



“Mandatory Reporting of Abuse of An At-Risk Elder and What your Agency Needs To Do To Prepare for It”

Presented to Colorado Long-Term Care Ombudsmen

March 25, 2014

Colorado Adult Protective Services

*Section 18-6.5-108, C.R.S.



Welcome

The goals of this training are to define:

- What is mandatory reporting.
- Who is required to report.
- What situations must be reported and to whom.
- How to make a report to APS and Law Enforcement

**Beginning July 1, 2014 certain professionals
must report**

**Abuse
Caretaker neglect
Exploitation
of at risk-elders**

Who is an at-risk elder?



An at-risk elder is any person who is 70 years of age or older.

When do I make a report?



If you are a mandatory reporter and you witness or become aware that an at-risk elder has been or is at imminent risk for mistreatment (abuse, caretaker neglect, or exploitation), you must make a report to law enforcement within **24 hours**.

Mandatory Reporters.....

- Physicians, surgeons, physicians assistant, osteopaths, Physicians in training, podiatrists, occupational therapists
- Medical examiners and coroners
- Registered nurses, licensed practical nurses, and nurse practitioners
- Hospital and long term care facility personnel engaged in the admission, care, or treatment of patients
- Psychologists and other mental health professionals
- Social work practitioners
- Dentist
- Law enforcement officials and personnel
- Court appointed guardians and conservators

There are more....

- Fire protection personnel**
- Pharmacists**
- Community centered board staff**
- Personnel of banks, savings and loan associations, credit unions, and other lending or financial institutions**
- A caretaker, staff member, employee, volunteer, or consultant for a licensed or certified care facility, agency home, or governing board, including but not limited to home health providers**
- Emergency medical service providers**
- Physical therapists**
- Chiropractors**
- Clergy (as defined in the children's code- CRS 19-3-304(2)(AA) and CRS 13-90-107(1)(c)**

Who is NOT A Mandatory Reporter

- Ombudsmen
- Attorneys
- Clergy, if receiving confidential information in his/her professional capacity.

Any one of the above professionals is urged to report abuse, neglect or exploitation that he/she personally observes.

You will need to know what to look for and how to make a report.



Physical Abuse

Physical abuse occurs when someone causes bodily harm to at at-risk elder, such as causing physical pain or bruising. Or when unreasonable confinement or restraint is imposed on the at-risk elder.

Indicators of Physical Abuse

- Repeated visits to the emergency room.
- Bruises or injuries in various stages of healing.
- Unconvincing explanations of injuries.
- Elder is isolated from family, friends, and medical care.

