



Shutting the Door on Scammers: Promising Practices to Combat Exploitation

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Center for Elder Justice & Policy

- William Mitchell College of Law, St. Paul, MN
 - Classes in elder law
 - Student internships
 - Legal research
 - Vulnerable Adult Justice Project
 - Translating law into practice
 - Grandparent caregivers
 - Direct care workers
 - World Elder Abuse Awareness Day
 - Health Care Decisions Day

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Financial Crimes and the Elderly

Every one of us is at risk for financial crimes every day. Elders, however, are targets, and they have less time to recoup their losses.

\$2.6 billion annually in 2009*

- Met Life study's estimate of the amount older Americans lose to financial exploitation
- Studied AoA/NCEA newsfeeds and scholarly literature
- Associated costs – health care, social services, legal fees, prosecution
- For each reported case, 4 or more may be unreported
- Greater risk now, given the state of the economy
- “the crime of the 21st Century” says Dr. Sandra Timmerman*

* *Broken Trust: Elders, Family, and Finances*, MetLife Mature Market Institute, Westport, CT, March 2009.

\$2.9 billion (in 2011)*

- Expanded analysis, individual interviews
- Crimes of
 - Occasion (opportunity)
 - Desperation (economic crisis)
 - Predation (broken trust)
- Women likely to be victimized
- Holiday “spikes”
- Deceit, threats, emotional manipulation, accompanied by physical and sexual violence

**MetLife Study of Elder Financial Abuse: Crimes of Occasion, Desperation, and Predation Against America's Elders, MetLife Mature Market Institute, Westport, CT, June 2011.*

AARP Fraud Victim Study*

- General population study, profiling
 - Investment fraud victims
 - Business opportunity fraud victims
 - Lottery fraud victims
 - Prescription drug/ID theft victims
 - Advance fee loan victims
- Key Findings for victims over 55
 - Less likely to acknowledge victimization
 - Less likely to report
 - Less upset by prospect of losing money in the future

*Pak, K. and Shadel, D., *AARP National Fraud Victim Study*, Washington, DC, March 2011.

The Utah Cost of Financial Exploitation*

- To estimate losses to Utah seniors, financial institutions, and government entities
- Based on substantiated Adult Protective Services cases of financial exploitation (dollars and estimated property valuation)
- Estimated \$52 million impact in Utah – could be much more given unreported cases
- Families = 72% of perpetrators

*Gunther, J., *The Utah Cost of Financial Exploitation*, Salt Lake City, UT, ...2011.

In Utah, as elsewhere,

- Stolen cash and forged checks
- Credit and debit cards – sign up without victim’s knowledge, “borrow,” identity theft
- Car purchases and theft
- Real property lost through deeding, other deception
- “Shared housing,” *aka* occupying property without rent or contribution
- Misuse of Power of Attorney, guardianship, conservatorship

Financial crimes and the elderly

- Financial exploitation
 - Defined by state laws
 - Vulnerable populations
 - Trusted persons
- Stranger scams and fraud
 - Universal
 - Target the elderly, people with communication impairments and memory loss
- Both thrive in isolation and silence.

A closer look at scams and fraud



Unlimited possibilites

- By phone
- By computer
- By mail
- At your door
- And more....

What a bargain!

- Telemarketers
- Subscriptions
- Travel scams
- Home improvement scams
- Miracle cures and medical equipment

You're in luck!

- Telephone solicitations for lotteries
- Calls or mail saying you've won a prize
- Unclaimed property
- Pigeon drop
- Chain letters

Especially for you!

- Investment fraud (coins, gems, oil and gas leases)
- Business opportunities guaranteed to repay your investment many times over
- International varieties (“Nigerian Schemes,” Jamaican crime rings)

Bless your heart!

- “Charities” with names that resemble real organizations
- Hard luck stories
- Headline disasters
- Special events (9/11 commemoration)

Just following up....

