ELDER FINANCIAL ABUSE

THE HIDDEN CRIME

How to identify elder financial abuse in your community and help stop it.

Providing simple solutions to complex problems with another helpful white paper from Banker's Toolbox
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WHAT WILL WE COVER?

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DEFINITIONS

Elder abuse can encompass a wide range of forms, not just financial. Many of the other types of elder abuse have tell-tale signs financial institutions may be able to recognize and report.

For example, if an elder is being abused physically, there may be bruising, new injuries apparent or sudden confinement to a wheelchair after a history of good physical health. If you see circumstances like this, you may want to review that person's financial accounts for suspicious activity.

Psychological abuse is one of the most common forms of elder abuse and often a vehicle used to coerce. At its worst, it can be done by family members or caregivers that beat them down verbally and psychologically. This kind of abuse can take a toll on anyone, especially the elderly who are already more susceptible to this kind of abuse.

"IF AN ELDER IS BEING ABUSE PHYSICALLY THERE MAY BE BRUISING OR NEW INJURIES APPARENT."

DEFINITIONS

Neglect is another form of abuse, and it too has outward signs you may recognize. Many community financial institutions have elders still coming to the physical branch to conduct their business. An established relationship with this customer gives you the insight to know what state this person is typically in when they visit your financial institution. Someone that has historically entered the bank put together and now looks ramshackled may be showing signs of neglect.

If you see or suspect any of these types of abuse it is wise to review that person's account. They are likely also being abused financially, and it's your duty to protect your customer's hard-earned funds from theft and misuse.

> **"AND IT'S YOUR DUTY TO PROTECT YOUR CUSTOMER'S HARD EARNED FUNDS FROM THEFT AND MISUSE."**

The National Adult Protective Services Association (NAPSA) has defined elder abuse as, "The illegal or improper use of an older person's funds, property, or resources." The NAPSA goes further identifying types of elder abuse to look for:

- Taking money or property
- Forging a person's signature on anything, including checks, wills, or deeds
- Forced signature on a deed, will, or power of attorney through deception, coercion, or undue influence
- Using the older person's property or possessions without permission, including credit or debit cards
- Promising lifelong care in exchange for money or property
- Confidence crimes ("cons") - the use of deception to gain victims' confidence
- Fraud - the use of deception, trickery or false presence for financial gain
- Telemarketing scams
- Charges on victims' credit cards without authorization

DEFINITIONS

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It's hard to estimate the size of the elder financial abuse problem, simply because the problem is chronically under-reported by victims who are often embarrassed or unaware they are being abused.

Although estimates vary, it is generally believed 4-6 percent of the elderly are abused. Other estimates run higher, placing the number at closer to 20 percent. With the baby boomer generation aging, it is sure to grow. Protecting elders is everyone's resonsibility, but BSA personnel are on the front lines combating this crime. It is not necessary to **know** abuse is taking place, it is simply enough to have a **suspicion**.

We know elder financial abuse causes serious problems. The abuse can include the loss of independence, homes, life savings, health, dignity, and security. These elders have worked their entire lives to achieve this level of independence and it can be stripped away from them cruelly and quickly. This abuse has also been linked to declining mental and physical health. Victims of elder abuse have been shown to have shorter life expectancies than non-abused older people.

"VICTIMS OF ELDER ABUSE HAVE BEEN SHOWN TO HAVE SHORTER LIFE EXPECTANCIES THAN NON-ABUSED OLDER PEOPLE."

DEFINITIONS

"BY THE YEAR 2030,

20 PERCENT OF OUR POPULATION

WILL BE A SENIOR CITIZEN."

It is helpful to know some of the statistics surrounding aging in America. According to the American Geriatric Society, the US population 65 years and older grew from 3.1 million in 1900 to 33.2 million in 1994. The trend continues to grow and, by the middle of the 21st century, it is expected to reach 80 million people. In fact, by the year 2030, 20 percent of our population (about one out of every five Americans) will be a senior citizen.

It's also helpful to understand the perpetrators of this crime. Generally, they fall into one of several different categories. Unfortunately, family members are often one of the most common perpetrators. Often the family member is suffering from substance abuse, gambling debts or financial problems. Sometimes they stand to inherit money and feel justified in taking what they believe is "almost" or "rightfully" theirs. Scheming family members might fear the elder will get sick and use up their savings, depriving them of an inheritance. Some might have a negative relationship with the older person and feel entitled. Others have negative feelings toward siblings or other family members and want to prevent them from acquiring or inheriting the older person's assets.