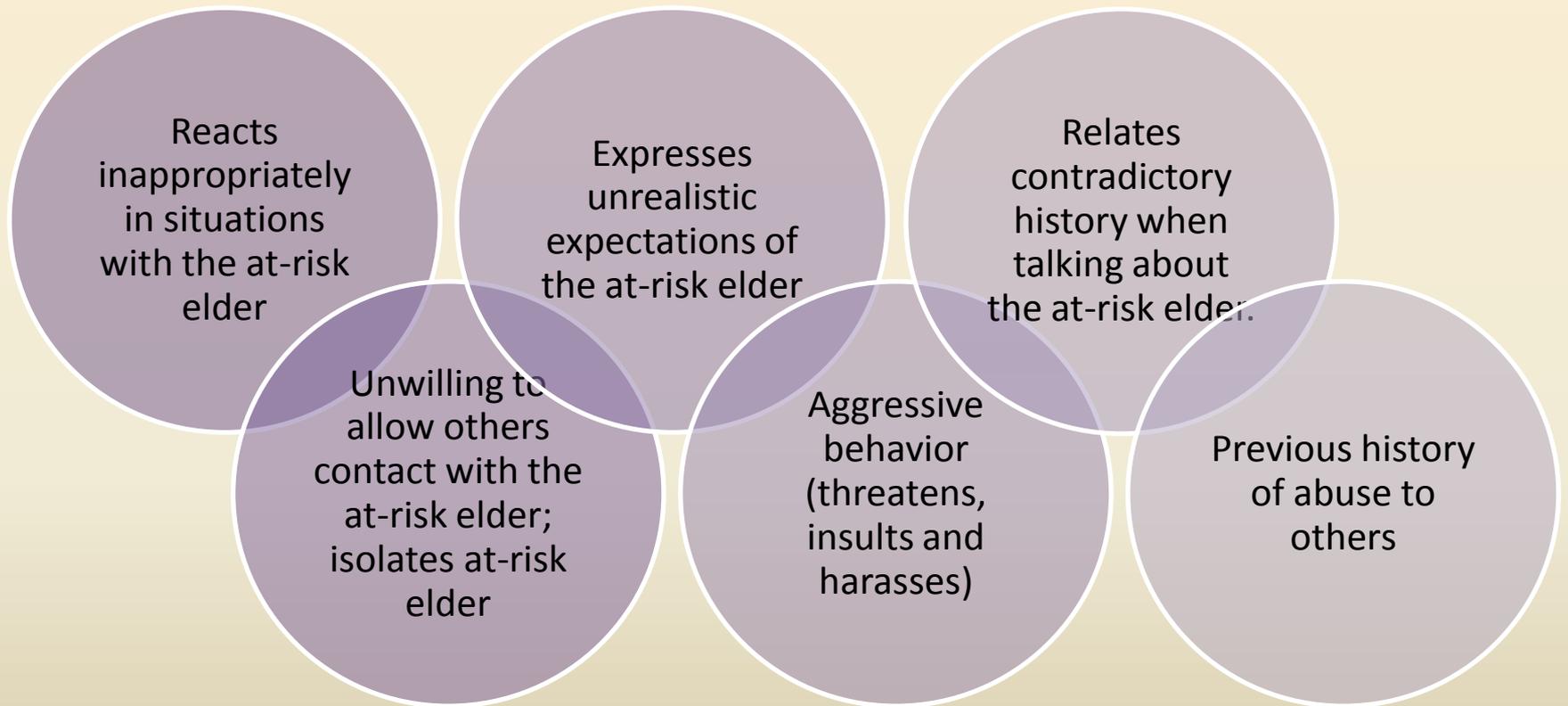
Examples of Physical abuse

A caretaker roughly handles the at-risk elder and causes pain.

A non-ambulatory at-risk elder is left alone for long periods of time, or for “safety reasons”, is restrained in a wheelchair or elsewhere using a rope or other material.

A family member bites hits, pushes, or slaps the at-risk elder.

Indicators of the Abuser



Sexual Abuse

Sexual abuse means subjecting an at-risk elder to unlawful sexual conduct or contact

Physical Signs of Sexual Abuse

- Difficulty in walking, sitting, or standing
- Torn, stained, or bloody underclothing
- Bruises, pain, bleeding, or injuries to the genitals, breast, or anal areas
- Sexually transmitted diseases

Behavioral Signs of Sexual Abuse

- Scared or timid behavior
- Depressed, withdrawn behavior
- Sudden changes in personality
- Fear of certain people or of physical characteristics
- Unexpected reluctance to cooperate with toileting and/or physical examination of genitalia

Caretaker Neglect

Caretaker neglect occurs when an at-risk elder's caretaker fails to make sure the elder has adequate food, clothing, shelter, psychological care, physical care, medical care, or supervision

OR

The caretaker does not provide these things in a timely manner or with the degree of care that a reasonable person in the same situation would use.

Who is a Caretaker?

It can be a person who is paid or unpaid and who has assumed responsibility for the care of an at-risk elder or has identified themselves as the elder's caretaker.

It can be a family member, a home health provider, a facility staff or a neighbor who has agreed to provide recurring assistance to help the elder meet his/her basic needs.

Occasional shopping or cleaning for an at-risk elder doesn't mean the Good Samaritan has assumed responsibility for the at-risk elder's care.

Signs of Caretaker Neglect

Unusual weight loss,
malnutrition,
dehydration

Untreated physical
problems, such as bed
sores

Unsanitary living
conditions: dirt, bugs,
soiled bedding

Being left in dirty, soiled
clothing

Unsafe living conditions
(no heat or running
water; faulty electrical
wiring, other fire
hazards)

Being left alone when
unable to self care or
protect self

Failure to provide food
and water

Improper use of
medications in order to
“control” the adult

Lack of medical aids
(glasses, walker or cane,
teeth or dentures,
hearing aids,
medications)

Characteristics of the Abuser/Caregiver

Elder is not allowed to talk to others without the caregiver in the room

Expresses anger and frustration with the elder

Caretaker “blames” the elder (e.g., accusation that incontinence is a deliberate act)

Aggressive behavior (threats, insults, harassment)

Previous history of abuse to others

Expresses unrealistic expectations of the elder (“should be able to”)

When it is NOT Caregiver neglect

Remember, at-risk elders have the right to direct their own health care services. Some elders create “advance directives” or have their physician write orders about:

- Medication, medical procedures/devices
- Hospice care
- Living Wills
- CPR
- Dialysis, and
- Artificial nutrition and hydration

These situations are NOT considered to be caretaker neglect.

