Financial Exploitation of the Elderly: A Critical Review

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According to current research studies, financial exploitation of the elderly is expected to increase as baby boomers age and retire. Laws, policies, and strategies are needed to protect the elderly and to punish the offender. This paper critically examines those who commit these crimes and why they offend. Furthermore, strategies are offered to assist criminal justice practitioners and those who work with the elderly so that they may recognize and help those who are being financially exploited.

Introduction

The outlook for the growing problem of financial exploitation of the elderly requires deliberate measures by local professionals, law enforcement, and legislators. This paper will begin by defining financial exploitation and its typology. Next the scope of financial exploitation will be chronicled. The third section will identify the offenders of financial exploitation of the elderly from a common typology perspective. The fourth section will offer a theory framework that accounts for victimization of the elderly. The fifth section will discuss and offer recommendations of how to reduce or prevent elderly victimization. The last section will summarize the recommendations in dealing with elderly victimizations through financial exploitation.

Significance of this Paper

The significance of this paper is that it contributes to the criminal justice discipline by critically analyzing the importance of deliberate measures by practitioners in financial exploitation reduction strategies of the elderly. This paper is written for colleagues and clerisy who have a professional or academic interest of measures and strategies that reduce financial exploitation of the elderly.
Financial Exploitation

The term **financial exploitation** is a moral indiscretion and a criminal action that is only expected to increase as the baby boomers retire and coupled with the fact that we as a society are living longer. Financial exploitation is defined by the National Center on Elder Abuse (NCEA), as “the illegal taking, misuse, or concealment of funds, property, or assets of a vulnerable elder at risk for harm by another due to changes in physical functioning, mental functioning, or both” (Timmenmann, 2009, p.23). Other forms of financial exploitation include credit card fraud, cashing the victims’ checks without permission, and forcing the victim to sign documents.

The term **elderly** varies somewhat as each state provides their own definition, however a commonly accepted definition of elderly would describe someone who is vulnerable due to age, physical or mental disadvantages, and may need the assistance of others for routine activities. Minnesota defines an elderly person “as a person 65 years of age and older who is not a resident of a long term care facility” (Lewis, 2001, p. 941). The State of Wisconsin defines elderly as “a person 60 years of age or older” (State of Wisconsin State Statutes, 2009). Some states also use the term vulnerable adult which refers to anyone eighteen years and older who due to a physical or mental condition can not provide their own needs and need help from someone else.

A **Fiduciary** is a “person who is required to act for the benefit of another person on all matters within the scope of their relationship” (Gartner, 2004, p. 658). This could be an attorney, certified public accountant, or any one else who would be responsible for the elderly persons’ money and other holdings. Most states require certain professions to report any elderly abuse including financial exploitation to the proper authorities if they suspect that the elderly person is
being exploited. This may include certified public accountants, bank officers, and health professionals.

**Scope of the Problem**

The elderly population is expected to grow from 35 million in 2000 which is thirteen percent of the population to seventy million in the year 2030. Abner (2005) reports that the elderly are among the wealthiest societal group, with those aged 50 and above accounting for seventy percent of the wealth in the U.S., making them attractive targets for criminals. Furthermore, Abner (2005) notes that the state of Oregon estimates that the elderly in Washington County lost $2 million to financial exploitation in 2004. The U.S. Bureau of the Census (2004) reported that 82% of elderly women and 91% of elderly men live in their home (Freedman, 2007, p. 612). In fact, if the elderly person has a number of assets and has to depend on someone to take care of them, the risk of them being a victim of financial exploitation is increased.

Financial exploitation is on the rise and is considered a crime of opportunity. Moreover, financial exploitation is rarely reported to authorities. A 1998 study by the NCEA, found that “… for every reported case of elder abuse, another five cases went unreported” (Abner, 2005, p.19). Some fear that the number of cases not being reported could be as high as 25 for every one that is reported.

There are many reasons why the elderly do not report the fact that they are being financially exploited. These reasons include that victims may think it was their fault, or they are embarrassed to admit that they were duped. Some victims do not want to expose a family member or other person who is taking care of them. Bendix (2009, p.19) reports that some
elderly victims are afraid that the “… perpetrator will retaliate by stealing even more or will wind up being jailed” and they will then be left without a caretaker.

