

REPORT ON STATES' ADULT PROTECTIVE SERVICES RESPONSES TO FINANCIAL EXPLOITATION OF VULNERABLE ADULTS

NATIONAL ASSOCIATION OF ADULT PROTECTIVE SERVICES ADMINISTRATORS FOR THE NATIONAL CENTER ON ELDER ABUSE

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INTRODUCTION

A decade ago, the *New York Times* ran a front-page article on financial abuse of the elderly.¹ In the article, exploitation of the elderly was called "the crime of the 90s". Unfortunately, although the 90's have come and gone, the problem continues to grow. A study of 39 states conducted by the National Center on Elder Abuse in 1994 showed that there were 29,643 reports of financial/material exploitation of the elderly in domestic settings made to state Adult Protective Services (APS) programs that year.² In a new survey conducted by the National Association of Adult Protective Services Administrators (NAAPSA) in 2001, 28 states reported receiving a total of 38,015 reports of financial exploitation of elderly and vulnerable younger adults during their most recent reporting year.

The number of reports of financial exploitation has led to increased attention to the problem at the state and federal level. Some examples of state initiatives include State Attorneys General in Massachusetts and Oregon who developed training for financial institutions in an effort to gain their cooperation in reporting and preventing financial exploitation of older persons. And in Colorado, Attorney General Ken Salazar initiated "AARP Senior Watch" in order to combat the financial exploitation of the elderly.

At the federal level, a national symposium led by the U.S. Department of Justice and the U.S. Department of Health and Human Services was held in the fall of 2000. This conference highlighted a number of innovative approaches to financial exploitation and prosecution being carried out by various states. Recently, pursuant to the Older Americans Act, the U. S. Department of Health and Human Services (HHS) has convened a group of federal agencies and concerned stakeholders to design a study of financial exploitation.

In preparation for the HHS study, and as part of its commitment to conduct a Baseline Study of States' Adult Protective Services Programs, NAAPSA, a partner in the National Center on Elder Abuse, completed this survey of states' APS programs to determine their current responses to cases of financial exploitation of elder and disabled adults.

¹ Nordheimer, Jon, "A New Abuse of the Elderly: Theft by Kin and Friends" *New York Times* 12/16/91. pp 1,16 .

² Tatara, Toshio and Blumerman, Lisa M., "Summaries of the Statistical Data on Elder Abuse in Domestic Settings: An Exploratory study of State Statistics for FY 93 and FY 94", National Center on Elder Abuse, Washington, D.C., July 1996 pp. 16-21.

This paper will present the study's methodology and findings, and then discuss these findings and their policy implications.

METHODOLOGY

In the fall of 2001, a four-page questionnaire was developed in collaboration with Patricia Ianni Stanis, Ph.D., an APS consultant. A letter and copy of the questionnaire were sent to all fifty state APS administrators, as well as the District of Columbia and the U.S. territories. Thirty-three states and the territory of Guam responded to the survey. Data from the surveys were entered on Excel spreadsheets and analyzed.

FINDINGS

Sources of data

Out of the 35 respondents to this item, 23 indicated that the information they used to complete the survey was from their most recent fiscal year. ("Fiscal Year" was not defined, as it differs from state to state.) Eight states used data from the most recent full calendar year. A previous NAAPSA report, "State Adult Protective Services Data Management Systems 2001" showed that many states lacked comprehensive APS data management systems, often making it impossible to provide some of the information requested in this current study.

Reports/cases of financial exploitation

Out of 35 respondents, 29 states (83%) said that they had a mandatory reporting statute that included financial exploitation. Six (17%) states did not include financial exploitation in their mandatory reporting statute, and none of the states had a mandatory reporting statute that referred only to the reporting of financial exploitation.

Eleven (33.9%) of the 29 states with mandatory reporting indicated that financial institutions were included as mandatory reporters. Seventeen out of 35 states (48.6%) indicated that reporting by financial institutions was voluntary.

