return to the house. Son is still living there. At this point, the roof is leaking, and the house is still filthy.
- Mr. Jackson does remember you, though he can't recall your name. He is oriented to place and time of day but cannot recall the month or season of the year. He speaks in generalizations and is unable to provide detailed explanations as to what has occurred recently. While you are there, Mr. Jackson soils himself. He calls to his son, who berates Mr. Jackson and tells him to stop being a baby.
- Over the course of several weeks, you monitor the situation, providing links to helpful referrals, educational programs, and personal care aides. Mr. Jackson is unable to provide appropriate consent or approval. Son accepts services at first, but refuses to follow through or pay, stating that they are "too expensive."

Elder Justice Advocate Project: Trauma Cycle



Older adults may face unique challenges as they navigate the criminal justice system.

Advocates can help assist older adults through the criminal justice system and beyond by reducing the barriers that older adults may face and by employing a trauma-informed approach in their practice.

Ways Older Adults are Harmed

- ❖ *Elder Abuse* – Emotional/Psychological, Financial, Neglect, Physical, Sexual.
- ❖ *Scams & ID Theft* - a dishonest scheme to deceive individuals out of their money and/or to obtain their personal information.
- ❖ *Other crimes committed by strangers.*

Reducing Barriers

- ❖ Attempt to schedule appointment and meetings earlier in the day (or whenever the older adult is the most comfortable/alert).
- ❖ Ask open-ended questions and allow time for the older adult to answer.
- ❖ Ensure that assistive devices, translators, medications, diet-appropriate foods, and fluids are available and functioning properly.
- ❖ Ensure that older adults are represented on publications, flyers, brochures, etc.
- ❖ Reduce the amount of ambient noise in the room.
- ❖ Assist with finding reliable, affordable transportation whenever possible.
- ❖ Find sturdy chairs with arms for the client.
- ❖ Ensure that tripping hazards are removed or well-marked.
- ❖ Ensure adequate lighting.
- ❖ Ensure privacy whenever possible. Maintain confidentiality.
- ❖ Locate a responsible other (family, faith communities, neighborhood program, social workers, etc.) to assist and provide support (with client consent).

Trauma Informed Care

“Trauma Informed Care is a strengths-based framework that is grounded in an understanding of and responsiveness to the impact of trauma, that emphasizes physical, psychological, and emotional safety for both providers and survivors, and that creates opportunities for survivors to rebuild a sense of control and empowerment.” – Hopper, Bassuk, & Olivet (2010).

Abuse is trauma

Older Adults may have experienced layers of trauma throughout their lifespan, the effects of which are cumulative.

Trauma symptoms can mimic dementia

It’s worth noting that multiple symptoms that are associated with trauma experienced at any age strongly mimic dementia. It’s also important to understand that *most* older adults *do not* have dementia.

Trauma Symptoms that Mimic Dementia

- Withdrawal
- Agitation
- Memory loss
- Difficulty problem solving
- Disorientation to time or space
- Verbal aggression
- Sleep disturbances

