

1 **FINANCIAL EXPLOITATION**

March 2017

Prepared for the
San Antonio Estate Planners Council

2 **Objectives**

- Describe Adult Protective Services (APS) and the definition of financial exploitation
- Understand the legislative authority of the APS program
- Understand how APS handles financial exploitation investigations
- Identify ways to protect financial exploitation victims
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3 **Financial Exploitation A Growing Problem**

Approximately five million older Americans are financially exploited each year. (Eldercare Locator, n.d.)

Experts believe that for every financial exploitation case referred to authorities, an additional 10 to 44 cases go undetected.

Source: (Lifespan, Weill Cornell Medical Center, New York City Dept. of Aging, 2011; National Center on Elder Abuse, 1998)

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4 **Research On The Impact Of Financial Exploitation**

- Victim losses nationwide are reported to be around \$2.9 billion. (The MetLife Mature Market Institute, 2011)
- At the state level, Utah used data taken from a small sample of APS referrals to estimate both public benefit costs and victim losses, and concluded that statewide impacts ranged between \$48 and \$209 million. (Gunther, 2011)
- The New York State Cost of Financial Exploitation study found financial exploitation costs victims and the state at least \$1.5 billion each year in stolen cash and property, benefits paid to victims, and investigative costs statewide. (New York State Office of Children and Family Services, (2016) The New York State Cost of Financial Exploitation Study)

5 **Impact of Financial Exploitation on Adults 65 and Older**

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- Loss of Resources
- Loss of Independence
- Increase in Mental Health Issues
- Inability to Pay Expenses
- Inability to replace lost assets through employment
- Inability to hire attorney to pursue legal protections and remedies

6 **Mission & Vision of Texas APS**

- Mission

The mission of Adult Protective Services is to protect older adults and people with disabilities from abuse, neglect, and exploitation.

- Vision

Protecting with purpose, passion, and persistence

7 **APS Programs**

APS conducts two types of investigations of abuse, neglect, and exploitation of persons age 65+ and persons with disabilities:

- In-Home Community investigates ANE allegations of vulnerable adults in the community. APS also provides services to alleviate ANE.

- Provider Investigations investigates allegations of abuse, neglect, and exploitation by certain paid providers.

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10 **About Texas APS**

In Fiscal Year 2016:

- Texas APS In-Home Investigations program rec'd 110,867 intake reports .

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11 **Financial Exploitation Figures**

Texas APS In-Home Statewide Totals

12 **Financial Exploitation Figures**

Texas APS In-Home Statewide Totals

13 **Definition of Financial Exploitation**

- Exploitation is “ the illegal or improper act or process of a caretaker, family member, or other individual who has an ongoing relationship with the elderly or disabled person using the resources of an elderly or disabled person for monetary or personal benefit, profit, or gain without the informed consent of the elderly or disabled person.”

14 **Client Financial Resources**

- Social Security number or other identifying information
- Cash
- Money from checking or savings accounts
- Certificates of deposit or other interest-earning or investment accounts
- Credit, debit or other electronic benefits such as a food stamp card
- Property that has monetary value from which the alleged perpetrator derives personal benefit, profit, or gain

15 **Why Alleged Perpetrators Prey on Older Adults and Persons with Disabilities**

Our alleged victims:

- are trusting individuals and usually lonely
- are isolated
- Often have cognitive impairments
- Often have a stable retirement income along with savings
- Our alleged victims are vulnerable and often dependent on others for care

16 **Assessing Financial Exploitation Allegations**

APS Investigates:

- Caretakers
- Paid caretakers whether through private pay through insurance, or Medicare (In-Home), Medicaid (Provider Investigations)
- Family members
- Individuals who have an ongoing relationship with the alleged victim

APS does not investigate financial scams and fraud by strangers. In these types of cases APS will assess to determine if the alleged victim is in a state of neglect.

