The Parallels Between Undue Influence, Domestic Violence, Stalking, and Sexual Assault

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ABSTRACT. The dynamics of undue influence (UI) have many similarities with domestic violence, stalking, and grooming behavior used by some sexual predators. This article will help practitioners—particularly law enforcement investigators and prosecutors—better recognize UI as a pattern of behaviors, not an isolated incident. Understanding the dynamics of UI will enhance professionals’ appreciation of the responses of victims and the manipulative nature of exploiters. Strategies that have
been used effectively with domestic violence, stalking, and some sexual abuse cases may provide remedies for victims of UI and criminal justice options for holding perpetrators accountable. Enhanced awareness of these dynamics should lead to improved investigations, more effective strategies when interviewing and working with victims, and more successful prosecutions of perpetrators who use UI to financially exploit an older person.

KEYWORDS. Undue influence, financial exploitation, domestic violence, stalking, sexual abuse/assault, grooming behavior, victim, perpetrator/exploiter/suspect, sexual predator, decision-making capacity

INTRODUCTION

Undue influence (UI) occurs when people use their role and power to exploit the trust, dependency, and fear of others (Quinn, 2001; Singer, 1998). Exploiters, whether family, acquaintances, or strangers, use their power to deceptively gain control over the decision making of their victim (Singer, 1998). Undue influence is most often used to commit financial exploitation. Usually not a crime on its own, UI is, rather, the method used to commit a crime (YWCA of Omaha [YWCA], 2006). Exploiters using UI employ deception, develop or take advantage of a trusting relationship, and use an array of tactics that result in the victim’s loss of free will. Undue influence is not a one-time act; it involves a pattern of manipulative behaviors to get a victim to do what the exploiter wants, even when the victim’s actions appear to be voluntary or are contrary to his or her previous beliefs, wishes, and actions. These tactics are similar to brainwashing techniques used by cults and hostage takers. There are also parallels to domestic violence, stalking, and grooming behaviors used by some sexual predators. Understanding these parallels can help criminal justice professionals and other practitioners understand that strategies used in domestic violence, stalking, and some sexual assault cases also may be used to effectively investigate and prosecute some financial exploitation cases and to prevent further financial losses by the victim (YWCA, 2006). In many cases, the addition of a criminal justice response may be more effective than social services or civil remedies alone.
Perpetrators of financial exploitation through UI may be opportunists who found a situation where it was possible to take advantage of an older person. In other cases, perpetrators are career criminals with a history of preying on older persons and financially exploiting people (Quinn, 2001; Singer, 1998). Many exploiters are family members who take advantage of their ongoing relationship with an older individual. As gaining the trust of the potential victim is a critical aspect of UI, exploiters who are strangers to the victim may, like some sexual predators, use a process known as grooming for selecting their victims. These particular exploiters may start this process by placing themselves in settings where older people gather. They may seek out especially vulnerable elders and begin a relationship with them, deliberately gaining their trust in order to eventually financially exploit them.

Who are the victims of UI? Under the right circumstances anyone can be unduly influenced (Singer, 1998). Even the many older persons who have the capacity to make decisions about their finances may become victims of UI. However, adverse life events, inexperience and naiveté, illness, and dependence may increase a person’s susceptibility. Examples of adverse life events might include the death of a spouse, child, close friend, or pet, financial setback, or change in health status. Other circumstances that may increase vulnerability to UI include loneliness and isolation (whether caused by the acts of another person or by situational factors, such as living in a rural area, limited mobility due to health or other problems, inability to speak English, immigration status, etc.). Characteristics that may increase vulnerability to UI include being a trusting person, lacking knowledge about financial matters, being fearful, being uninformed, being dependent on others, or having cognitive disabilities (Quinn, 2001; Singer, 1998). Similarly, illness, some medications, drug and alcohol addiction, and exhaustion may limit a person’s ability to resist manipulation by an exploiter. These circumstances and characteristics not only increase vulnerability to UI, they increase the likelihood that an exploiter will recognize vulnerability and then either take advantage of an opportunity or target the individual for manipulation.

Recognizing UI requires the identification of the exploiter’s pattern of tactics. Undue influence occurs as the result of a process, not a one-time event. Two real cases illustrate the distinction.