Using the Guiding Principles of Trauma-Informed Care with Older Adults

Principle	What	How
Safety	It's important to recognize that a survivor's safety has been compromised, and often by a person that she or he trusts and loves. Safety includes physical and emotional safety, and considers that the system is set up to inadvertently re-traumatize survivors.	<ul style="list-style-type: none"> ❖ <i>Introduce yourself to clients and explain your role.</i> ❖ <i>Attempt to meet clients where they feel the safest.</i> ❖ <i>Allow clients time to tell their stories.</i> ❖ <i>When appropriate, explore clients' triggers and help to mitigate them.</i> ❖ <i>Arrange for physical access to buildings and court appearances when possible.</i> ❖ <i>Reduce exposure to the perpetrator.</i> ❖ <i>Limit the number of times the clients must repeat themselves.</i> ❖ <i>Validate clients' experiences.</i>
Trustworthiness & Transparency	Understand that the survivor's trust in the system, him- or herself, or of loved ones (or a combination of the lot) has been broken. Being trustworthy as an advocate essentially means being consistent; providing competent information and guidance to clients, providing explanations of why or how things work, maintaining appropriate boundaries (important for both the advocate and the survivor), and providing informed consent to clients.	<ul style="list-style-type: none"> ❖ <i>Respect boundaries – both yours and the clients'.</i> ❖ <i>Be clear and explain what you are doing, when, and why.</i> ❖ <i>Repeat information as needed.</i> ❖ <i>Follow up and follow through.</i> ❖ <i>If you make a mistake, own up to it and make every attempt to alleviate it.</i> ❖ <i>Respect confidentiality.</i> ❖ <i>Know your role.</i>
Peer Support	Is considered a key vehicle for building trust, establishing safety, and empowerment. Peer support is voluntary, non-judgmental, and reciprocal.	<ul style="list-style-type: none"> ❖ <i>With colleagues: utilize supervision when available.</i> ❖ <i>Provide peer support group information to clients when available.</i> ❖ <i>Consider starting a support group for older adults.</i>
Collaboration & Mutuality	Refers to working with the client and other professionals to ensure consistency and effectiveness. This principle establishes that the survivor is the expert on his or her life, and that healing can occur when there is meaningful sharing of power and decision-making.	<ul style="list-style-type: none"> ❖ <i>Ask clients about their goals.</i> ❖ <i>Maintain communication with the client.</i> ❖ <i>Allow clients to express opinions and provide input.</i> ❖ <i>Understand that it isn't your role to "fix" clients and their situations; but to be a facilitator throughout their healing process.</i> ❖ <i>When appropriate, challenge colleagues who express ageist or victim-blaming attitudes.</i>
Empowerment, Choice, & Voice	A survivor's choice was stripped away by the perpetrator(s). It is essential to the well-being of the survivor, and to the effectiveness of any interventions, that any decisions that are made are in full compliance with the survivor's wishes whenever possible. This principle also emphasizes recognizing survivor's strengths and resiliency, which helps build a realistic sense of hope for the survivor's future.	<ul style="list-style-type: none"> ❖ <i>Encourage clients to make as many decisions as possible.</i> ❖ <i>Recognize that some of the decisions and reactions of the survivor are a function of coping.</i> ❖ <i>Work with the client to come up with healthy, productive coping mechanisms.</i> ❖ <i>Again, do not attempt to "fix" the situation for the client; rather, allow the client to come up with practical goals and facilitate accomplishing them.</i> ❖ <i>Use a strengths-based approach.</i>
Cultural, Historical, & Gender Issues	This principle establishes for a more holistic approach to working with a client; incorporating the client's own traditions and cultural connections whenever possible. Historical trauma is acknowledged.	<ul style="list-style-type: none"> ❖ <i>Ask clients how they'd like to be addressed.</i> ❖ <i>Allow clients the ability to tell you their story; you may be the only person who is willing to listen.</i> ❖ <i>Understand that older adults have experienced numerous traumas throughout their lives.</i> ❖ <i>Acknowledge that systems are in place that perpetuate -isms.</i> ❖ <i>Ask clients what is important to them when creating safety plans and interventions.</i>

Trauma-Informed vs. Non-Trauma-Informed Care

Trauma-Informed	Non-Trauma-Informed
> Recognition of high prevalence of trauma	> Lack of education on trauma prevalence & “universal” precautions
> Recognition of primary and co-occurring trauma diagnoses	> Over-diagnosis of Schizophrenia, Bipolar, Conduct Disorder, & singular addictions
> Assess for traumatic histories & symptoms	> cursory or no trauma assessment
> Recognition of culture and practices that are re-traumatizing	> “Tradition of Toughness” valued as best care approach
> Power/control minimized – constant attention to culture	> Keys, security uniforms, staff demeanor, tone of voice
> Caregivers/supporters – <i>collaboration</i>	> Rule enforcers – <i>compliance</i>
> Address training needs of staff to improve knowledge & sensitivity	> “Patient-blaming” as fallback position without training
> Staff understand function of behaviors (rage, repetition-compulsion, self-injury)	> Behavior seen as intentionally proactive
> Objective, Neutral Language	> Labeling language: manipulative, needy, attention-seeking
> Transparent systems open to outside parties	> Closed system-advocates discouraged

For Your Reference – Brief Summaries of Some Relevant New York State Statutes
McKinney’s Consolidated Laws of New York, Book 39, Penal Law (PL)
Practice Commentaries by William Donnino

There are many other crimes that are not included in this list. Please see statutes for additional offenses that may be useful to consider. **This list is for general reference only.** The information below only provides selected segments of the statutes and is only updated periodically. You should always double check the statutes for complete and up-to-date information – see reference links on last page of this document. Some recent legislative updates can also be found periodically on the NYS Coalition on Elder Abuse website www.nyselderabuse.org.