Every elderly person is a potential victim but there are some who are more vulnerable than others. A study done by the Metlife Mature Market Institute and the National Committee for the Prevention of Elder Abuse, revealed that the typical victim are in their 80’s, female, living alone, frail, and cognitively impaired (Timmenmann, 2009, p.23). Some other factors that increase the chances an elderly person could be exploited are the recent loss of loved ones, those who own their own home, and have substantial assests available (Rabiner, O'Keeffe, & Brown, 2006).

The exact cost of financial exploitation can not really be known, but if the victim loses their entire savings and their home, society likely bears these costs directly or indirectly through resources or services used. Abner (2005) points out that taxpayers shoulder the costs of financial elder abuse victims that then require public services such as adult protection programs, long term care, and medical assistance. Furthermore, such services often trigger the need for law enforcement agencies, state regulatory agencies, prosecutors, the court system, and public guardians, which further add to the cost of financial abuse of the elderly.

The elderly victim loses not only their home and life savings, but such victimization may compromise the victims’ independence and security, and can “… lead to depression, hopelessness, and even suicide” (Abner, 2005, p. 20). This type of victimization may mean that elders are not able to pay for necessary medications or even food. Such a result may require that these elderly victims must resort to seek public assistance.
Anyone who works or has a professional relationship with someone who is elderly should watch for certain warning signs that may indicate the elderly person is possibly being financially exploited. Timmerman (2009, p. 24) reports some signs practitioners should note:

- Unusual degree of fear or submissiveness to a caregiver
- Isolation from family, friends, community, and other stable relationships
- Signs of intimidation and threats by another
- Withdrawn behavior or disheveled appearance
- Missed appointments, uncharacteristic nonpayment of services
- Anxiety about personal finances
- Lack of knowledge about financial status
- New “best friend”
- Missing property or belongings
- Significant changes in spending patterns
- Sudden changes regarding financial management

The Suspects of Financial Exploitation

The person who financially exploits the elderly can be a family member or even a complete stranger. An adult child or even grandchildren are the main perpetrators of financial exploitation of the elderly. In their 2006 study, Rabiner, O’Keefe, and Brown established an entitlement causation in which greater than 60 percent of substantiated financial abuse cases involved an adult child relative who felt they would receive the money anyway, once their charged died. Other perpetrators who can financially exploit the elderly are, a neighbor, trusted friend, telemarketers, CPAs, attorneys, caretakers, nurses, and those who have Power of Attorney. Reasons for financially exploiting the elderly include those who are strapped for cash
themselves, or just to swindle the elderly victim because they are an easy target and the chances of them getting caught are low.

**Theoretical Framework to Account for Offenders**

Offenders who financially exploit the elderly, make the choice that the benefits of the crime outweigh the consequences. This crime causation is most closely aligned with the rational choice theory as posited by Cesare Beccaria in his 1764 work *Of Crimes and Punishment*. As such, potential offenders make a rational choice concerning the reward versus the risk prior to offending. Those who offend feel that the chances of getting caught are small because the elderly victim will not call the police, or may not even notice that the perpetrator is stealing from them. Family members who exploit the elderly may rationalize the taking of the money or property as repayment for services the caretaker is giving to the elderly victim. Timmenmann (2009, p. 24) aptly notes that, “… reporting abuse by family members rarely occurs” and even if the crime is reported, the chances of the perpetrator going to trial is small. Heisler (2000) reports that the reasons cases do not go to court are the victim or witnesses have died as a “justice delayed is justice denied” scenario, there are no funds left, and evidence may have been destroyed or changed. Medical issues also play a role in the offender’s rational choice to offend. An example of that would be the victim may have dementia, which would make it difficult for the prosecution to show the victim was exploited and did not voluntarily hand over the money or property.

**Discussion: Effective Strategies to Reduce Financial Exploitation of the Elderly**

In order to combat the problem of financial exploitation of the elderly, more efforts are needed by local, and state agencies. Programs and resources to help the elderly victim exist but
may be difficult for the family and the victim to find. Supportive web sites that aid victims and families in finding state and federal resources are The National Center on Elder Abuse Web and the National Committee for the Prevention of Elder Abuse. Some elderly victims of financial exploitation may not even know that this is a crime and that the perpetrator can be prosecuted. That is why every effort should be make to provide the elderly with information before they are victimized or are mentally incapacitated so they can plan accordingly to protect themselves.