- Bank (examiner) scams
- Insurance scams
- Follow up on earlier “orders”
- Funeral chasers

Headliners

- Medicare Prescription Drug program
- Veterans' benefits
- Someone pretending to be a friend or relative who is on a trip out of town
- Somebody pretending to be your grandson calls for help and needs you to wire money to the hospital or jail

Spread the word



Scammers have a script

- Promises
 - “Walk away a winner”
 - “Relax, don’t worry, we’re here to help”
 - “A rarity...available only to a select few”
- Pressure
 - “Aren’t you smart enough to take this opportunity?”
 - “You’re a prized client...we have a relationship...don’t let me down.”
 - “Don’t tell anybody else about this”
- Persistence
 - “No money? Use card. No card? Use check. Why not? We’ll take a lower fee. Just do it.”

General Precautions*

- The greater the potential return, the greater the risk.
- Investments seldom exist without some risk involved.
- Always get information in writing before you give away any money.
- Never let emotions interfere with your business affairs.
- Never invest what you cannot afford to lose.
- Legitimate offers will always be there tomorrow.
- Take time to do careful research.
- If an offer sounds too good to be true, it probably is.
- Do not send cash by messenger or overnight mail.

*Federal Reserve Bank of San Francisco, <http://www.frbsf.org/publications/consumer/fraud.html#precautions>, 2011, downloaded October 10, 2011

Be ready to say NO

- When somebody sends you a check and wants you to send some of the money back
- When somebody calls and tells you that you've won a lottery...one you did not enter
- When you are asked to wire money to a large U.S. city or to another country
- When somebody offers you a chance to be paid or get a commission for facilitating money transfers through your account

Use modern conveniences

- State and federal “do not call” lists
- Unlisted telephone number
- Caller ID
- Call blocking

- Direct deposit
- Automatic payment

Resources

- States attorney general, public safety, and commerce offices
- AARP
- Ombudsman offices
- Federal Trade Commission (www.ftc.gov or 877-FTC-HELP)

More about the FTC*

- The Federal Trade Commission is the nation's consumer protection agency. The **FTC's Bureau of Consumer Protection** works **For The Consumer** to prevent fraud, deception, and unfair business practices in the marketplace. The Bureau:
 - Enhances consumer confidence by enforcing federal laws that protect consumers
 - Empowers consumers with free information to help them exercise their rights and spot and avoid fraud and deception
 - Wants to hear from consumers who want to get information or file a complaint about fraud or identity theft (but they do not resolve individual cases)

*From their website

Dementia and financial decisions

- Dementia increases vulnerability, but remember Bernie Madoff defrauded a lot of people who were, presumably, cognitively intact.
- Chicken and egg dynamics
 - Loss of memory and impaired judgment affect financial decisions.
 - Financial difficulties signal worsening dementia.

Dementia and financial decisions, continued

- **Assessing financial decision-making capacity**
 - Daniel C. Marson et. al., *Clinical Interview Assessment of Financial Capacity in Older Adults with Mild Cognitive Impairment and Alzheimer's Disease*
 - <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2714907/>
- **Preventing isolation**
 - Legal and financial planning
 - Routine questions and activities
 - Bank money and tea cup money

Broader response, covering the bases



State laws

- Improving reporting mandates and systems
- Improving the behavioral definitions of financial exploitation, fraud and scams to support charges, investigations, and prosecutions
- Criminal penalties
- Enhanced penalties in vulnerable victim cases
- Civil remedies
- Defining “consent” for financial transactions
- Reform in the areas of guardianship, conservatorship, and power of attorney

Public awareness

- Stranger scams and family matters
 - Not so long since child abuse and domestic violence were “family matters” too
- Prevention
 - What says “spring” cleaning better than a “shred-a-thon” at the community center?
- Media
 - Watchdogs and whistleblowers
 - New media issues

Team efforts

- Neighborhood, municipal, regional, or statewide
- Limited membership (Adult Protective Services and law enforcement) or broad coalition-building
- Aimed at public awareness and prevention or geared to specific cases and intervention (FAST)

FAST?

It's not one of those New Year's resolution diet schemes.