VICTIMS

Another group of perpetrators are predatory individuals who seek out vulnerable seniors with the intent of exploiting them. They scam their way into the elder's life and drain them financially. Often they will do things like:

- Profess to love the older person ("sweetheart scams")
- Seek employment as care attendants, counselors, etc. to gain access
- Identify isolated persons by driving through elderly neighborhoods
- Contact recently widowed persons through death announcements
- Move from community to community as transient crooks

The following conditions or factors increase an older person's risk of being victimized:

"ISOLATED PEOPLE HAVE NO ONE TO GO TO FOR HELP WHEN THEY ARE BEING VICTIMIZED."

- Isolation – These people have no one to go to for help if they are being victimized
- Loneliness – This is when the 'sweetheart' scams are most effective
- Recent losses – If a spouse has recently passed, the elder may be more susceptible to this abuse
- Physical or mental disabilities – These vulnerabilities add an extra layer of risk
- Lack of familiarity with financial matters – This can be especially true with elderly females who traditionally did not handle the finances
- Have family members who are unemployed and/or have substance abuse problems

VICTIMS

Why are the elderly targeted? First and foremost, it is due to persons older than 50 controlling over 70 percent of the nation's wealth. In some cases, seniors do not realize the value of their assets, particularly homes that have appreciated substantially. In addition, the elderly are likely to have disabilities making them dependent on others. These "helpers" may have access to homes and assets, and may exercise significant influence over the older person.

"PERSONS OLDER THAN 50 CONTROL OVER 70 PERCENT OF THE NATION'S WEALTH."

Elderly are also attractive targets because they generally have predictable patterns. Because older people are likely to have patterns, abusers can predict when an older person will have money on hand, be receiving a check or need to go to the bank. Impaired elderly individuals are also less likely to take action against their abusers because of illnesses or out of embarrassment. Some abusers may assume that elderly victims are frail and will not survive long enough to follow through on legal interventions, or will not make convincing witnesses. In addition, some older people are unsophisticated about financial matters and advances in technology have made managing finances more complicated.

By all reports this is a growing problem, but why? There are several reasons which account for this rise in elder abuse.

- Aging baby boomer population is growing the victim pool
- Higher concentration of wealth makes the target attractive
- More substance abuse among family and friends
- Currently insufficient attention and legislation to prosecute perpetrators

VICTIMS

Let's review a couple of high profile cases. Although these are both with famous and wealthy people, the tactics used on them are the same that are being used on your customers.

The case of Mickey Rooney is one of the most famous cases of elder abuse. Mickey Rooney has been an actor almost his entire life before he was victimized with elder abuse at age 90.

If you aren't familiar, Mickey Rooney had one of the longest acting careers in history and obtained a tremendous degree of wealth during this time. He became a victim of elder abuse by his own step children, even though he had already provided plenty of money for them. Fortunately, Mr. Rooney was coherent, bold and strong enough to go to his attorney for help. Court documents state they kept him "a prisoner in his own home" by using threats, intimidation and harassment. They took control of his finances, blocked access to his mail and forced him into performances he did not want to do or was unable to do effectively.

"MICKEY ROONEY HAS BEEN AN ACTOR ALMOST HIS ENTIRE LIFE BEFORE HE WAS VICTIMIZED WITH ELDER ABUSE AT AGE 90."

Thankfully, his attorneys were eventually granted temporary protection for himself and his wife and stepson, who lived with the actor. Even after court action, Rooney feared for his safety and was afraid of physical retaliation or kidnap. Fortunately, his children never took retaliatory action against him and his attorneys now have control of his finances. In 2011, Rooney appeared before a US Senate Committee to share his story to help promote awareness and to curb elder abuse.