Out of 15 states with a total of 18,476 financial exploitation reports received by APS in the past year, the number of referrals and sources were as following:

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|----------------------------------|--------|---------|
| • Banks | 54 | (0.3%) |
| • Prosecutors/district attorneys | 87 | (0.5%) |
| • Law enforcement | 614 | (3.3%) |
| • Other sources | 17,721 | (95.9%) |

Only 12 of the 15 states were able to identify how many of those exploitation reports to APS had been substantiated (4,626) as follows:

- | | | |
|----------------------------------|-------|---------|
| • Banks | 24 | (0.5%) |
| • Prosecutors/district attorneys | 23 | (0.5%) |
| • Law enforcement | 209 | (4.5%) |
| • Other | 4,370 | (94.5%) |

Sixteen states indicated that APS had made a total of 2,846 reports of financial exploitation to law enforcement. Twelve states said that APS made 1,152 reports to prosecutors and district attorneys.

Twenty-five (74%) of the states responding to the survey reported that they did not have a registry for perpetrators of financial exploitation. Ten states with such a registry said that their perpetrator registries included the following:

Financial/client information

Twenty-eight states indicated a total of 38,015 cases of financial exploitation were reported to APS during the last reporting period. The remainder of the states said that these data were not available.

According to 15 reporting states, 41.6% of the victims of financial exploitation were male and 58.4% were female. Twelve states reported that the ages of the victims fell into the following categories:

Thirty-five states responded to the question regarding income levels of substantiated victims of financial exploitation as compared to the income levels of other APS clients. Of these, 7 states indicated that they thought financially exploited victims had higher incomes than other APS clients, 11 thought that the victims had similar incomes to those of other APS clients and none thought they had lower incomes than other APS clients. Fourteen states said that they were unable to answer this question.

Four of the responding states commented that while client incomes varied greatly, income of financial exploitation victims was similar to that of other APS clients but their assets were greater; that property and resources were targeted by the perpetrators more often than funds, and that income was less of a factor than the perpetrator's access to the victim.

Only one state, Oregon was able to provide an estimate of the statewide total value of assets involved in 47 substantiated cases of financial exploitation of vulnerable adults—the estimate was from \$50,001 to \$100,000.

Multi-Disciplinary Teams (MDTs)

Twenty-four states reported having some sort of MDT to specifically address issues of financial exploitation of vulnerable adults. Typically, Multi-Disciplinary Teams are made up of professionals within a community who review cases of alleged adult/elder abuse, exploitation or neglect and make recommendations regarding possible treatment alternatives and resources which could reduce further victim risk. Three states (12.5%) said that they had statewide MDTs, 14 (58.3%) had local MDTs and 5 (20.8%) had Fiduciary Abuse Specialist Teams (FAST). Fifteen states (62.5%) reported having other types of teams such as community partnerships for preventing elder abuse, local elder abuse councils, governor-appointed task forces, state legal services developers, partnerships between bankers and APS, Medicaid Fraud/APS collaborative groups, case consultation teams and state financial abuse teams.

Out of 35 states reporting on whether banks and other financial institutions were represented on state APS coalitions, 5 (14.3%) said that banks were represented, 24 (68.6%) said that they were not, and 6 (17.1%) did not have this information.

Eleven states out of 35 did not have information about local coalitions in their state. The remaining 24 reported the following:

- Banks were always represented on local MDTs 1 (2.9%)
- Banks were usually represented on local MDTs 2 (5.7%)
- Banks were sometimes represented on local MDTs 7 (20.0%)
- Banks were rarely represented on local MDTs 9 (25.7%)
- Banks were never represented on local MDTs 5 (14.3%)

Training and Funding

Out of 35 states reporting, 30 (85.7%) indicated that training on financial exploitation of vulnerable adults was available to APS workers, 4 (11.4%) said such training was not available, and one state was not able to answer the question. According to 30 states reporting, training on financial exploitation was usually provided by the following:

- State APS staff 21 (70%)
- Law enforcement staff 8 (26.7%)
- Prosecutors and district attorneys 8 (26.7%)
- County APS staff 4 (13.3%)
- F.A.S.T. team members 2 (6.7%)
- University staff 1 (3.3%)
- Coalition/consortium staff 1 (3.3%)

(This current study on financial exploitation failed to include bank employees as training resources on financial exploitation. A 2002 NAAPSA report on State Adult Protective Services Training Programs found that out of 36 states responding, 24 (68.6%) reported having cross training with bank employees.)