Exploitation

Exploitation means taking an at-risk elder's money or other assets against their will or without their knowledge. In other words, stealing from the adult.

It also means deceiving, harassing, intimidating or using undue influence to get the elder to do something against their will.

Examples of Exploitation



Guardians, Conservators, Representative Payees, or agents under a power of attorney use the elder's assets for their own personal use; or do not use elder's money to secure the elder's basic needs and care.



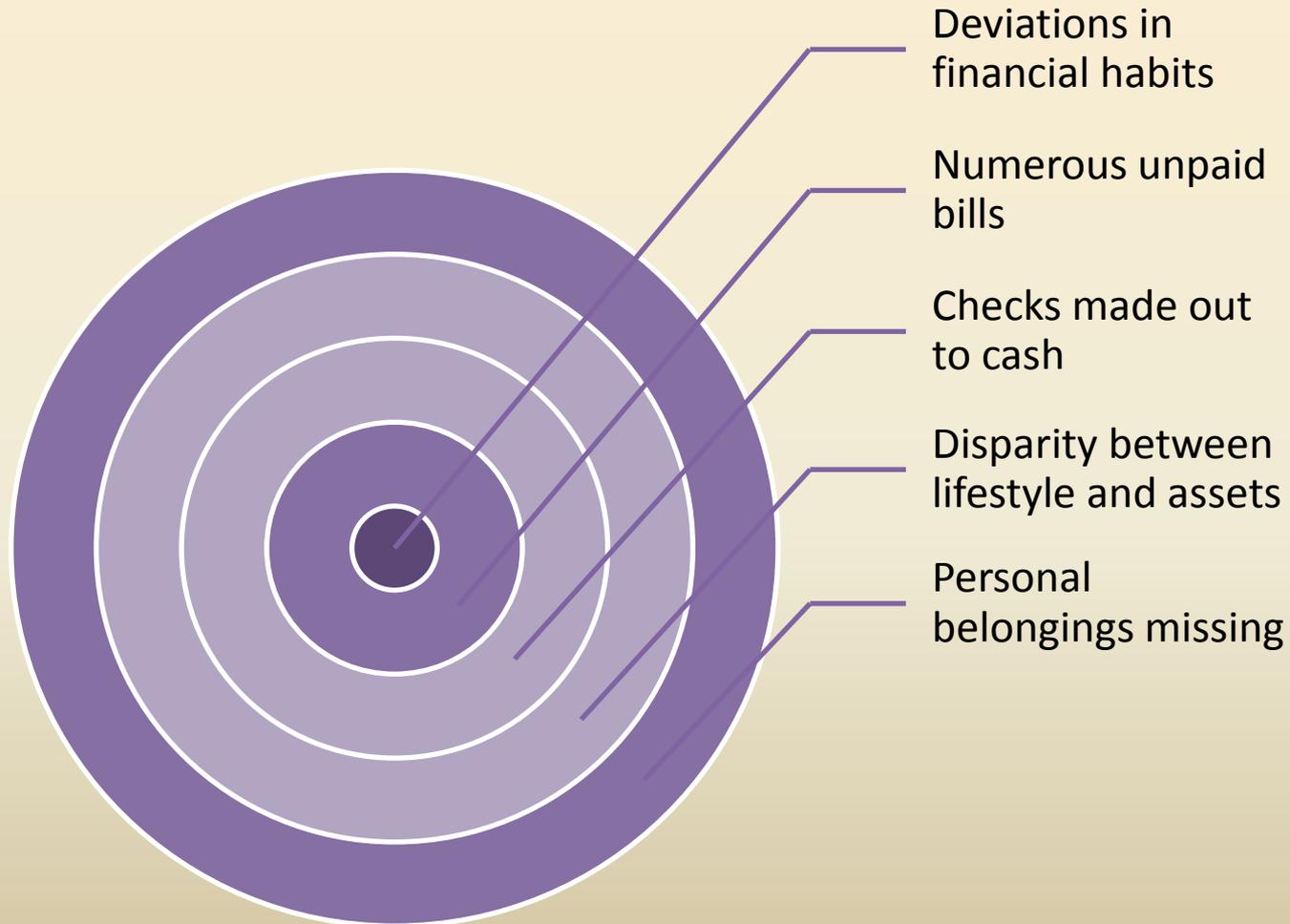
An at-risk elder's son uses his power of attorney to access the elder's account to buy himself a new truck.