PENAL LAW ARTICLE 120 – ASSAULT AND RELATED OFFENSES	
<p>§ 120.05 Assault in the second degree ...guilty of assault in the second degree when:</p>	<ol style="list-style-type: none"> 1. With intent to cause serious physical injury to another person, he causes such injury to such person or to a third person; or 2. With intent to cause physical injury to another person, he causes such injury to such person or to a third person by means of a deadly weapon or a dangerous instrument; or 3. <i>language amended, effective November1, 2014</i> 3-a and 11-a. <i>relate to preventing a local social services employee from performing duties or causing physical injury to such employee</i> 4. Recklessly causes serious physical injury to another person by means of a deadly weapon or a dangerous instrument; or 12. With intent to cause physical injury to a person who is sixty-five years of age or older, he or she causes such injury to such person, and the actor is more than ten years younger than such person.
<p><i>Class D felony</i></p>	
<p>§ 120.13 Menacing in the first degree</p>	<p>...when he or she commits menacing in the second degree and was previously convicted of menacing in the second degree...within the preceding ten years.</p>
<p><i>Class E felony</i> <i>(note – there is a penalty upgrade due to prior conviction)</i></p>	
<p>§ 120.14 Menacing in the second degree ...guilty of menacing in the second degree when</p>	<ol style="list-style-type: none"> 3. He or she commits the crime of menacing in the third degree in violation of ... an order of protection..., which directed the defendant to stay away from the person on whose behalf the order was issued.
<p><i>Class A misdemeanor</i> <i>(note – penalty upgrade for a violation of an order of protection)</i></p>	
<p>§ 120.20 Reckless endangerment in the second degree</p>	<p>...when he recklessly engages in conduct which creates a substantial risk of serious physical injury.</p>
<p><i>Class A misdemeanor</i></p>	

<p>§ 120.25 Reckless endangerment in the first degree</p> <p><i>Class D felony</i> (note – Consider this as a possibility when presented with what looks to be neglect; specific fact patterns are required.)</p>	<p>...when, under circumstances evincing depraved indifference to human life, he recklessly creates a grave risk of death to another.</p>
<p>§ 120.45 Stalking in the fourth degree – new language below effective on Oct 21, 2014</p>	<p>For the purposes of subdivision two of this section, “following” shall include the unauthorized tracking of such person’s movements or location through the use of a global positioning system or other device.</p>
<p>§ 120.50 Stalking in the third degree ...guilty of stalking in the third degree when he or she:</p> <p><i>Class A misdemeanor</i> (note – penalty upgrade due to prior conviction)</p>	<p>4. Commits the crime of stalking in the fourth degree and was previously convicted within the preceding ten years of stalking in the fourth degree.</p>
<p>§ 120.55 Stalking in the second degree ...guilty of stalking in the second degree when he or she:</p> <p><i>Class E felony</i> (note – penalty upgrade due to prior conviction or multiple victims)</p>	<p>3. Commits crime of stalking in the fourth degree and was previously convicted of stalking in the third Degree (PL §120.50 [4]) against any person; or</p> <p>5. Commits crime of stalking in the third degree (PL §120.50 [3]) against ten or more persons, in ten or more separate transactions, for which the actor has not been previously convicted.</p>
<p>Additional Assault and Related Offenses to consider:</p> <ul style="list-style-type: none"> • § 120.10 Assault in the first degree • § 120.15 Menacing in the third degree • § 120.60 Stalking in the first degree 	

PENAL LAW ARTICLE 121 – STRANGULATION AND RELATED OFFENSES

<p>§121.11 Criminal obstruction of breathing or blood circulation ... when, with intent to impede the normal breathing or circulation of the blood of another person, he or she:</p> <p><i>Class A misdemeanor</i></p>	<p>a. applies pressure on the throat or neck of such person; or b. blocks the nose or mouth of such person.</p>
<p>§121.12 Strangulation in the second degree</p> <p><i>Class D felony</i></p>	<p>... when he or she commits the crime of criminal obstruction ..., and thereby causes stupor, loss of consciousness for any period of time, or any other physical injury or impairment.</p>
<p>§121.13 Strangulation in the first degree</p> <p><i>Class C felony</i></p>	<p>... when he or she commits the crime of criminal obstruction ..., and thereby causes serious physical injury to such other person.</p>

Note: Criminal obstruction of breathing or blood circulation or strangulation was added to the list of family offenses that may be alleged in a petition – Family Court Act §821 (1) (a). Chapter 309 signed Aug 3, 2011.

