

Elder Financial Exploitation

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Overview

- Types and Methods
- Extent and Cost
- Victim & Perpetrator Characteristics
- Risk Factors and Indicators
- Capacity
- Civil Justice
- Criminal Justice

Types and Methods

- Excessive/unreasonable charges/fees
- Failure to provide consideration
- Fraud or misrepresentation
- Identity theft
- Misappropriation of assets
- Misuse of authority by a fiduciary
- “Sweetheart scam”
- Undue influence

Extent & Cost of Problem

- Financial exploitation is increasing
- Prevalence: 1 in 20 (Acierno et al.)
- Largely unreported (NYS prevalence study - 1 in 43.9 cases reported)
- MetLife: National annual losses \$2.9 billion
- Utah study: \$52 million lost in 2009
- Wyoming study: \$200,134 lost in 2009-10
- Studies didn't assess most vulnerable

Victim & Perpetrator Characteristics

- Victimization likelihood increases with age
- Higher assets don't increase likelihood
- Females especially vulnerable
- Perpetrators predominantly family
- Perpetrators more likely to be young

Victim Dynamics

- May be unable or reluctant to seek help:
- Don't recognize the exploitation
- Fear disbelief, stigma, or retaliation
- Dependent on perpetrator
- Reluctant to get perpetrator in trouble
- Fear guardianship or placement in LTCF
- Fear loss of relationships

Risk Factors

- Situations that may enhance abuse risk:
 - Abuser dependency on elder
 - Elder dependency on abuser
 - Elder’s frailty, disability or impairment
 - Elder’s social isolation
 - Either’s substance abuse or mental pathology

Indicators

- Banking inconsistent with ability & history
- Changes to elder's financial documents
- Forged or suspicious signatures
- Lack of affordable necessities or amenities
- Missing property
- Recent, new best friends or sweethearts

More Indicators

- Isolation by others
- Changes in appearance, mood, habits
- Accompanied by coercive other person
- Missing financial documents
- Doesn't remember or understand recent transactions
- Voices concern about missing assets

Capacity

- Capacity for financial decisions
 - Will necessitate clinical evaluation
 - Retroactive evaluation may be possible

Civil Justice: Prevention

- Money management services
- Guardianship/conservatorship
- Divorce or legal separation
- Protection/restraining orders
- Injunctions

Civil Justice: Asset Recovery

- Accounting
- Breach of fiduciary duty
- Constructive trusts
- Conversion
- Divestiture
- Fraud
- Rescission
- Restitution

Criminal Justice: Prevention

- Freezing assets pending investigation
- Restraining orders

Criminal Justice: Prosecution

- Embezzlement
- Exploitation
- False Impersonation
- Forgery
- Fraud (credit card, tax, Medicaid, Social Security)
- Larceny
- Money Laundering
- Theft