• Mrs. B. was widowed after a long marriage. A year after her spouse’s death, she hired a handyman to work on the house that she and her husband had lived in for 50 years. Although she was legally blind and had some difficulty with mobility, she was insistent on
remaining in her one-story home and capable of living independently. As the handyman continued working for Mrs. B., he learned that she had several trusts worth more than $1 million. Within a few months, Mrs. B. was no longer seeing her family or long-time friends. The handyman convinced Mrs. B. to sell her home and purchase a condominium, which had stairs that were difficult for her to maneuver and that was not located near her old neighborhood, friends, or family. The handyman put his name on the title to the condominium, although he did not live in it. His adult children were paid to be caregivers for Mrs. B., but did not provide any assistance. Mrs. B. believed that she and the handyman were going to get married. The handyman made large purchases (new truck and television) that he did not seem able to afford, changed Mrs. B’s banks, and later tried to liquidate the trusts.

- Mr. F. became a widower after a long marriage. Immediately thereafter, the caregiver whom he had hired to assist his dying wife offered to live with and provide care for him for the rest of his life if he would sign his house over to her. He did so, and within two weeks she threw him out of the house.

The first case demonstrates the process that can result in UI. The second case illustrates a one-time event that can result in fraud and misrepresentation.

Criminal justice and other professionals whose work usually causes them to focus on a particular incident may disregard or discount what seem to be minor, often non-criminal acts. However, such acts are critical to the identification of UI tactics. The pattern of tactics exploiters use is similar to those used by domestic violence perpetrators and stalkers, as well as the grooming tactics used by some sexual predators. As a result, criminal justice professionals may be able to apply the effective investigative and prosecutorial procedures used in domestic violence, stalking, and some sexual assault cases against perpetrators who use UI to commit financial exploitation (YWCA, 2006).

This article will describe seven parallels between UI, domestic violence, stalking, and sexual assault cases. These include the following:

- The victim and exploiter are in an ongoing relationship.
- Exploiters may target and groom their victims.
- Exploiters generally use a stealth campaign of tactics to unduly influence and financially exploit their victims.
- Exploiters are often charming manipulators.
Exploiters justify their actions through various excuses. Victims often appear as willing participants in activities that may contradict their beliefs or best interest. Victims often have trauma reactions and may respond to professionals in ways that impede an investigation. (YWCA, 2006)

Understanding the parallels between UI, domestic violence, stalking, and targeting and grooming behaviors in some sexual assault cases is important to professionals for the following reasons:

- Like stalking and domestic violence, UI is a pattern of tactics that will not be recognized if only isolated incidents are investigated. Exploiters use various tactics to accomplish their goals—often in combination.
- Common reactions to victimization and trauma may be confused with mental illness, dementia, or substance abuse. As a result, allegations by victims who experience those reactions may be discounted and not investigated.
- Isolation and victim behavior changes are critical indicators warranting further investigation.
- Cases often involve family members with differing versions of events and complex motives.
- Investigating financial exploitation, especially where UI is present, can lead to the discovery of domestic violence, sexual abuse, or neglect.
- Investigating domestic violence, sexual abuse, or neglect can lead to the discovery of financial exploitation—often involving UI. (YWCA, 2006)

This knowledge will help professionals distinguish between cases where an older person decided to change a will or make gifts using clear judgment from cases where the victim lacked capacity to make those decisions or perpetrators used UI to steal assets. It is critical to understand, however, that many older people have the ability to make financial and personal decisions, including decisions to change wills or enter into new relationships. Older people have the right to make their own decisions, even bad decisions, if they have decision-making capacity and are not victims of UI. Cases only involve UI if the perpetrator overcomes the free will of the victim and then substitutes his or her judgment for that of the victim.
PARALLELS BETWEEN UNDUE INFLUENCE, DOMESTIC VIOLENCE, STALKING, AND SEXUAL ASSAULT

The Victim and Exploiter Are in an Ongoing Relationship

The goal of exploiters is to take over the will of a targeted individual. A relationship in which the targeted individual has faith and trust in the exploiter is crucial to successfully manipulate the victim. In some situations, the relationship is well established, such as that between a long-time friend and confidant, a family member, a caregiver, or a person with legal or financial authority to make decisions for the older person (Quinn, 2001; Singer, 1998). If there is no existing trusted relationship, the suspect may rekindle an old friendship or establish a new one.

