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Identifying Financial Exploitation

Leah Cohen
Michael J. Curran

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Introduction

In 2010, MetLife labeled financial exploitation as the "Crime of the 21st Century". Scams targeting older adults and people with disabilities are on the rise, and persons with cognitive impairments are particularly at risk. Because the elderly may be retired and people with serious cognitive conditions may be unable to work, financial crimes against these groups can result in a loss of their life savings with no ability to recoup the money. It's not just about the money; people often suffer physical deterioration and extreme emotional distress as a result of the losses to their financial estates. This paper will focus on how to identify financial exploitation, what to do if financial exploitation is suspected, and efforts to prevent financial exploitation.

Scope of the Problem

Financial exploitation is the improper use or concealment of funds or other assets by another person. See https://www.justice.gov/elderjustice/research/how-financial-exploitation-is-defined-and-detected.html. There are three possible criteria for determining whether a crime against a victim will be classified as financial exploitation: (1) age-based; (2) vulnerability-based; or, (3) both age and vulnerability-based. In Texas, the criminal statutes define exploitation as:

> "Exploitation" means the illegal or improper use of a child, elderly individual, or disabled individual or of the resources of a child, elderly individual, or disabled individual for monetary or personal benefit, profit, or gain. TEX. PENAL § 32.53(a)(2).

Under the Texas administrative laws, there are several additional definitions of exploitation. For example, Adult Protective Services is charged with investigating allegations of exploitation that meet the following definition.

> "Exploitation" means the illegal or improper act or process of a caretaker, family member, or other individual who has an ongoing relationship with an elderly person or person with a disability that involves using, or attempting to use, the resources of the elderly person or person with a disability, including the person's social security number or other identifying information, for monetary or personal benefit, profit, or gain without the informed consent of the person. TEX. HUM. RES. § 48.002(a)(3).

In this paper, we will mainly be discussing financial exploitation against both people with disabilities and elderly people.

Estimated Annual Losses from Financial Exploitation

The annual losses resulting from financial exploitation have been exceedingly difficult to estimate. Although there are differing potential criteria to be a victim of financial exploitation, studies to identify the costs of financial exploitation have primarily focused on fraud against elders. There are two important reports from the last few years which sought to measure annual losses due to fraud against older people: (1) The MetLife Study of Elder Financial Abuse published in 2011; and (2) The True Link Report on Elder Financial Abuse 2015. The MetLife report investigated newspaper articles and other detailed accounts of financial exploitation. According to the MetLife study, the estimated annual losses that were reported from financial exploitation against the elderly are at least $2.9 billion.

Experts agree that the crime of financial exploitation goes largely unreported. One major study estimated that only 1 in 44 incidents of financial exploitation were actually self-reported. Lachs, Mark, et al. (2011) Under the Radar: New York State Elder Abuse Prevalence Study Final Report. Lifespan of Greater Rochester, Inc.; Weill Cornell Medical Center of Cornell University and New York City Department for the Aging. Because this level of underreporting could have a major impact on the estimated losses, True Link Financial decided to conduct an additional study in 2015 to include suspected losses which were not formally reported in a manner that alerted the researchers who directed the MetLife study. The True Link Financial study was based on a survey of family caregivers; it was not based on officially reported losses like the MetLife study. Following their research, the True Link report estimated losses from financial abuse against the elderly at a shocking $36.48 billion per year, more than 10 times the amount of losses reported by MetLife.

Growing Issue

Whether the actual annual losses are closer to the $2.9 billion estimate by MetLife or the $36.48 billion estimate by True Link Financial will be an ongoing debate due to the massive underreporting in financial exploitation cases. The gap in underreporting has also been recognized in other studies. The Adult Protective Services department in Virginia recently stated that they estimate $28.2 million lost in reported cases in 2015. However, they believe the full impact of financial exploitation on Virginians to be closer to $1.2 billion. http://www.richmond.com/news/virginia/article_1f8b262f-55d5-5807-8b04-133e6c4ca0c9.html. Whichever number you choose to use, that number is expected to rise because financial exploitation is a growing problem.

With aging baby boomers, the number of seniors across the United States is on the rise. In Texas, the number of people age 60 or older is expected to more than triple from 3.8 million in 2010 to 12 million by 2050. https://www.dads.state.tx.us/news_info/publications/planning/stateplanonaging/2015-2017/attachmentd.html (citing data from the US Census Bureau and the Texas State Data Center, University of Texas at San Antonio). The rapid increase in the number of potential victims is expected to result in a similar rise in the number of exploitation cases. Moreover, financial exploitation is linked to other forms of abuse in vulnerable people. Amongst the elderly, financial exploitation is associated with higher levels of physical abuse, neglect, emotional abuse, sexual abuse, and self-neglect.

Types of Financial Exploitation

Financial exploitation comes in many forms. In general, there are two main sources of financial exploitation: (1) financial exploitation by someone you know; and (2) financial exploitation by someone you don't know. In Texas, Adult Protective Services is responsible for investigating potential financial exploitation by anyone who has an "ongoing relationship" with an elderly person or a person with a disability. See TEX. HUM. RES. § 48.002(a)(3). It is hard to understand, but family members are typically the number one source of financial exploitation. Other potential exploiters with ongoing relationships include caretakers, friends, and professionals with who the victim has a long-term relationship.

Financial exploitation by someone that the victim does not know is also common problem for seniors as well as people with disabilities. These perpetrators may include total strangers as well as persons who know the victim in a limited manner that does arise to the level of an ongoing relationship. For

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