PENAL LAW ARTICLE 130 – SEX OFFENSES	
<p>§ 130.00 Sex Offenses; definitions of terms</p> <p>§ 130.05 Sex offenses; lack of consent</p>	<p>5. “Mentally disabled” ...mental disease or defect which renders him or her incapable of appraising the nature of his or her conduct.</p> <p>6. “Mentally incapacitated” ...rendered temporarily incapable of appraising or controlling his conduct ...influence of narcotic or intoxicating substance administered to him without his consent...</p> <p>7. “Physically helpless” ...unconscious or for any other reason is physically unable to communicate unwillingness to an act.</p>
<p>§ 130.30 Rape in the second degree</p> <p><i>Class D felony</i></p>	<p>2. ...incapable of consent by reason of being mentally disabled or mentally incapacitated.</p>
<p>§ 130.35 Rape in the first degree</p> <p><i>Class B felony</i></p>	<p>1. By forcible compulsion;</p> <p>2. ...incapable of consent by reason of being physically helpless;</p>
<p>§ 130.45 Criminal sexual act in the second degree</p> <p><i>Class D felony</i></p>	<p>2. ...incapable of consent by reason of being mentally disabled or mentally incapacitated.</p>
<p>§ 130.50 Criminal sexual act in the first degree</p> <p><i>Class B felony</i></p>	<p>1. By forcible compulsion;</p> <p>2. ...incapable of consent by reason of being physically helpless;</p>
<p>§ 130.65 Sexual abuse in the first degree</p> <p><i>Class D felony</i> <i>(note – A physically helpless victim results in a higher crime, however these cases are very fact specific.)</i></p>	<p>2. ...incapable of consent by reason of being physically helpless;</p>
<p>Additional Sex Offenses to consider:</p> <ul style="list-style-type: none"> • § 130.40 Criminal sexual act in the third degree • § 130.52 Forcible touching • § 130.55 Sexual abuse in the third degree • § 130.65-a Aggravated sexual abuse in the fourth degree • Check statutes for additional sections to consider 	

PENAL LAW ARTICLE 135 – KIDNAPPING, COERCION AND RELATED OFFENSES	
<p>§ 135.00 Unlawful imprisonment, kidnapping and custodial interference; definition of terms.</p>	<p>1. “Restrain” means to restrict a person’s movements intentionally and unlawfully in such manner as to interfere substantially with his liberty by moving him ..., or by confining ..., without consent and with knowledge that the restriction is unlawful. A person is so moved or confined “without consent” when such is accomplished by (a) physical force, intimidation or deception, or (b) any means whatever, including acquiescence of the victim, if ...</p>

<p>§ 135.05 Unlawful imprisonment in the second degree.</p> <p><i>Class A misdemeanor</i></p>	<p>...guilty of unlawful imprisonment in the second degree when he restrains another person.</p>
<p>§ 135.10 Unlawful imprisonment in the first degree.</p> <p><i>Class E felony</i></p>	<p>...guilty of unlawful imprisonment in the first degree when he restrains another person under circumstances which expose the latter to risk of serious physical injury.</p>
<p>§ 135.60 Coercion in the second degree</p> <p><i>Class A misdemeanor</i></p>	<p>...when he compels or induces a person to engage in conduct ..., or abstain from conduct, ... by instilling fear that the actor or another will:</p> <ol style="list-style-type: none"> 1. Cause physical injury to a person; or 2. Cause damage to property; or 3. Engage in other conduct constituting a crime; or ... 9. Perform any other act which ... is calculated to harm another person....
<p>§ 135.65 Coercion in the first degree</p> <p><i>Class D felony</i> (note – Coercion 1st and 2nd have similar elements, see statutes & practice commentary)</p>	<ol style="list-style-type: none"> 1. He commits such crime by instilling fear that he will cause physical injury to a person or cause damage to property; or ...

