Elder Financial Exploitation: A Prosecutor’s Perspective

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Common Ground Meeting
Seattle, WA
King County Prosecutor’s Office Elder Abuse Project

- Formed in 2001 to prosecute cases of elder financial exploitation, neglect, sexual assault, and homicide
- Trains first responders, medical community, and public
- Works to improve systemic response to elder abuse
A Typical Case

- Margaret Martin
  - Mid 80s
  - Husband, only child dead
- Meets Katie and Michael Lambard in church
- They “adopt” her as family
- Katie becomes caregiver
- Cultivate Margaret’s trust
- Borrow money from her
Case Example

- Convince Margaret to appoint them as Power of Attorney, allow them to handle her finances
- Convince Margaret to move her money to bank where Michael works as teller
- Make countless withdrawals from Margaret’s accounts
- Purchase three new cars—two for themselves, one for their barista using Margaret’s checks
Case Example

- Eventually drain all of Margaret’s $350,000+ in assets
- Margaret moves to care facility, dies shortly thereafter
- Katie and Michael are charged with 33 counts of Theft
- Plead guilty to 9 felony counts
- Sentenced to 33 months in prison
- Restitution ordered, will likely never be repaid
A Sign of Progress...

• 10 years ago, case would likely have been deemed “civil” and not responded to by police or prosecutors

• Even if investigated, case would have been closed once Margaret died
Elder FE is a Growing Crisis

- $18 Trillion or more will move between the generations in the next 20 years
- 10,000 people turn 65 every day and will do so during the next 17 years
- 10% will be victims of elder abuse
- 20% will be victims of financial exploitation
Yet It is Rarely Reported

- By mandatory reporters
- By professionals who are not mandatory reporters
- By victims
Victims Often Don’t Report Due to:

- Fear of losing independence
- Fear of retaliation by perpetrator
- Lack of knowledge or disbelief that exploitation is occurring
- Emotional dependence on perpetrator
- Dementia
Two Main Risk Factors of Victims of Elder FE

• Dementia
• Social isolation
Elder FE is Committed Most Often by Someone the Elder Trusts

- Caregiver
- Family member or close friend
- Fiduciary or other person in position of trust
- Stranger who targets elder, develops trust relationship
The Exploiter Typically Perpetrates the Theft by:

- Undue Influence
- Abuse of fiduciary relationship
- Deception
- Taking money without victim’s knowledge
Undue Influence

- Pattern of manipulative behaviors similar to “grooming”
- Involving victims who are lonely, vulnerable
- Done in order to obtain victim’s “consent” to turn over assets to perpetrator
Abuse of Fiduciary Relationship

• Power of Attorney
  – No gifting provision
  – Exceeding gifting provision

• Guardianship
Its Impact is Devastating

• Even mild abuse, neglect, or exploitation increase premature deaths in the elderly by 300%.
  • Mark Lachs, MD
Elder FE is Still Under-prosecuted

• Due to:
  – Long history of criminal justice system treating these cases as civil
  – Victims often unavailable to participate due to
    • Dementia, illness, death
  – Lack of training of law enforcement, prosecutors, 911 dispatchers
  – Lack of coordination with APS, medical field, financial industry, capacity experts
  – Lack of evidence of victim’s cognitive impairment at time of takings
Washington’s Abuse of Vulnerable Adults Act
RCW 74.34

• Requires training on elder and vulnerable adult financial exploitation for employees of financial institutions, broker-dealers and investment advisers
Washington’s Abuse of Vulnerable Adults Act
RCW 74.34

• Allows financial institutions to:
  – Share complete records with DSHS, law enforcement, prosecutors when FE is suspected
  – Freeze assets of suspected exploiter or victim
    • Triggers reporting requirement to DSHS and LE
• Grants immunity to financial institutions when acting in good faith
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