An at-risk elder has a stroke and cognitive damage. His daughter agrees to move in to help with meals, cleaning and transportation. The daughter routinely tells her father she will put him in a nursing home if he doesn't give her money.



Signs of Exploitation



Behavioral Signs of Exploiters

Conducts all banking transactions

Makes all investment decisions

Receives expensive gifts from the elder

Asks only financial questions

Refuses to spend money on the at-risk elder's care



Who Abuses, Neglects, and Exploits At-Risk Elders?

- The sad reality is that most often it is a family member, someone the elder knows, or a caregiver.
- It can be anyone: the neighbor, the home care staff, the handyman, clergy, family, friends, hired help, or anyone else who has contact with the elder.



How to Report to Law Enforcement

Have as much information as possible about the at-risk elder, the alleged perpetrator, and what is concerning you. Law enforcement will need the following information:

- 1. Name and address of the at-risk elder.**
- 2. A description of the alleged mistreatment and the situation; what did you observe?**
- 3. What is the nature and extent of the injury?**
- 4. Who is the alleged perpetrator; name and address if possible.**
- 5. Any other information that you feel is relevant.**

It's okay to report if you just suspect something is wrong.

As long as you make the report in good faith you are immune from any criminal charges or a civil lawsuit for damages.

You are not immune if you are the perpetrator of the mistreatment.

False Reporting

If you knowingly make a false report of mistreatment it is a class 3 Misdemeanor.

If charged and convicted of false reporting you could receive a fine of up to \$750, or six months in jail, or both.

If you make a false report and are found guilty, you will also be liable for any damages caused by your actions.

Failure to Report

If you are a mandatory reporter and you willfully fail to make a report of observed or suspected abuse, neglect, or exploitation of an at-risk elder, it is a class 3 Misdemeanor.

If charged and convicted of failing to report you could receive a fine of up to \$750, or six months in jail, or both.

What Happens After a Report is Made?

Law enforcement will share the report with Adult Protective Services (APS) within 24 hours.

Law Enforcement will also notify the District Attorney (DA) of the report.

Law Enforcement may investigate the report.

APS may investigate the report and offer the client protective services.

Law enforcement will provide a copy of their investigation report to APS and the DA.

The DA will review the report for possible criminal charges.

What Are the Roles of APS and Law Enforcement?

APS

- Helps at-risk adults when they are unable to meet their own needs and are victims of mistreatment.
- Investigates reports of alleged mistreatment.
- Offers protective case services for at-risk adults who have been mistreated.
- Collaborates with law enforcement, the District Attorney, and other community partners to help protect at-risk adults.

Law Enforcement

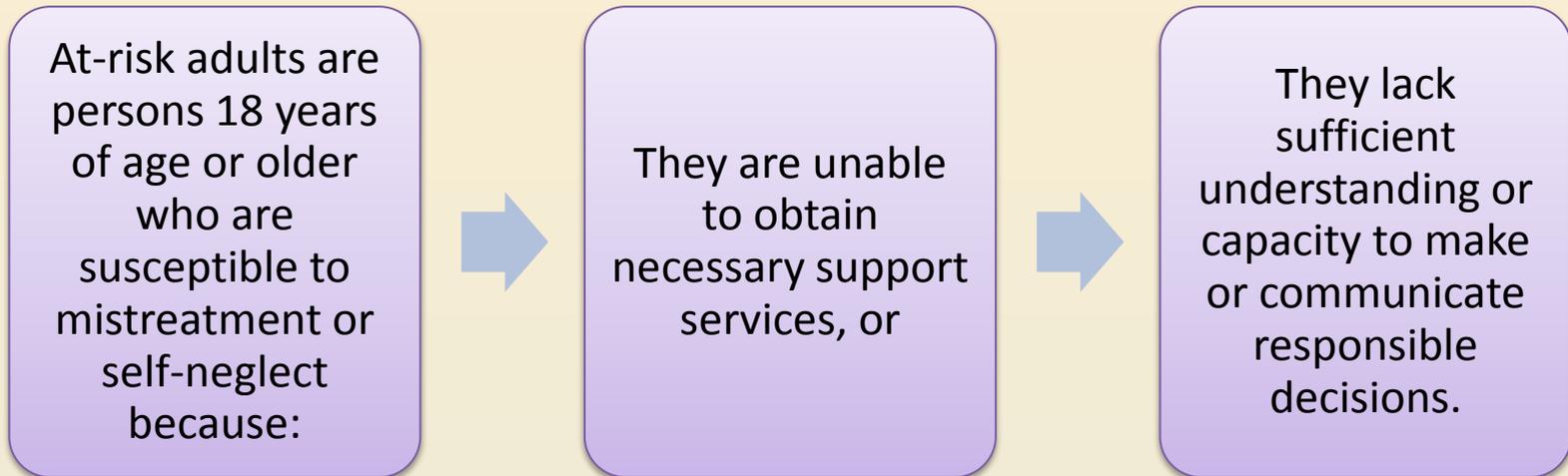
- Will complete a criminal investigation when a report of abuse, neglect, or exploitation warrants one.
- Will notify APS within 24 hours of the report and will coordinate intervention, if needed.
- Will notify the District Attorney (DA) and will provide the DA with a written report of all investigations.