PENAL LAW ARTICLE 155 – LARCENY

§ 155.00 Larceny; definitions of terms (note – see statute)

<p>§ 155.05 Larceny; defined</p>	<ol style="list-style-type: none"> 1. Person steals property and commits larceny when, with intent to deprive another of property or to appropriate same to himself or a third person, he wrongfully takes, obtains or withholds such property from an owner. 2. Includes wrongful taking, obtaining or withholding of another’s property, with intent prescribed in subdivision (1), in any of the following ways: <ol style="list-style-type: none"> (a) By conduct defined or known as common law larceny by trespassory taking, common law larceny by trick, embezzlement, or obtaining property by false pretenses; (d) By false promise. <p>...pursuant to a scheme to defraud, ...proof of defendant’s intention must be based on evidence establishing that the facts and circumstances are consistent with guilty intent.</p> (e) By extortion. <p>...when he compels or induces another person to deliver such property to himself or another by instilling fear that if property is not delivered, the actor or another will:</p> <ol style="list-style-type: none"> (i) cause physical injury to some person in the future; or (ii) cause damage to property; or ... (ix) perform any other act...which is calculated to harm another....
<p>§ 155.20 Larceny; value of stolen property</p>	<p>(note – see statute)</p>

<p>§ 155.25 Petit larceny</p> <p><i>Class A misdemeanor</i></p>	<p>...when he steals property</p>
<p>§ 155.30 Grand larceny in the fourth degree</p> <p><i>Class E felony</i></p>	<p>...when he steals property and when:</p> <ol style="list-style-type: none"> 1. value exceeds one thousand dollars; or 4. property is a credit card or debit card; or 5. regardless of value, is taken from the person of another; or 6. regardless of value, is obtained by extortion; or 7. property consists of one or more firearms, rifles or shotguns; or 8. value exceeds one hundred dollars and is a motor vehicle, other than a motorcycle; or 10. property consists of access device person intends to use unlawfully to obtain phone service ...
<p>§ 155.35 Grand larceny in the third degree</p> <p><i>Class D felony</i></p>	<p>...when value of property exceeds three thousand dollars</p>
<p>§ 155.40 Grand larceny in the second degree</p> <p><i>Class C felony</i></p>	<p>...when he steals property and when:</p> <ol style="list-style-type: none"> 1. value exceeds fifty thousand dollars; or 2. regardless of value, is obtained by extortion by instilling fear that the actor or another will (a) cause physical injury to some person in the future, or (b) cause damage to property, or ...
<p>§ 155.42 Grand larceny in the first degree</p> <p><i>Class B felony</i></p>	<p>...when value of property exceeds one million dollars</p>
<p>§ 155.45 Larceny; pleading and proof</p>	<p>2. ...An indictment charging larceny by extortion must be supported by proof establishing larceny by extortion.</p> <p><i>(note – coercion & larceny by extortion are similar crimes, see statutes & practice commentaries)</i></p>
<p>Additional Offense Relating to Theft to consider:</p> <ul style="list-style-type: none"> • § 165.20 Fraudulently obtaining a signature <i>Class A misdemeanor</i> • Penal Law Article 170 – Forgery and Related Offenses 	

PENAL LAW ARTICLE 190 – OTHER FRAUDS

<p>§ 190.65 – Scheme to defraud in the first degree</p> <p><i>Class E felony</i></p>	<p>1. ...guilty of scheme to defraud in the first degree when: (c) engages in scheme constituting systematic ongoing course of conduct with intent to defraud more than one person, more than one of whom is vulnerable elderly person as defined in § 260.30 (3) or to obtain property from more than one person, more than one of whom is a vulnerable elderly person as defined in § 260.30, by false or fraudulent pretenses, representations or promises, and so obtains property from one or more such persons.</p> <p>2. ...prosecution under 1 (c), it shall be necessary to prove identity of at least one such vulnerable elderly person as defined in § 260.30 (3).</p> <p><i>(note – other paragraphs in this section may also be useful for victims not fitting the vulnerable elderly person definition)</i></p>
<p>§ 190.78 Identity theft in the third degree</p> <p><i>Class A misdemeanor</i></p>	<p>...when he knowingly and with intent to defraud assumes the identity of another person by presenting himself as that other person, or by acting as that other person or by using personal identifying information of that other person, and thereby:</p> <p>1. obtains goods, money, property or services or uses credit in the name of such other person or causes financial loss to such person or to another person or persons; or</p> <p>2. commits a class A misdemeanor or higher-level crime</p>
<p>Other fraud related offenses to consider:</p> <ul style="list-style-type: none"> • §§ 190.79 and 190.80 Identity theft in the second degree & first degree 	

PENAL LAW ARTICLE 215 – OTHER OFFENSES RELATING TO JUDICIAL AND OTHER PROCEEDINGS

§ 215.51 Criminal contempt in the first degree

*Class E felony
(note – includes penalty upgrades due to prior convictions)*

...guilty of criminal contempt in the first degree when:

