

Elder Financial Exploitation: A Prosecutor's Perspective

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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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