Abner (2005, p. 35) notes that former Illinois Gov Blagojevich developed a program that would “… enable investigators to develop liaisons with senior service providers, prosecutors, and other law enforcement agencies and financial representatives to more effectively refer cases”. Another encouraging program in Florida termed the Seniors vs. Crime Project has helped the State Attorney General successfully handle more than 2,000 complaints, “prosecuting over 40 cases and recovering more than $3 million since the program’s inception” (Abner, 2005, p. 35). This educational strategy consists of elderly volunteers teaching and helping other elderly about abuse and what resources are out there to help them if they do become a victim. These and other studies support the idea that educating the public and the elderly about financial exploitation is a positive step that positively aids in reporting, investigating, and prosecuting financial exploitation cases. Jorgerst, Brady, Dyer, & Arias, (2004) examined Adult Protective Services laws and reports for all states between the years of 1999-2000, and reported that of the thirty five states where they could obtain data, “seventeen states actually track reports” and had “higher investigation and substantiation rates” compared to those who did not. They also established that there were more reports of financial exploitation in the states that mandated public education.

Mandatory reporting legislation of elderly abuse by California and New York, have proven encouraging and should serve as models to be enacted by all states and educational
programs of such legislation should include almost every profession and the public. These law models help law enforcement to investigate and the criminal justice system to prosecute the offender. To restate, elderly victims need and deserve a system that makes it easier for them to feel safe in reporting abuse. Being embarrassed, afraid of losing their caretaker, the abuser retaliating against the victim, or that they may lose their independence because of family members feeling that they are not capable of taking care of their finances any more are some reasons they do not report the abuse. It is therefore essential that investigators have the proper training on these and other signs of abuse and how to proceed with a victim that has been financially exploited. Prosecutors also need to be trained and educated about pertinent aspects of financial exploitation.

Local law enforcement is the important first step in taking reports of financial exploitation and investigating the crimes. Heisler (2000) has noted that some law enforcement agencies have created special units to receive complaints and work with older vulnerable adults. Victims need a way to recoup some of the money or other expenses they have incurred from being financially exploited. In an effective real-world model, the state of California “… authorizes the recovery of damages, attorneys fees, and costs…” (Riess, 2009, p. 19). A 2003 survey by the National Association of Adult Protective Services Administrators reported that 29 out of the 35 responding states noted that they had a mandatory reporting statute that included financial exploitation (Abner, 2005). Another study by the University of Iowa empirically established that state mandatory reporting laws are linked to significantly higher investigation rates of elder abuse cases among states (Abner, 2005). Other states have also created laws that allow an elderly person to sue the perpetrator that abused them. In 1973, Florida enacted the “Adult Protective Services Act” which “creates a … private cause of action for a violation of the
act and provides that a vulnerable adult who has been abused, neglected, or exploited” can sue the perpetrator and collect damages whether it be actual or punitive allowing victims to recoup some of their losses (Passaro, 2006, p. 81).

Professionals who come in contact with the elderly should be watchful for possible financial abuse. Some states require certain professionals to report suspected financial exploitation. Wasserman (2006) notes that a 2005 California law requires that nurses, CPAs, social workers, and attorneys are specifically directed to immediately report suspected abuse to law enforcement authorities. Other states with weak or lacking elderly protection laws should follow or consider the California model.

**Conclusion**

The problem of financial exploitation of the elderly is currently a serious problem and is only expected to increase as a result of societal longevity. To this end, states, law enforcement agencies, and other practitioners must be prepared in advance to help combat this problem. The impact that this exploitation has on the victim and society as a whole is enormous in terms of financial cost, resources utilized, and victimization. The elderly victim can lose their life savings, dignity, independence, and even their home. When this occurs, the state has an obligation of taking care of the elderly who can no longer take care of themselves. The elderly also need to feel safe when they report the abuse and be assured that the perpetrator will not be allowed to continue their deviant behavior.

Reducing financial exploitation of the elderly involves educating the elderly, training law enforcement to handle these types of crimes, and the criminal justice system to prosecute these crimes. Furthermore, state legislatures need to enact laws that better protect the elderly and allow
them to recoup some of their losses from the perpetrator. In addition, perpetrators also need to know that this behavior will not be tolerated and they will be prosecuted to the full extent of the law. It is our duty as a society to protect our most vulnerable citizens who have worked so hard all their life to be able to support themselves in their golden age without being victimized.

References