(b) in violation of a duly served order of protection..., he or she:

(i) – (vi) intentionally places or attempts to place a person whose protection such order was issued in reasonable fear of physical injury, serious physical injury or death by displaying a dangerous instrument or by threat; or by repeatedly following such person or engaging in a course of conduct; or by various means of communication; or with intent to harass, annoy, threaten or alarm the person, repeatedly makes telephone calls with no purpose of legitimate communication; or strikes, shoves, kicks or otherwise subjects such other person to physical contact or attempts or threatens to do so; or by physical menace, intentionally places or attempts to place a person whose protection such order was issued in reasonable fear of death, imminent serious physical injury or physical injury.

(note – ...shoves, kicks or otherwise subjects such other person...)

(c) he or she commits crime of criminal contempt in second degree (§ 215.50 [3]) by violating an order of protection...requiring defendant to stay away from the person, and where defendant has been previously convicted of aggravated criminal contempt or criminal contempt in the 1st or 2nd degree for violating an order of protection as described herein within the preceding five years.

(d) in violation of an order of protection, ... he or she intentionally or recklessly damages the property of a person for whose protection such order was issued in an amount exceeding \$250.

(note for subdivision (b) – each paragraph (i – vi) of subdivision (b) incorporates most of the elements of a variety of misdemeanor crimes – laws are strengthened and penalties upgraded when there is a violation of an order of protection)

Other offenses relating to judicial and other proceedings to consider:

- §§ 215.10 – 215.13 Tampering with a witness in the fourth degree to first degree
- §§ 215.15 – 215.17 Intimidating a victim or witness in the third degree to first degree
- § 215.50 Criminal contempt in the second degree
- § 215.52 Aggravated Criminal Contempt

PENAL LAW ARTICLE 240 – OFFENSES AGAINST PUBLIC ORDER

§ 240.25 Harassment in the first degree

Class B misdemeanor

§ 240.26 Harassment in the second degree

Violation

<p>§ 240.30 Aggravated harassment in the second degree – reflects July 23, 2014 amendments effective immediately</p> <p><i>Class A misdemeanor (note – penalty upgrade due to hate crime or prior conviction)</i></p>	<p>...when:</p> <ol style="list-style-type: none"> 1. With intent to harass another person, the actor either: <ol style="list-style-type: none"> (a) communicates, anonymously or otherwise, by telephone, by computer or any other electronic means, or by mail, or by transmitting or delivering any other form of communication, a threat to cause physical harm to, or unlawful harm to the property of, such person, or a member of such person’s same family or household as defined in CPL § 530.11 (1), and actor knows or reasonably should know that such communication will cause such person to reasonable fear harm to such person’s physical safety or property, or to the physical safety or property of a member of such person’s same family or household; or (b) causes a communication to be initiated anonymously or otherwise, by telephone ...; or 2. With intent to harass or threaten another person, he or she makes a telephone call, whether or not a conversation ensues, with no purpose of legitimate communication; or 3. With intent to harass, annoy, threaten or alarm another person, he or she strikes, shoves, kicks, or ...subjects another person to physical contact, or attempts or threatens ...because of a belief or perception regarding person’s ...age, disability...regardless of whether the belief or perception is correct; or 4. With the intent to harass, annoy, threaten or alarm another person, he or she strikes, kicks, ... physical contact causing physical injury to such person or to family or household member of such person as defined in CPL § 530.11; or 5. He or she commits the crime of harassment in first degree and has previously been convicted of harassment in first degree as defined by PL § 240.25 within preceding ten years.
<p>§ 240.31 Aggravated harassment in the first degree</p> <p><i>Class E felony (note – penalty upgrade due to hate crime or prior conviction)</i></p>	<p>...with intent to harass, annoy, threaten or alarm, because of a belief or perception regarding ...age, disability...:</p> <ol style="list-style-type: none"> 2. Commits second degree aggravated harassment (PL § 240.30 [3]) and previously convicted of PL § 240.30 (3) or PL § 240.31 within preceding ten years.
<p>§ 240.75 Aggravated family offense</p> <p><i>Class E felony (note – penalty upgrade due to hate crime or prior conviction)</i></p>	