Other sources of training on financial exploitation mentioned by states included NAAPSA; legal services developers, Medicaid fraud staff, local aging staff, Attorneys General, elder law experts and other consultants.

Eight states said that they did not have specific information on funding sources for APS training on financial exploitation. Eighteen states used state funding, nine states mentioned Social Service Block Grant funds, two states relied on local funds, and nine talked about other sources of training money, including Administration on Aging funds, Title 19 Medicaid, and conference registration fees. None of the states was able to provide a dollar amount allocated for such training.

Measuring and improving responses to financial exploitation

States were asked to assign a qualitative rating to a number of agencies in terms of their levels of response to APS cases of financial exploitation. The rating scale included no response (1), minimal (2), average (3), above average (4) and outstanding (5). The results of 32 states' ratings expressed as averages are as follows:

- State Attorneys General 2.9
- Law enforcement (Police/Sheriff) 2.7
- Bank Officials 2.4
- District Attorneys 2.2
- Judges 2.2
- County/Parish Attorneys³ 1.9

Four states indicated that other agencies also responded to these cases. Connecticut gave high marks (4) to their Office of the Chief State's Attorney, while Texas gave their Social Security Administration a 1--"no response."

In terms of what would improve APS responses to financial exploitation, out of 33 states, the following were listed:

- Cross training with other disciplines 29 (87.8%)
- More staff and resources for APS programs 28 (84.8%)
- Collaborative support from MDTs 13 (39.4%)
- Training for other agencies 32 (97.0%)

Thirty-two responding states said that the following agencies or entities needed training on financial exploitation of vulnerable adults:

- Banks 30 (93.8%)
- Law enforcement 29 (90.6%)
- Prosecutors and district attorneys 26 (81.3%)
- Judges 25 (78.1%)
- Public notaries 14 (45.2%)
- Real estate agents/brokers 13 (40.6%)
- County/parish attorneys 13 (40.6%)
- Title company staff 11 (35.5%)

³ The state of Louisiana is divided into parishes instead of counties.

Seven states listed other groups that would also benefit from training, including: estate planners; stock brokers; credit card lenders; Social Security Administration; state court system, elder law attorneys, lawyers; Area Agencies on Aging, Legal Services Providers and the medical community.

In addition, 33 states indicated that improvement in the working relationship between APS and law enforcement would be likely if the following elements were available:

- Cross training 29 (87.8%)
- More staff and resources for law enforcement 21 (63.6%)
- Collaborative support from MDTs during investigations 19 (57.6%).

Other elements that would be helpful include:

- Creation of specialized law enforcement financial exploitation units
- Cooperation across state lines on interstate cases
- Training for law enforcement staff on interviewing victims
- A national database of perpetrators
- A willingness to prosecute smaller amounts of financial loss
- More APS staff specializing in financial exploitation

In terms of what would enhance the relationship between APS and prosecutors/district attorneys, 34 states responded with the following:

- Cross training of prosecutors and district attorneys 31 (91.2%)
- Collaborative support from MDTs during investigations 18 (52.9%)
- More staff and resources for criminal justice agencies 17 (50.0%)

Nine states also mentioned other actions that would enhance the relationship between APS and prosecutors/district attorneys, including: making these cases a priority; training on how to get credible testimony from impaired victims; specialized APS staff with expertise in financial exploitation cases; prosecutors who specialize in cases of financial exploitation; and improved laws relating to Social Security representative payeeships and powers of attorney.

