

Elder Financial Exploitation: A Prosecutor's Perspective

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Common Ground Meeting
Seattle, WA

KingCountyProsecutor's Office ElderAbuseProject

- Formedin 2001

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, a case would likely have been deemed “civil” and not responded to by police or prosecutors
- Even if investigated, a case would have been closed once Margaret died

ElderFEis a GrowingCrisis

- \$18 Trillion or more will move between the generations in the next 20 years
- 10,000 people turn 65 everyday and will do so during the next 17 years
- 10% will be victims of elder abuse
- 20% will be victims of financial exploitation

Yet

Victims Often Don't Report Due to:

- Fear of losing independence
- Fear of retaliation

Two Main Risk Factors of Victims of Elder FE

- Dementia
- Social isolation

Elder Financials Committed Most Often by Someone in the Elder Trusts

- Caregiver
- Family member or close friend
- Fiduciary or other person in position of trust
- Stranger who targets elder, develop trust relationship

The Exploiter Typically Perpetrates the Theft by:

- Undue Influence
- Abuse of fiduciary relationship
- Deception
- Taking without T

Undue Influence

- Pattern of manipulative behavior 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

ElderFEis Still Under prosecuted

- Dueto:
 - Longhistoryof criminaljusticesystemtreating thesecasesascivil
 - Victimsoften unavailableto participatedue to
 - Dementia,illness,death
 - Lackof trainingof law enforcement,prosecutors, 911 dispatchers
 - Lackof coordinationwith APS,medicalfield, financialindustry,capacityexperts
 - Lackof evidenceof victim'scognitiveimpairment at time of takings

Washington's Abuse of Vulnerable Adults Act RCW 74.34

- Require 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

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