PENAL LAW ARTICLE 260 – OFFENSES RELATING TO CHILDREN, DISABLED PERSONS AND VULNERABLE ELDERLY PERSONS	
<p>§ 260.24 Endangering the welfare of an incompetent or physically disabled person in the second degree</p> <p><i>Class A misdemeanor</i></p>	<p>...when he or she recklessly engages in conduct which is likely to be injurious to the physical, mental or moral welfare of a person who is unable to care for himself or herself because of physical disability, mental disease or defect. <i>(note – added in 2012 NYS Justice Center legislation for the Protection of People with Special Needs; 260.25 was amended)</i></p>
<p>§ 260.25 Endangering the welfare of an incompetent or physically disabled person in the first degree</p> <p><i>Class E Felony</i> <i>(note – 260.24 & 260.25 protect the elderly and younger disabled persons)</i></p>	<p>...when he knowingly acts in manner likely to be injurious to physical, mental or moral welfare of a person unable to care for himself or herself because of physical disability, mental disease or defect.</p>
<p>§ 260.31 Vulnerable elderly persons; definitions</p>	<p>For purpose of §§ 260.32 and 260.34:</p> <ol style="list-style-type: none"> 1. “Caregiver” – person who assumes responsibility for care of vulnerable elderly person, or an incompetent or physically disabled person pursuant to court order or receives monetary or other valuable consideration for providing care ... 2. “Sexual contact” – any touching of sexual or other intimate parts of person not married to the actor for purpose of gratifying sexual desire of either party, whether directly or through clothing, touching by either party. 3. “Vulnerable elderly person” – person sixty years of age or older, suffering from disease or infirmity associated with advanced age, manifested by demonstrable physical, mental or emotional dysfunction to extent that the person is incapable of adequately providing for his or her own health or personal care. 4. “Incompetent or physically disabled person” – an individual who is unable to care for himself or herself because of physical disability, mental disease or defect. <p><i>(note – In 2010, definition expanded to include incompetent or physically disabled person.)</i> <i>(note – think about what might be included as monetary or other valuable consideration – something other than direct payment may qualify and should at least be investigated)</i></p>
<p>§ 260.32 Endangering the welfare of a vulnerable elderly person, or an incompetent or physically disabled person in the second degree</p> <p><i>Class E felony</i></p>	<p>...when, being a caregiver for a vulnerable elderly person or an incompetent or physically disabled person:</p> <ol style="list-style-type: none"> 1. With intent, causes physical injury to such person; or 2. He or she recklessly causes physical injury to such person; or 3. With criminal negligence, causes physical injury to such person by means of a deadly weapon or dangerous instrument; or 4. Subjects such person to sexual contact without the latter’s consent <i>(note – specific requirements are explained in the statute)</i>

<p>§ 260.34 Endangering the welfare of a vulnerable elderly, or an incompetent or physically disabled person in the first degree</p>	<p>...when, being a caregiver for a vulnerable elderly person or an incompetent or physically disabled person:</p> <ol style="list-style-type: none"> 1. With intent to cause physical injury to such person, causes serious physical injury; or 2. Recklessly causes serious physical injury to such person.
<p><i>Class D felony</i></p>	
<p>(note – Endangering the welfare statutes are similar to assault and sexual abuse statutes, but with higher penalty classifications.)</p>	
<p>Other offenses to consider:</p>	
<ul style="list-style-type: none"> • § 260.24 Endangering the welfare of an incompetent or physically disabled person in the second degree 	

<p>PENAL LAW ARTICLE 485 – HATE CRIMES</p>	
<p>§ 485.05 Hate Crimes</p>	<ol style="list-style-type: none"> 1. A person commits a hate crime when he or she commits a specific offense and either: <ol style="list-style-type: none"> (a) intentionally selects the person against whom the offense is committed or intended to be committed in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person regardless of whether the belief or perception is correct, or (b) intentionally commits the act or acts constituting the offense in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct. 3. <i>(note – see statute for list of specified offenses)</i> 4. (a) “age” means sixty years old or more; (b) “disability” means a physical or mental impairment that substantially limits a major life activity.