Finally, 33 states indicated that the working relationship between APS and judges in responding to cases of financial exploitation could be improved by:

- Cross training with judges 28 (84.8%)
- Collaborative support from MDTs 12 (36.4%)
- More resources for criminal justice agencies 12 (36.4%)

In addition, 6 states mentioned other activities such as training for judges on the dynamics of aging and the fact that family members may be perpetrators; collaboration between judges and APS staff; and the use of mediation in lieu of court intervention to resolve disputes.

A few states recommended that the role of NAAPSA in the improvement of the APS system include: taking a lead in developing training materials for state APS programs;

conducting a national media campaign; providing national recognition for people doing exceptional work in the field; continuing to lobby on behalf of APS programs; testifying at Congressional hearings and providing technical assistance to the states.

DISCUSSION

If 28 states and one territory are receiving an average of 1,358 reports of financial exploitation annually, it is likely that the number of reports made to all the states could be as high as 69,258 every year. And if, as Karl Pillemer and David Finkelhor found in 1989, only 1 out of every 14 cases of elder abuse is reported, it is possible that there are as many as 969,612 (14 X 69,258) elderly and vulnerable adult victims of financial exploitation every year.⁴

However, a significant number of financial institutions are still not reporting even when they are mandated by state statute to do so. According to 15 reporting states, only 0.3% of their 18,746 reports of financial exploitation of elderly and vulnerable adults came from financial institutions. This low finding is consistent with information from the 1994 NCEA study that also showed that banks were the reporting entities in only 0.3% of elder abuse cases.⁵

At the same time, APS programs made only 3,998 reports of financial exploitation to law enforcement or prosecutors. When APS did make reports of financial exploitation to both law enforcement and district attorneys, the survey did not ask how many of these reports were prosecuted successfully.

In the few states that do have registries for perpetrators of financial exploitation, few data are collected. This limits the usefulness of such registries, but may be a reflection of states' concerns about confidentiality and the need to avoid litigation.

The finding that 58.4% of the victims of financial exploitation are female and 41.6% are male is similar to Tatar's findings in 1994.⁶ Apparently women, either due to their longevity or dependence—or a combination of these factors—continue to be more vulnerable to financial exploitation than men.

The lack of data regarding the value of assets lost through financial exploitation means that states are unable to describe the fiscal impact on victims of these crimes. It appears from the states' comments that the victims' income level was less important than the value of other assets, and that access by the perpetrator was a key element. This means that perpetrators are more likely to be friends or family who have a

⁴ Pillemer, K., and Finkelhor, D. 1989. "The Prevalence of Elder Abuse: A Random Sample Study" *Gerontologist* 28(1): 51-7.

⁵ Tatar, T. and Blumberman, L. M., "Summaries of the Statistical Data on Elder Abuse in Domestic Settings: An Exploratory study of State Statistics for FY 93 and FY 94", National Center on Elder Abuse, Washington, D.C., July 1996 p. 34.

⁶ Tatar, T. and Blumberman, L. M., "Summaries of the Statistical Data on Elder Abuse in Domestic Settings: An Exploratory study of State Statistics for FY 93 and FY 94", National Center on Elder Abuse, Washington, D.C., July 1996 p. 38.

relationship of trust with the victim—a finding that has been supported by other research studies.⁷

It is apparent that Multi-Disciplinary Teams (MDT) of some sort exist at both the state and local levels in many parts of the country. However it also appears that banks and financial institutions are seldom included on these teams. This is a significant problem, since MDTs perform an important function in educating the professionals on the team about abuse reporting requirements. The absence of banks on many of these teams may account in part for their low level of reporting.

The need for cross training with a variety of other professionals was an often-repeated theme. While training was provided to many APS staff, most of that training was provided by state APS staff who may or may not have expertise in financial exploitation. The majority of the states indicated that APS training is provided through state funding or a combination of state and SSBG funds. Recent reductions in both these sources may mean that there will be less APS training available. Travel restrictions have also made obtaining information more difficult as practitioners are often prohibited from attending conferences out of state.