The existence of a relationship involving trust can complicate an investigation. As in many domestic violence cases, the victim may be more interested in protecting the abuser/exploiter than in assisting the investigator. Victims may recant or refuse to participate in an investigation. Exploiters who have an ongoing relationship with the victim may use that connection to continue to manipulate and pressure the victim to minimize or deny what has happened (YWCA, 2006).

Exploiters Often Target and Groom Their Victims

As UI may require the creation or rekindling of a relationship, the exploiter must gain the trust of the victim, often very quickly. “Undue influence of the elderly is a ‘con’ or ‘hustle’” (Singer, 1998). An exploiter will typically employ the following strategies:

1. Find a likely target, generally vulnerable and with resources and assets.
2. Gain the confidence of the potential victim.
3. Induce dependence through exploitation of the target’s weaknesses.
4. Gain dominance over the victim’s circumstances and resources/assets.
5. Engineer the victim’s total incapacity and/or death. (Singer, 1998)

Predatory exploiters visit locations frequented by older adults, such as parks, churches/synagogues/mosques, libraries, senior or community centers, senior housing complexes, neighborhood restaurants, or markets. Exploiters may follow older individuals home from their banks. They may observe elders to determine who may be most vulnerable,
isolated or easy to isolate, and likely to have assets. Next, the exploiter befriens the potential victim and asks questions about his or her life to determine if the person is a good target. The exploiter ensures that early contacts are non-threatening, for example, by dressing well and being very friendly—so the elder does not suspect that the exploiter has suspicious motives (Quinn, 2001; Singer, 1998).

This tactic of gaining the confidence of the victim, often called “grooming behavior,” is similar to the strategies used by some sexual predators. According to Salter (2003), some sexual predators deceive their victims by creating a double life, deliberately establishing themselves as persons who would never harm a child or rape anyone. They may select respected and revered positions, such as clergy, coaches, or teachers, where they encounter potential victims without arousing concern. Their dress and public behavior deflect suspicion.

Professionals with expertise in grooming behavior used by sexual predators may recognize that exploiters can use similar behaviors to target elders for UI. To examine the use of targeting and grooming tactics in both sexual predator and UI cases, an investigation should explore how the victim and suspect met, the length of their relationship, how the relationship changed over time, why the victim trusted the suspect, and the intensity of the relationship (YWCA, 2006).

**Exploiters Use a Stealth Campaign of Tactics to Unduly Influence and Financially Exploit Their Victims**

In cults and hostage situations (including prisoners of war), perpetrators use various tactics to gain and maintain compliance of their victims. “The accounts of hostages, political prisoners, and survivors of concentration camps from every corner of the globe have an uncanny sameness” (Herman, 1992, p. 76). Biderman created a *Chart of Coercion* to describe these tactics. They include:

- Isolation from social support by making the victim completely dependent on the offender.
- Monopolization of perception by fixing the victim’s attention on the immediate predicament, eliminating competing stimuli, and frustrating any actions that are not in compliance with the offender’s wishes.
- Inducing debility and fatigue (e.g., by sleep deprivation, inadequate nutrition, medication mismanagement) so the victim becomes exhausted from the tension.
• Providing occasional indulgences, which reinforce the omnipotence of the perpetrator and provide motivation for compliance.
• Devaluing the person through words and actions. (Biderman, n.d.)

Battered women are subjected to many of the same tactics used against hostages and political prisoners (Herman, 1992). In both circumstances, perpetrators use a pattern of coercive tactics to gain and maintain power and control over the victim. One tool that depicts the experience of living with domestic violence is the “Power and Control Wheel” created by the Duluth, Minnesota, Domestic Abuse Intervention Project (Figure 1). This tool was created by and draws on the experience of battered/formerly battered women. The wheel illustrates the pattern of coercive tactics used by many batterers. At the inner circle or center of the wheel is the goal, which is the control and domination of the victim and others in the household. The segments within the wheel show those behaviors used most often, generally in combination, to gain and maintain power and control. These segments include emotional

FIGURE 1. Power and Control Tactics of Men Who Batter
abuse, isolation, economic abuse, male privilege, coercion and threats, intimidation, children, and minimizing, denying, and blaming. The outer rim, in which physical and sexual violence is listed, describes those behaviors used to ensure dominance and compel compliance, which are used intermittently throughout the relationship in most situations.