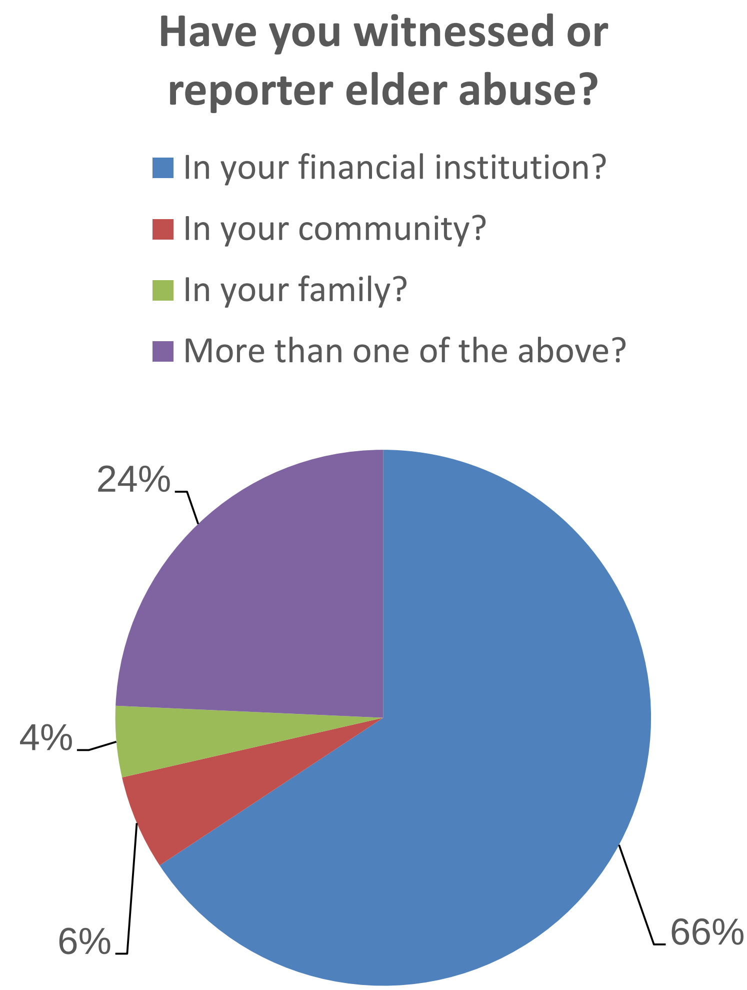
VICTIMS

Brooke Astor's case was not quite as uplifting. She was an American socialite, philanthropist, and writer.

Ms. Astor became extremely wealthy after her husband died and left her most of his estate. Her son had been appointed guardian of her estate as she aged and was diagnosed with Alzheimer's. Sadly, her son engaged in substantial elder abuse on his own mother. Ms. Astor's grandson, the guardian's son, filed a lawsuit to have his father removed as guardian, alleging that he was allowing her to live in "squalor" and had stopped her medications and doctor's visits, while using her estate income for himself.

Ms. Astor died at age 105 from pneumonia. After her death, her son was convicted of grand larceny stemming from the pilfering of his mother's estate. After several years of greed and court battles over her will, which would have left him tens of millions of dollars, he ended up with approximately $3 million and jail time. The bulk of her fortune is now going to various charities, which was her original intent.

INDUSTRY POLL



GUIDANCE AND RED FLAGS

Some of the most frequently asked questions when it comes to elder abuse are about privacy laws. Fortunately, an Interagency Guidance has been issued on privacy laws and reporting financial abuse of older adults. This guidance clarifies privacy provisions of the Gramm-Leach-Bliley Act (GBLA) which concerns reporting suspected financial exploitation of older adults. In fact, Federal and State laws require or encourage the reporting of this information to authorities. This guidance clarifies that reporting suspected financial abuse of older adults does not violate the privacy provisions of the GLBA, even when not complying with the notice and “opt-out” requirements.

FinCEN has also stepped in with a guidance of its own. It states that older Americans typically hold a higher concentration of finances and that the elderly often experience increasing reliance on others for financial management and social interaction. It states anyone can fall victim to financial crimes, but elderly individuals may be particularly vulnerable and financial institutions play an important role in stopping this abuse.

“FEDERAL AND STATE LAWS REQUIRE OR ENCOURAGE THE REPORTING OF FINANCIAL ELDER ABUSE.”

GUIDANCE AND RED FLAGS

"THE GUIDANCE ALSO RECOMMENDS TAKING NOTE IF THE ELDER APPEARS TO FEAR THE CAREGIVER, BECOMES EXCESSIVELY SUBMISSIVE, OR EXPRESSES A FEAR OF PUNISHMENT."