FAST

- Fiduciary Abuse Specialist Team or
- Financial Abuse Specialist Team

- Membership varies by local design
 - Public agency representatives (e.g. social service, law enforcement)
 - People with financial expertise (e.g. real estate, trusts, insurance)
- Roles vary by local design
 - Case consultation
 - Case intervention
 - Education and training for financial community, health care community, and general public

Recent development in Minnesota

- Development grant to Center for Elder Justice and Policy by a local foundation (January 1 – September 30, 2011)
- Design and plan a FAST to serve Hennepin County (Minneapolis and suburbs)
- Project director and two law student research assistants
 - Project yielded two design options and supporting research
 - Formal decisions by county officials pending

Teams' impact by categories

- Victim welfare and safety
 - Orders for protection
 - Arrests of suspected perpetrator
- Asset protection and restitution
 - Action before account is dry
 - Recovery
- Prosecution
 - Cases charged
 - Case outcomes
- Use of civil remedies
 - MN is one of the states that has a private right of action.

One Team's impact in dollars

- Santa Clara County's FAST Team reported that they have recovered and/or prevented the loss of \$127 million. (Malks, May 16, 2006).
 - Real property \$79,417,800
 - Liquid assets \$27,360,508
 - Stocks, bonds \$10,344,569
 - Restitution/recovery/
settlement \$ 9,964,319

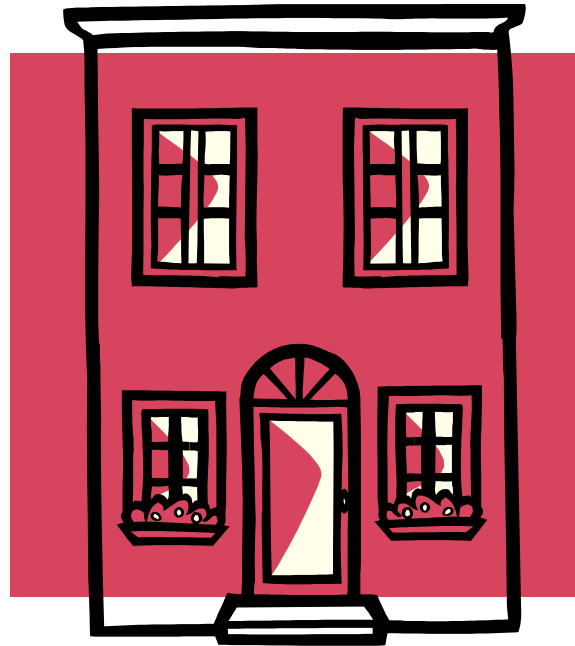
The sum = \$127,087,196

Resources for FAST development

- Guidelines for Establishing and Coordinating a Fiduciary Abuse Specialist Team – available online from the National Committee for the Prevention of Elder Abuse (NCPEA)

<http://www.preventelderabuse.org/elderabuse/communities/tech.html#guidelines>

Especially for residential settings



Manual and model protocol

- Identifying and Intervening in Financial Exploitation: Manual and Protocol for Providers Serving Vulnerable Adults in Congregate Settings
 - A resource from the Center for Elder Justice & Policy
 - Geared especially to exploitation by family, other trusted persons
 - Download at <http://cejp.org/resources/FinancialExploitationJune2010.pdf>

Prevention and Deterrence

- Staff orientation
 - Commitment to prevention
 - Policies prohibiting gifts and loans from residents
 - Reporting and resources
- Resident and family council programs
 - Commitment to prevention
 - Resources at the facility
 - Resources in the community

Prevention and Deterrence

- Admission contracts
- Official documentation of financial authorities
- Address change to Social Security & benefits
- Monitoring payment with communication starting a few weeks after admission
- Monitoring resident fund accounts, as applicable

Unpaid Bills:

Is exploitation a factor?

- Don't wait more than 60 days (2 payment cycles) to assess an arrearage
- Match the response to the problem, e.g.
 - Person responsible for payment is bewildered and failing to manage
 - MA application is pending and “stuck in neutral”
 - Documented signs of financial exploitation (manual has extensive list of warning signs and red flags)

Model Protocol

- Establish a Financial Security Team
 - Social worker's role
 - Business Office role
 - Administrator's role
- Challenges to coordinated action
 - Staff turnover
 - Inexperience

Model Protocol

- Investigate and report as soon as signs appear
- Advocate for the vulnerable adult
- Report to local adult protective services and law enforcement

Take away message on health and independence

Keeping your health and independence in your later years means having to resist peoples' attempts to pressure you for money...whether it's a scammer on the phone, someone who sends you "official" looking papers in the mail, or it's your own grandson.

THANK
YOU