Like batterers, exploiters using UI often use a pattern of tactics to achieve their goal of financial exploitation. The UI wheel was developed by the authors to illustrate the types of tactics used by exploiters and their commonality with the domestic violence tactics as indicated on the Duluth diagram (Figure 2). In the center of the UI wheel is the exploiter’s goal, which is financial exploitation. The segments of the wheel indicate tactics that may be used in combination or individually. They may occur in a specific order or be used randomly. Physical and sexual violence are not shown on the diagram because they are not components of financial exploitation. If physical or sexual abuse or both are occurring, crimes such as assault, battery, domestic violence, stalking, or sexual assault, may also be considered (YWCA, 2006).

FIGURE 2. Undue Influence: Common Tactics
The following indicators of UI can be drawn from the headings on the wheel. Many of the behaviors listed on the UI wheel are also present in other elder abuse and financial exploitation cases, as well as in domestic violence, stalking, and some sexual abuse cases (YWCA, 2006).

**Tactic: Isolates from Others and Information**

<table>
<thead>
<tr>
<th>Victim:</th>
<th>Suspect:</th>
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<tr>
<td>Loses contact with friends, family and trusted professionals.</td>
<td>Intentionally damages or destroys victim’s relationships with others.</td>
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<tr>
<td>Is geographically isolated (living in rural area; living in community with different language, racial or religious background, or ages groups).</td>
<td>Moves victim to new area. Takes advantage of an older individual who is isolated.</td>
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<tr>
<td>Does not have access to information.</td>
<td>Withholds mail, and limits or eliminates access to television, radio, and printed materials.</td>
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**Tactic: Creates Fear (Siege Mentality)**

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<th>Victim:</th>
<th>Suspect:</th>
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<tbody>
<tr>
<td>Has changed behavior—doesn’t trust those who used to be close. Appears fearful.</td>
<td>Tells victim others are out to harm or institutionalize him/her.</td>
</tr>
<tr>
<td>Only trusts suspect.</td>
<td>Promises lifelong care, security, and companionship if victim does as suspect asks.</td>
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<tr>
<td>Believes others want to hurt or institutionalize him/her.</td>
<td></td>
</tr>
<tr>
<td>Places unusual trust in new found person.</td>
<td>Says “I’m the only one who loves you and understands you.”</td>
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**Tactic: Preys on Vulnerabilities**

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<tr>
<th>Victim:</th>
<th>Suspect:</th>
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<tr>
<td>Has significant, unexplained changes in appearance, nutrition, behavior, or cognition.</td>
<td>Tampers with victim’s medications, food, sleep, or hydration.</td>
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<tr>
<td>Seems fearful, confused, unsure of self, and dependent on suspect.</td>
<td>Intentionally engages in “crazy-making” behavior and cannot be trusted to make own decisions (e.g., convinces victim s/he is going crazy or has dementia). Takes advantage of victim’s grief state, fear of loss, or loneliness.</td>
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### Tactic: Creates Dependency

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<th>Victim:</th>
<th>Suspect:</th>
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<tr>
<td>Seems fearful, confused, unsure of self, and dependent on suspect.</td>
<td>Creates rules for the victim to live by and enforces consequences if the rules are not followed.</td>
</tr>
<tr>
<td>Experiences changes in behavior, appearance, nutrition, and financial situation.</td>
<td>Ensures the victim is dependent on suspect for transportation, food, hydration, and medications.</td>
</tr>
<tr>
<td>Says s/he wants the relationship to end but always lets the suspect back into life. Says s/he is afraid of losing suspect.</td>
<td>Threatens to leave but reminds the victim of negative consequences if the relationship ends.</td>
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### Tactic: Creates Lack of Faith in Own Abilities

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<th>Victim:</th>
<th>Suspect:</th>
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<tr>
<td>Looks to suspect to answer questions or before answering.</td>
<td>Makes all significant decisions.</td>
</tr>
<tr>
<td>States “I’ll do whatever the suspect says is best.” Takes actions or makes statements that are contrary to long-time values and beliefs.</td>
<td>Undermines victim’s confidence in own decision-making ability and skills.</td>
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### Tactic: Induces Shame and Secrecy