FinCEN issued red flags for financial institutions to consider. These could include:

- Frequent large withdrawals, including daily maximum withdrawals from ATM
- Sudden NSF Activity
- Uncharacteristic nonpayment for services, which may indicate a loss of funds or access to funds
- Debit transactions that are inconsistent for the elder
- Uncharacteristic attempts to wire large sums of money
- Closing of CDs or accounts without regard to penalties

This FinCEN guidance also addresses interactions with customers or caregivers. It states you should pay extra attention if a caregiver, family member or person accompanying the elder shows excessive interest in the elder's accounts, does not allow the elder to communicate, or never leaves the elder. The guidance also recommends taking note if the elder appears to fear the caregiver, becomes excessively submissive, or expresses a fear of punishment.

GUIDANCE AND RED FLAGS

FinCEN also released separate red flags for branch personnel to look for and they include:

- A financial institution being unable to speak directly with the elder, despite repeated attempts to contact him or her
- A new caretaker or family member suddenly begins conducting financial transactions on behalf of the elder without proper documentation
- The elderly individual's financial management changes suddenly, such as through a change of power of attorney to a different family member or a new individual
- The elderly customer lacks knowledge about his or her financial status, or shows a sudden reluctance to discuss financial matters

> **"IT MAY ALSO BE A RED FLAG IF A NEW CARETAKER OR FAMILY MEMBER SUDDENLY BEGINS CONDUCTING FINANCIAL TRANSACTIONS ON BEHALF OF THE ELDER WITHOUT PROPER DOCUMENTATION."**

The National Association of Adult Protection Services has released their own red flags, which relate to the FinCEN red flags but are still beneficial to review:

- Unexplained withdrawal of high sums of money by a person accompanying the victim
- Adding additional names on a bank signature card
- Unapproved withdrawal of funds using an ATM card
- Sudden changes in a will or other financial documents
- Forged signatures for financial transactions or for the titles of property
- Unexplained missing funds or valuables
- Sudden appearance of previously uninvolved relatives claiming their rights to a person's affairs and possessions

HOW YOU CAN HELP

Before we talk about what we can do as a financial institution, I'd like to touch on how we can help as community members and family members. As a community member, we could have suspicions about someone we know, such as a neighbor, friend or fellow church or temple goer. Try to speak to them to get a clear understanding if possible, and if in doubt, please call your state elder abuse hotline and let them investigate.

As a family member, stopping elder abuse can be hard to do. It could be a cousin or even a sibling that is perpetrating this abuse. There might be drug abuse or a sense of entitlement motivating the abuse. Often times the elder will protect a family member, regardless of the abuse done to them.

"OUR BIGGEST ROLE AND TOOL IS THE SAR REPORT. SELECT "ELDER FINANCIAL EXPLOITATION" AND ANY OTHER APPROPRIATE CHARACTERIZATION OF SUSPICIOUS ACTIVITY IN THE SUSPICIOUS ACTIVITY INFORMATION SECTION OF THE SAR FORM."

As a BSA Officer, our biggest role and tool is the SAR report. Select "Elder Financial Exploitation" and any other appropriate characterizations of suspicious activity in the Suspicious Activity Information section of the SAR Form. Include an explanation of why the institution knows, suspects, or has reason to suspect the activity is suspicious

The victim of elder financial exploitation should not be reported as the subject of the SAR. Rather, all available information on the victim should be included in the narrative for informational purposes. Remember to check all suspicious activities that apply.

CONCLUSION

The bottom line is that financial Institutions are mandatory reporters. Elder abuse is generally reported at the state level through Adult Protective Services, District Attorney Offices, or other law enforcement. Be sure to follow all of your state and local laws when it comes to reporting – most states impose penalties for not reporting. Let's all remember, protection is everyone's business.

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About Banker's Toolbox

Austin, TX-based Banker's Toolbox, Inc. helps community financial institutions manage risk and streamline compliance examinations. The company's product suite consists of proven solutions for money laundering detection and reporting, risk management through fraud and kite prevention, secure wire processing automation, and commercial real estate loan portfolio risk assessment. The Banker's Toolbox team is a unique combination of seasoned bankers, former regulators, and information technology consultants who specialize in designing, developing, and implementing risk management solutions while providing unparalleled customer service. For more information, visit the company's website at www.bankerstoolbox.com.

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