McKinney’s Consolidated Laws of New York, Book 2B, Agriculture and Markets (AG & M)

<p>ARTICLE 26 – ANIMALS Sections 350 – 379</p>	
<p>§ 353 Overdriving, torturing and injuring animals; failure to provide sustenance</p>	<p>...tortures or cruelly beats or unjustifiably injures, maims, mutilates or kills any animal, whether wild or tame, and whether belonging to himself or to another, or deprives any animal of necessary sustenance, food or drink, or neglects or refuses to furnish it such sustenance or drink ...</p>
<p><i>Class A misdemeanor</i></p>	
<p>§ 353-a Aggravated cruelty to animals</p>	<p>...intentionally kills or intentionally causes serious physical injury to a companion animal with aggravated cruelty.</p>
<p><i>Unclassified felony</i></p>	

Additional Domestic Violence related statutes

Criminal Procedure Law § 530.11 Procedures for family offense matters

Family Court Act § 812 (1) Procedures for family offense matters

For purposes of this article, "members of the same family or household" shall mean the following:

- (a) persons related by consanguinity or affinity;
- (b) persons legally married to one another;
- (c) persons formerly married to one another regardless of whether they still reside in the same household;
- (d) persons who have a child in common regardless of whether such persons have been married or have lived together at any time; and
- (e) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors the court may consider in determining whether a relationship is an "intimate relationship" include but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an "intimate relationship".

Criminal Procedure Law § 140.10 Arrest without a warrant; by police officer; when and where authorized.

Family Court Act § 842-a Suspension of firearms license and ineligibility for such a license

Law signed and effective on December 18, 2013

Financial/Economic Abuse – A 7400 / S 5821 Chapter 526 Laws of 2013

Addresses financial and economic abuse by adding certain crimes of identity theft, larceny and coercion to the list of family offenses in the Family Court Act and the criminal procedure law. New law also adds a condition that can be included in orders of protection, requiring the abuser to return specific identification documents, such as passport, immigration papers, social security card, benefits or insurance card, etc. to the protected party.

Amends:

Family Court Act §§ 446; 551; 656; 812; 821; 842; 1056

Domestic Relations Law §§ 240; 252

Criminal Procedure Law §§ 530.11; 530.12

Law signed and effective on September 4, 2014

Grand Jury Proceedings – A 8780 / S 7188 Chapter 347 Laws of 2014

Allows a social worker or informal caregiver to be present and give care to vulnerable elderly person during certain grand jury proceedings.

Amends: Criminal Procedure Law § 190.25 (3) (h)

New York Codes, Rules and Regulations (NYCRR)

Title 9 Section 6654.16 EISEP case management

(t) Any situation posing a possible severe or imminent threat to the health or safety of the client or any indication of possible abuse, mistreatment, or neglect of the client shall be documented in the client case record and reported to the local social services district, public health office, police or other appropriate agency immediately.

Additional law to consider:

Article 3-A of New York Lien Law may be helpful when a case involves unscrupulous contractors.

New – New York State Office of Victim Services

Effective **October 17, 2017** (Chap 55, 2017 Laws of NY; S2005-C / A3005-C), recent amendments to **Executive Law §621** (Definitions) & **§631** (Awards) provide expanded victim services, including reimbursement for loss of savings for vulnerable, older adult victims.

For additional information regarding **New York State laws and legislation**: <http://public.leginfo.state.ny.us>

For additional information regarding NYCRR: <http://www.dos.ny.gov/info/nycrr.html>

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For additional reference materials related to elder mistreatment, please visit the **New York State Coalition on Elder Abuse** website: www.nyselderabuse.org.

Highlights of recent NYS Office of Victim Services statutory changes that benefit vulnerable victims – effective October 17, 2017

Executive Law §621

- (5) “**Victim**” shall mean ... a vulnerable elderly person or an incompetent or physically disabled person as defined in section 260.31 of the penal law who incurs a loss of savings as defined in subdivision twenty-four of this section;
- (24) “**Loss of savings**” shall mean the result of any act or series of acts of larceny as defined in article one hundred fifty-five of the penal law, indicated by a criminal justice agency as defined in subdivision one of section six hundred thirty-one of this article, in which cash is stolen from a vulnerable elderly person or an incompetent or physically disabled person as defined in section 260.31 of the penal law.

Executive Law §631

- (2) Any award made pursuant to this article shall be ... **loss of savings not to exceed thirty thousand dollars**;
- (3-a) Any **award made for loss of savings** shall, unless reduced pursuant to other provisions of this article, be in an amount equal to the actual loss sustained.
- (5) (f) Notwithstanding the provisions of paragraph (a) of this subdivision, the office shall **disregard for this purpose the responsibility of the victim for his or her own loss of savings**.
- (8-a) Notwithstanding the provisions of subdivision one of this section, a vulnerable elderly person or an incompetent or physically disabled person, as defined in section 260.31 of the penal law, **who has not been physically injured as a direct result of a crime, shall be eligible for an award that includes loss of savings**.