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<th>Victim:</th>
<th>Suspect:</th>
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<tbody>
<tr>
<td>Is embarrassed to tell others about relationship or transactions. Asks others to keep relationship (especially if secret) or transactions secret.</td>
<td>Shrouds relationship and/or transactions in secrecy. Is unwilling to meet with family or friends.</td>
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### Tactic: Performs Intermittent Acts of Kindness

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<th>Victim:</th>
<th>Suspect:</th>
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<tr>
<td>Talks about times or activities where suspect was particularly kind. Is allowed to purchase something using own money. Describes how kind, wonderful, and generous the suspect can be.</td>
<td>Takes victim on special trips or places. Gives the victim money to spend on whatever s/he wants. Is kind, loving, and thoughtful—often in beginning of relationship and later when least expected.</td>
</tr>
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</table>
Practitioners who are investigating cases or working with victims should consider and investigate the possibility of UI or other criminal forms of abuse if any of these indicators are present. This is not an exhaustive list, however–some behaviors may not be listed and all indicators listed here may not occur in every case. Interviewing questions can be generated by looking for behaviors identified on the wheel and indicators chart (i.e., How do you spend your day? Who do you see? Do you see your mail and answer your own phone? Who makes decisions about how you spend your time and where you go?). Therefore, a thorough investigator will examine victim behaviors, including changes in long-standing patterns of conduct, and the acts that the suspect may have committed to engineer those behaviors.

An understanding of the role of these tactics, actions, and behaviors is helpful in cases where there is no clear evidence of criminal activity. While many of these acts are not themselves crimes, they are part of the pattern of actions that have led to the victim’s decisions. It is always critical to remember that like stalking and domestic violence, UI is a process rather than an event (YWCA, 2006).

**Exploiters Are Often Charming Manipulators**

Abusers often are excellent manipulators. Many abusive men are perceived as charming by their colleagues, friends, and neighbors. This perception enables them to have a good public image, in contrast to their private treatment of women and children. Moreover, abusive men who present a charming face to the public make it more challenging for their partner to reach out for help because friends, family members, and professionals may have difficulty believing the partner. Abusive men rarely rely entirely on verbal abuse or intimidation to control their partners or act abusively all the time. If a man is constantly abusive, he increases the likelihood that his partner will recognize that she is being abused and that friends, family members, and professionals also will realize what is oc-

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**Tactic: Keeps Unaware**

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<th>Victim/Suspect:</th>
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<tr>
<td>Versions of events do not match (e.g., the victim does not know where the money is going or that the suspect has another sexual relationship).</td>
</tr>
<tr>
<td>Versions of events match perfectly. Some victims are coached on what to say.</td>
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</table>
Therefore, abusers often alternate charming and abusive behavior and use different tactics of abuse in order to manipulate their partners (Bancroft, 2002).

Sexual predators, pedophiles, and psychopaths may also be excellent manipulators. Often they use charm and deception to get close to their victims (Salter, 2003).

Exploiters use guile and deception to get their way. Their personality traits may include “glibness, pathological lying, conning/manipulative, no remorse, shallow affect, callous/lack of empathy, parasitic lifestyle, lack of realistic, long-term goals, impulsivity, irresponsibility, short-term and opportunistic relationships, and criminal versatility” (Singer, 1998). It is critical that investigators and prosecutors recognize that exploiters are often predators who are excellent liars and manipulators. An exploiter’s charm, unless recognized for what it is, may deceive the victim, family, friends, and criminal justice, and social service professionals (YWCA, 2006).

**Exploiters Justify Their Actions Through Various Excuses**

Domestic violence abusers use various excuses to deny that abuse occurred, minimize their violence, and justify their behavior. These excuses can range from “she made me do it” to “it happened just this one time” to “I was defending myself.” Similarly, financial exploiters have a variety of justifications to excuse their behavior. One of the challenges of investigating and prosecuting UI cases is countering suspects’ justifications. Suspects will often claim:

She gave me the money as a gift, loan, or favor.
This is payment for caregiving services rendered.
He gave permission to sign his name on checks.
She’s my girlfriend. What’s hers is mine (Quid pro quo).
I don’t even know his PIN number. I couldn’t have taken his money (Lack of knowledge). (Barron, 1998, pp. 53-54)

Before accepting such justifications, investigators should fully investigate the surrounding facts and consider the decision-making capacity of the victim, compare the relative benefits to each party, examine prior patterns of decision making (particularly those related to gift giving and other aspects of financial and estate planning), explore the nature and
duration of the relationship between the parties, and determine if tactics associated with UI have been used (YWCA, 2006). The exploiter may have told the victim that family members, law enforcement officers, or social workers are trying to steal his or her money or place him or her in a nursing home, so it may be difficult to gain the trust and cooperation of the victim, get him or her to accept that the exploiter may have taken advantage, and establish rapport.