APS will continue to take reports of mistreatment and self-neglect of at-risk adults.

The same group of professionals who are required to report mistreatment of at-risk elders are urged to report mistreatment and self-neglect of at-risk adults.

Anyone can and should report suspected abuse or neglect to APS or law enforcement.

At-Risk Adults



Conditions that increase risk include dementia, physical or medical frailty, developmental disabilities, brain injury, behavioral disorders, and mental illness.

Examples of at-risk adults

A 67 year old male with dementia who cannot remember to pay his bills and has no water or electricity in his home.



A 20 year old developmentally delayed (DD) adult who is being locked in her bedroom by her caregiver for 8 hours a day without food and water.



A 36 year old female who is wheelchair bound, has advanced stages of MS, and needs 24/7 care and is being physically abused by her husband.



A 68 year old male who lives alone and there are reports he is not eating or bathing and he is unable to get to the store for food.

Examples of adults who are NOT “at risk adults”

A 35 year old man who walks with a cane or uses a wheelchair but is able to perform all activities necessary to provide for his health and safety.

An adult of any age with decision-making capacity who:

- Makes poor investment decisions or participates in a lottery scam;
- Is involved in a landlord-tenant dispute;
- Chooses to live in a dirty home or with multiple pets;
- Uses alcohol and drugs to excess.

Self-Neglect

Self-neglect occurs when an at-risk adult endangers his/her health, safety, welfare, or life by not getting the services they need to meet their basic human needs.

Examples and Signs of Self-Neglect

At-risk adult doesn't understand how to manage his/her medications and some days takes "too many" and some days "doesn't take any at all".

At-risk adult is not bathing and remains in the same soiled clothes for weeks.

Unsafe living conditions; lack of food or basic utilities in the home.

Hoarding animals or trash

Inability to manage finances and pay monthly bills

Inability to manage day to day activities

Making a Report to APS

Have as much information as possible about the at-risk adult, the perpetrator and what is concerning you. APS will need the following information:

1. Name and address of the at-risk adult.
2. A description of the alleged mistreatment and the situation; what did you observe?
3. What is the nature and extent of the injury?
4. Who is the alleged perpetrator; name and address if possible.
5. Any other information that you feel is relevant.

What Happens After I Make a Report?

