The drizzle cascaded blurring images as though seen through cellophane covering the downtown with a fine mist. A tiny woman well into her eighties trudged down the glistening sidewalk. Dressed in a yellow plastic poncho (two sizes too big for her), black rubber boots with their obligatory red toes and heels, she clutched a large blue umbrella as though it was a life preserver, not so much to keep dry, bit more as a pole to lean against; a support. She headed to police station on the next corner, a building she was not accustomed to visiting.

The front door was a slab of glass though it may as well have been a solid wall of bricks. She didn’t want to involve the police. Her stomach ached as did her head, pounding and butterflies, hammering interspersed with flutter. The royal blue lettering painted across the glass caused her to pause. “Police,” she whispered, and took a deep breath. Unsure, she turned to face the hill she had just come down, and wondered if she was doing the right thing. Perhaps it would be better to leave well enough alone. After all, he only steals my money, she thought. He doesn’t beat me, and I have a nice bedroom.

Thoughts tumbled through her mind like boulders ricocheting down a mountain slope, smashing into each other, fragmenting into smaller, faster pieces. She shook her umbrella, pulled it closed, then pushed through the front door before her courage abandoned her.

Once inside, her anxiety built. Walls, stark white; the linoleum, dark grey and spreading across the floor like a sea of mud waiting to swallow her whole gave her a feeling of impending doom. I should leave, she thought, and turned to walk out.

A voice, that of a man spoke loudly, clearly, authoritatively. “May I help you?” he asked. It was as though the sound of his words had erected a barrier between the glass door in front, and her hand that grasped for the door handle. She froze, staring at her extended fingers oh so close to gripping the knob, so close to escaping into the wind and rain, and yet so far. Frozen in time. What to do? What to do?

Caught like an animal in a spotlight, she turned to face the voice. A very young police officer, vestiges of pimples across a chin that needed shaving merely once a week looked at her. He stood at the counter with his hands pressed flat against the grey Formica competing with the floor for space. “Is there something I can help you with,” he pressed.

She looked into his face and saw kindness and hope. His eyes had yet to be ravaged by the filth of man as had so many before him in an occupation known for its victims both in uniform and out. “Yes,” she answered in a hushed tone, and approached the counter.
“My son has been stealing my money,” she began, locking her gaze on the gold badge pinned to his chest.

“I see. And how old is your son?” the officer asked.

“Fifty-two,” she answered gathering the strength to look the man in the eyes. Grabbing a report form, the officer began to fill in the details; her name, address, and date of birth. “Do you really need that?” she asked. “Eighty-three.”

“No I don’t live alone. I live with my son and his wife.”

“He’s been stealing my pension money as well as my late husband’s pension money since I gave him power of attorney.”

The officer stopped writing as though the ink in his pen had suddenly run dry. His eyes leaped as he lifted his head and stared at her. “Power of attorney?” he repeated. “This is a power of attorney situation?”

She nodded.

Laying the pen atop the report form, the policeman smiled, and patted the woman on the hand as though he were consoling a small child who had skinned her knee. “I’m afraid I can’t be of any help ma’am. That’s entirely a civil matter. Nothing the police would get involved in.”

“Civil matter?” she said. “But how do I get him to stop? How do I get my money back?”

A warm tone washed over the young man’s face as he leaned across the counter top his chest balancing on his crossed arms. “You need to speak to a lawyer. It’s a civil matter.”

The woman nodded, stepped through the door, and unfurled her umbrella. “But I can’t afford a lawyer,” she said, the despair in her voice dripping as hard as the rain. “He steals all my money.”

This past spring I was invited to speak in the Lower Mainland by a credit union on the financial abuse of seniors. During the weeklong series of presentations I continually heard the same grievance from those in attendance, “We have reported the matter to the police, but they say it’s not criminal, but civil. Go see a lawyer.” The abuse of powers by an appointed attorney acting as power of attorney is not civil; it’s criminal. The police are wrong.

Section 331 of the Criminal Code of Canada clearly sets out the offence, *Theft by Persons Holding Power of Attorney*. This section has been in existence for many decades now, and yet very few police officers have heard of it. One of the reasons for this may be the
fact this section is not a charging section, but what is referred to as a descriptive section. When someone is charged with stealing funds from a senior, the charge is section 336 - Theft, not 331ccc. This causes confusion, however no matter of how it’s viewed, a theft is a theft, and an investigation needs to be undertaken by the police.

In the five years I investigated such complaints, I found the victim in most instances suffered from some degree of dementia. They were simply unaware of what was happening to their finances. As a result, they were not able to report the matter to the police. Many of my complaints came from those in the banking sector who managed the accounts for their senior clients. It was these people who became suspicious at first glance, looked into the matter further, and then reported to me.

The most frequent comment I heard from professionals such as bankers, lawyers, and doctors was, “We can’t report anything to the police because of privacy issues.” This is utter nonsense. You have a duty to protect those you act on behalf of.

Privacy Act, Privacy Act, Privacy Act. Everyone grabs hold of this much maligned, and often quoted Act as a means of deflecting liability when it doesn’t need to be that way.

Setting the record straight is the beginning. The professions mentioned above including Notary Public are not covered by the Privacy Act. The piece of legislation you are governed under is called The Personal Information Protection of Electronic Documents Act; PIPEDA for short.

PIPEDA, provides relief under section 7(3) for the disclosure of client information to the police in the event you suspect criminal activity. This disclosure is voluntary. There is no criminal penalty for not disclosing, however...by not disclosing, you may be setting yourself at risk for civil action down the road should your client’s estate be plundered by the appointed attorney. Use your common sense; employ due diligence before you dismiss your involvement.

What happened to the woman in the above story should not happen to anyone when help is needed. Know your role in preventing financial abuse of seniors, and what can be done to prevent it. Interagency communications is the first step in protecting our seniors. Contact the stakeholders in your community to establish a working group devoted to a clear and honest exchange of ideas based on trust that are designed to eliminate elder abuse.

For more information, or to have Sgt. Trainor speak to your staff, members or community about fraud issues, please contact him at:

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