**Victims Often Appear as Willing Participants in Activities That May Counter Their Beliefs or Best Interest**

Like victims of domestic violence, UI victims may appear to be willing participants in activities or financial transactions that run counter to their belief systems or best interests (YWCA, 2006). If the victim’s decision making has been deceptively taken over by the exploiter, UI is present. It is easier to unduly influence a person with diminished decision-making capacity, but even a person with full decision-making capacity may become a victim of UI. A victim of UI “has been ‘brainwashed’ and, in effect, has been living in a cult, albeit one with very few members” (Quinn, 2001, p. 55). Victims are, of course, unaware of what has really happened to them and may state that they gave consent or permission for the exploiter’s actions. At first glance this appears to be legitimate consent and so the action taken will appear to be proper and legal. Exploiters expect that they will escape detection and accountability once a victim says he or she consented or agreed to the now-disputed action. Historically, because UI and its impact on consent were not recognized or understood, those exploiters generally have been correct. Therefore, an investigation of alleged financial exploitation that may involve UI must focus on whether the consent was truly legitimate or just seemed that way. This entails focusing on whether the victim had knowledge of the true nature of the act in question and was acting freely and voluntarily. Because the exploiter creates fear, keeps the victim unaware of the true state of matters, induces shame and secrecy, and isolates the victim from others and information, the victim does not have the requisite knowledge and is unable to act freely and voluntarily. Indeed, the gist of UI is that the victim’s free will has been deceitfully stripped away. Therefore, in an UI case when the victim claims to have consented or agreed to an action, careful investigation will reveal that what appears to be consent is actually only “apparent” consent (YWCA, 2006).
Victims Often Have Trauma Reactions and May Respond to Professionals in Ways That Impede an Investigation

Like victims of domestic violence, stalking, and sexual assault, victims of financial exploitation through UI may exhibit post-traumatic stress disorder symptoms (YWCA, 2006). Like victims who have been subjected to control for a long period of time, they may exhibit a sense of helplessness or paralysis of initiative, shame, guilt and self-blame, preoccupation with their relationship with exploiter, unrealistic attribution of total power to the exploiter, a sense of special relationship, acceptance of the perpetrator’s belief system or rationalizations, isolation and withdrawal, disruption in intimate relationships, a repeated search for a rescuer, persistent distrust, repeated failures at self-protection, loss of sustaining faith, and a sense of hopelessness and despair (Herman, 1992). Like victims of domestic violence, victims of UI may deny that abuse or exploitation has occurred, defend the abuser, and refuse to accept that he or she has been defrauded (Quinn, 2001). Victims may focus on the well-being of the exploiter and feel deeply bonded to that person (Quinn, 2001).

CONCLUSION

Understanding the parallels between UI and domestic violence, stalking, and the targeting and grooming behaviors of some sexual predators helps professionals recognize the process and pattern of tactics often used in financial exploitation cases. With this knowledge, professionals will be better able to distinguish actual consent from “apparent” consent to a financial transaction (YWCA, 2006).

Professionals who understand UI as a process will adapt practices related to screening, interviewing, documenting, and responding. Criminal justice professionals can employ investigation strategies, such as documenting the pattern of events rather than individual, isolated incidents, and employing evidence-based prosecution (YWCA, 2006). An understanding of UI may lead to significant changes in protective services practice. For example, the traditional framework for evaluating consent, the role of capacity, and client self-determination may need to be reframed. For health care professionals, recognizing UI may lead to changes in reporting practice and the development of treatment and discharge plans. Professionals from other disciplines, such as advocates for victims of domestic violence, sexual assault, and stalking, mental
health care providers, and civil attorneys, also may adapt existing practices in light of this new information. All professionals will be most effective when they work as part a multidisciplinary collaborative response, because no single discipline will have all the necessary information, knowledge, and resources to identify and address UI (YWCA, 2006).

REFERENCES