1. APS will screen the report and determine the appropriate response.

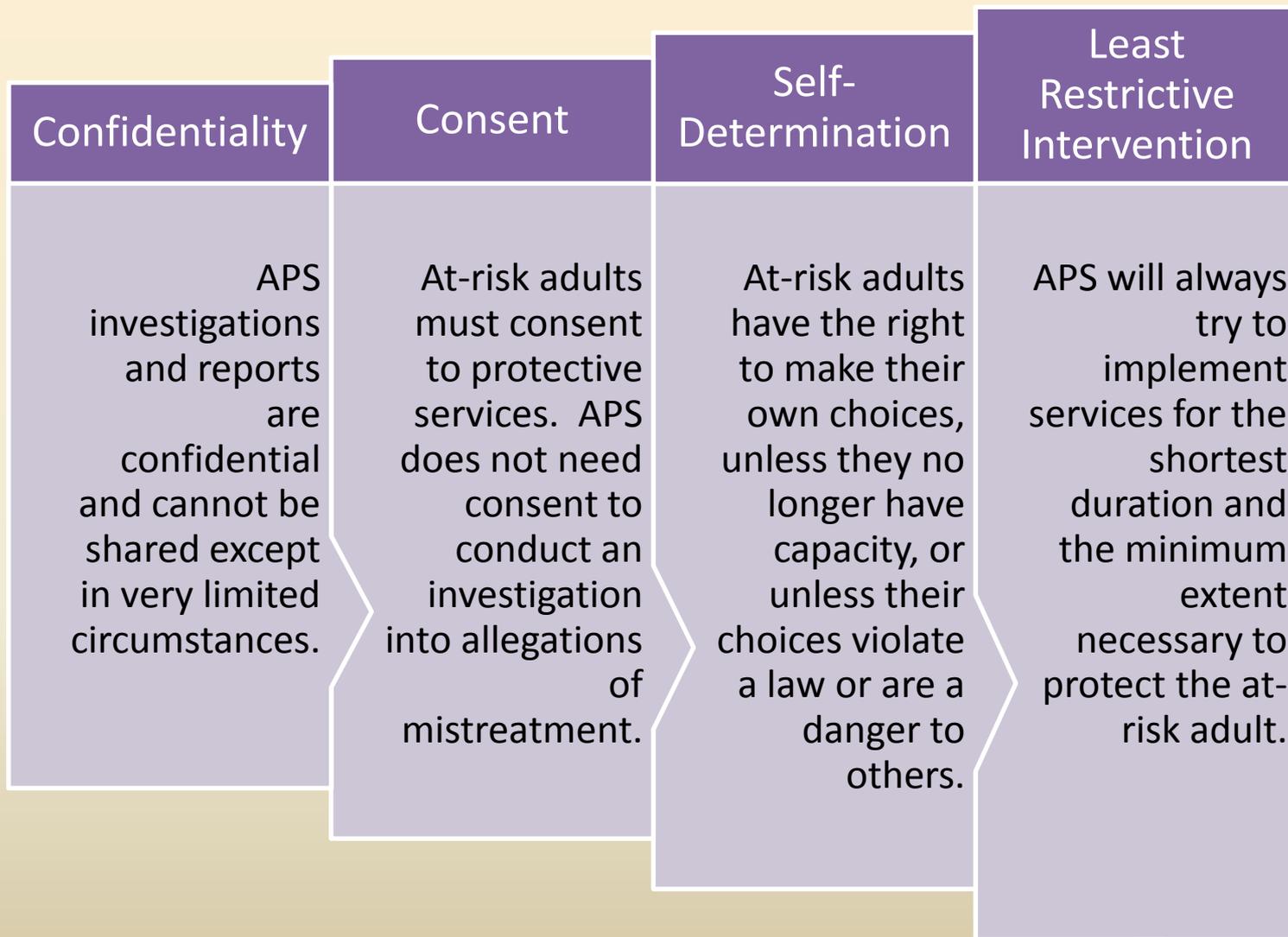
2. The report may be shared with law enforcement.

3. APS will take appropriate action, which may include an investigation.

4. APS may request a joint investigation with law enforcement or another agency.

5. APS may offer protective services to the at-risk adult

APS Priorities



Right to Refuse Services

At-risk adults have the right to make lifestyle choices that others may see as objectionable or even dangerous, including:

- Refusing medical treatment or medication
- Choosing to abuse alcohol or drugs
- Living in a dirty or cluttered home
- Continuing to live with the perpetrator
- Keeping large numbers of pets, or
- Engaging in other behaviors that may not be safe



To Summarize:

- Right now you are urged to report allegations of physical or sexual abuse, caretaker neglect, exploitation, and self-neglect involving at-risk adults (age 18 and older) to APS within 24 hours after making the observation or discovery.
- Beginning July 1, 2014 you must report suspected physical or sexual abuse, caretaker neglect, or exploitation of an at-risk elder (age 70 and older) to law enforcement within 24 hours after making the observation or discovery (unless you are not a mandatory reporter).
 - You will continue to be urged to report suspected physical or sexual abuse, caretaker neglect, exploitation, or self-neglect of an at-risk adult (age 18 and older) to APS.

Beginning July 1, 2014, you MUST report:

Abuse,
Caretaker
Neglect,
Exploitation

Of an at-risk
elder
(someone age 70 and
older)

To law
enforcement

Law enforcement will
share with APS

Within 24
hours of
observation
or discovery

Now and continuing after July 1, 2014, you are URGED to report:

Abuse,
Caretaker
Neglect,
Exploitation,
and Self-
neglect

Of an at-risk
adult
(someone age 18 and
older who is unable to
complete or secure
necessary services or who
is unable to make
decisions)

To APS

APS may share with law
enforcement

Within 24
hours of
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This training was provided by Mary Catherine Rabbitt, Esq., from materials provided by Colorado Adult Protective Services.”

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