17 **Assessing Financial Exploitation Allegations**

APS specialists assess allegations of financial exploitation by:

- Interviewing victims, alleged perpetrators, and collaterals
- Obtaining financial records
- Consultation with APS Subject Matter Experts
- Collaboration with law enforcement, financial institutions, and other government agencies as needed

18 **Mickey Rooney Testimony from
“Last Will & Embezzlement”**

19 **Comprehensive Investigation**20 **Characteristics of Alleged Perpetrators**

- Using a Power of Attorney, given by the alleged victim to allow another person to handle his/her finances to steal the alleged victim's money
- Refusing to obtain needed care and medical services for the AV in order to keep the persons assets for the abuser
- Threatening to place the alleged victim in a nursing home
- Threatening to abandon, hit or otherwise harm the victim unless he or she gives the alleged perpetrator what he/she wants

21 **Characteristics of Alleged Perpetrators (cont'd)**

In-home care providers taking the following actions:

- Providing unnecessary services
- Providing substandard care
- Keeping change from errands
- Paying bills which do not belong to the alleged victim
- Asking the alleged victim to sign falsified time sheets,
- Unexplained missing funds or valuables

22 **Possible Indicators of Abuse**1 Physical Abuse

- Bruising, cuts, burns
- Bone fractures, sprains
- Locks on the outside of the doors, restraints
- Withholding assistive devices (eyeglasses, walker)

2 Verbal Emotional

- Low self esteem, depression
- Caretaker yelling cursing/and or screaming
- Threats of harm, intimidation factor

23 **Possible Indicators of Neglect**1 Excessive Fatigue

- Forced Isolation
- Refusing to take medications or disregarding medical restrictions
- Over/under medicating
- Unmet medical or dental needs

2 Lack of needed equipment

- Poor personal hygiene
- Dehydration or malnutrition without illness related cause
- Lack of necessities such as food, water or utilities.

24 25 **Diminished Capacity**

Capacity to Consent

Human Resources Code Section 48.208 (a): A person lacks the capacity to consent to receive protective services if because of a mental or physical impairment, the person is incapable of understanding the nature of the services offered and agreeing to receive or rejecting protective services.

26 **Protecting Victims of Financial Exploitation**

APS specialists protect victims by:

- Educating victims and families
- Collaborating with financial institutions to protect the victim's funds
- Referring to, or arranging for, money management or payee services
- Emergency referral for guardianship to protect rapidly diminishing assets
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27 **What Financial Planners Can Do To Protect Victims of Financial Exploitation**

- Immediately report suspicions
- Become advocates for your clients
- Collaborating with Elder Law Attorneys to plan for client incapacity
- Working through multi-disciplinary teams with law enforcement, banks and others
- Ongoing education about aging issues

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28 **Collaborative Efforts to Combat Abuse, Neglect & Financial Exploitation**

- 1 • Early Recognition
 - Jointly Investigating with APS
 - Aggressive Intervention
 - Prosecution
- 2 • Training Personnel at Financial Institutions
 - Community Education
 - Multidisciplinary Teams
 - Resources for Prevention

29 **Additional APS Collaborations**

- ePay formerly known as Southwestern Automated Clearing House Association

- Partnership with Wellmed
- Forensic Assessment Center Network
- Child Advocacy Centers
- Silver Sabbath Committee

30 **Laws to Protect Vulnerable Adults**

31 **APS Community Engagement Efforts**

"It's Everyone's Business!" Campaign

- Occurs in October, districts work with community partners to provide education and awareness about financial exploitation.
- Provides the public with information on recognizing financial exploitation, facts, about adult abuse, and prevention tips.

32 **APS Community Engagement Efforts**

Texas Partners for Adult Protective Services

- A statewide non-profit organization that works with APS to help improve the lives of clients by developing resources and providing assistance to local boards that support APS.

Elder Abuse Awareness Campaign

The annual campaign is in May. The goals of the campaign include:

- Raising awareness about the problems of adult abuse, neglect, and financial exploitation;
- Enlisting community collaboration and support for APS clients and needed resources;
- Increasing awareness of APS programs and services.

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34 **References**

- Gunther, Jilene (2011). The 2010 Utah Cost of Financial Exploitation.
- New York State Office of Children and Family Services (2016). The New York State cost of Financial Exploitation Study.
- Texas Department of Family and Protective Services (2016). Annual Report & Data Book. Adult Protective Services. www.dfps.state.tx.us
- National Adult Protective Services Association (2017). Elder Financial Exploitation.

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