Most of the states said that they needed more APS staff and resources to improve their own responses to financial exploitation cases, and recognized the need for additional staff for law enforcement and district attorneys as well. They also had some creative suggestions about using other resources such as investigative teams made up of APS staff, law enforcement personnel and district attorneys with expertise in investigating and prosecuting financial exploitation cases. Many states called for more vigorous prosecution of perpetrators, access to national information and better interstate cooperation.

IMPLICATIONS FOR POLICY

The number of reports of financial exploitation of elderly and vulnerable adults should be a cause for national concern. When elderly people are deprived of their homes and life savings, they never recover financially. These financial losses also lead to depression and increased physical problems. In addition, after a lifetime of being self-sufficient, many of these victims become dependent on public benefits. Research is needed on the amount of financial loss to victims, as well as the fiscal impact on public benefit programs when these victims are no longer financially self-sufficient.

The number of financial exploitation reports being made to APS and anecdotal information about the increasing complexity of these cases result in the need for a more coordinated and educated response. While many states would like more APS staff and better training, their comments indicated that they were anxious to collaborate with law enforcement, district attorneys and judges to provide the best possible protection to victims of financial exploitation. National, state and local projects to address financial

⁷ Baumhover, Loren A., and Beall, S. Colleen, "Characteristics of Victims and Perpetrators", Abuse, Neglect and Exploitation of Older Persons, Health Professions Press, Baltimore, 1996, pp.38-45., and Wilber, Kathleen H., Ph.D., "Material Abuse of the Elderly: When is Guardianship a Solution?" in Protecting Judgement- Impaired Adults, Dejowski, Edmund F., JD. Ph.D., Editor, The Haworth Press, New York, 1990 pp. 89-104.

exploitation should encourage and support interdisciplinary efforts which involve a multitude of professionals.

It is apparent that both men and particularly women in the 66 to 80 age group should be targeted for educational programs on how to prevent financial exploitation particularly that which is done by family members. Faith-based organizations and community groups that are frequented by older people might be very effective sponsors of such educational efforts, which could be funded by federal grants.

As in other areas of the Baseline Study, the lack of reliable data creates very real obstacles to program credibility. States need federal funds to develop data management systems that can produce regular and credible information. In addition, there is a critical need to develop mechanisms for sharing perpetrator information between systems as well as across state lines.

This study also points out that special efforts need to be made to involve all professional financial service providers in the process of identifying and reducing financial exploitation. Their lack of engagement in cases of financial exploitation of vulnerable adults, both in their role as reporters and as participants on community and state coalitions and teams remains a critical concern among states. In addition to involving them directly on collaborative state and community groups, financial institutions should be included in state reporting laws. Their staff should receive training on an ongoing basis about their role in identifying and reporting financial exploitation. And public awareness campaigns should emphasize the need for their involvement in this issue.

The need for more training for APS staff is a theme that appears all through this Baseline Study. Since it is possible that many exploitation cases may involve crimes against older people and people with disabilities, it is reasonable to expect APS to be referring more of these cases to the criminal justice system. This report highlights the need for staff and cross training with the criminal justice system, and calls for better interagency collaboration. Policy makers need to provide more funding to support cross training grant opportunities, as well as funds for pilot programs to develop expertise in the investigation and prosecution of financial exploitation cases. In addition, specialized staff devoted to development and support for such activities are necessary. Multi-disciplinary teams should be strongly encouraged and supported at both local and state levels.

Finally, recognition and credit should go to the many creative professionals who have learned how to collaborate on cases of financial exploitation. They support and substantially improve the level and quality of services to vulnerable adults who are the victims of financial exploitation. These professionals carry on despite the ongoing lack of resources and public indifference. Their efforts should be documented as best practices which other communities could replicate. They should be recognized by their communities, and their cooperative efforts given media attention.