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An Analysis of Financial Exploitation of the Elderly in Lancaster County

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INTRODUCTION

The Lancaster County Office of the District Attorney (ODA) invited the Center for Public Scholarship and Social Change at Millersville University to examine data on financial crimes against elder victims. The ODA is interested in ensuring that its policies regarding the prosecution of these cases meet the multiple goals of protecting the community, especially elderly residents, while ensuring the cases are resolved with appropriate regard for the wishes of the victim.

Financial exploitation, a form of elder abuse, is an increasing concern as the number of elders aged 60 and over increases in the United States (Centers for Disease Control & Prevention [CDC], 2017). In fact, Mosqueda, Hirst and Sabatino (2017) and the CDC (Burnes, Henderson, Sheppard, Zhaso, Pillemer & Lachs, 2017) recently identified elder abuse as a public health concern because of our aging society. There are two types of financial exploitation of the elderly: pure financial exploitation (PFE), which occurs without any other form of abuse or neglect, and hybrid financial exploitation (HPE), which co-occurs with other forms of abuse or neglect (Jackson & Hafmeister, 2011). PFE includes scams, frauds, taking money or possessions without permission, forging an elder person's signature, and abuse of powers of attorney. It is associated with losses of approximately \$3 billion annually (National Committee for the Prevention of Elder Abuse, as cited in Spreng, Karlawish & Marson, 2016; MetLife, 2009).

Numerous studies have examined risk factors associated with PFE victimization, including declining physical health (Gibson & Qualls, 2012), declining cognitive functioning (Lichtenberg, Ficker, Rahman-Filipak, Tatro, Farrell, et al., 2016), and loneliness and bereavement (Stiegal, 2012). However, even high functioning older adults are at risk for PFE (Wood, 2017). Other studies have found that the characteristics of PFE cases are quite different

from those of HFE. According to Jackson and Hafemeister (2011), victims of PFE, in comparison to victims of HFE, are more likely to be victimized over a shorter period of time, and less likely to have been victimized by a family member. Current prevalence rates of financial exploitation of the elderly vary. In one study in New York State, an estimated 4.7% of community dwelling adults were found to have been victimized (Peterson, Burnes, Caccamise, Mason, Henderson, Wells, et al., 2014). Other studies found an annual prevalence rate of between 3 – 4% (National Center on Elder Abuse, nd; Spreng, et al., 2016). However, a meta-analysis focusing on financial frauds and scams found a prevalence rate closer to 10% (Burnes, Henderson, Sheppard, Zhaso, Pillemer & Lachs, 2017).

The policy response to elder abuse at the state level is mixed. According to the National Conference of State Legislatures (Morton, 2017), 37 states, the District of Columbia, and the U.S. Virgin Islands have passed laws against the financial exploitation of the elderly. Each year has seen an increase in the number of state bills introduced. Unfortunately, the presence of legislation does not equate to enforcement. Unless funding accompanies legislation, local communities bear the financial burden of prosecution. Justice for elderly victims of financial exploitation is subject to forces of resources, political will, interest, and time.

From the perspective of the criminal justice system, the identification and prosecution of PFE can be challenging. There may be delays between when the exploitation takes place and when it is discovered. Embarrassment or a lack of awareness that the behavior is criminal may reduce the likelihood that the behavior is reported to appropriate authorities (Policastro & Payne, 2016). Victimization by a family member also may complicate victims' decisions regarding whether to report financial exploitation and whether to cooperate in a prosecution. Furthermore, there is a lack of clarity on what constitutes a successful outcome in a financial exploitation

prosecution. For example, is an emphasis on the restoration of assets to the victim appropriate? To what extent should prosecutors consider victim wishes regarding the terms of negotiated guilty pleas? Unfortunately, there is an absence of systematically recorded data on PFE case circumstances and outcomes, and little discussion in the literature of what constitutes a successful outcome in a PFE case. However, recent literature indicated that elder abuse forensic centers — centers which may include police officers, prosecutors, social workers, and medical professionals — lead to better outcomes because they focus not only on prosecution of crime, but also on the well-being of the elder victim (DiLiema, Navarro, Moss & Wilber, 2016).

Scope of Research

In this report, we examine PFE cases prosecuted in Lancaster County to explore the circumstances of the cases and their resolutions. The subjects of this study are (a) persons from Lancaster County, Pennsylvania, aged 60 and older, and who have been victims of PFE, whose cases were prosecuted from July 2012 through March 2016, and, (b) the perpetrators of these crimes. We aim to provide an overview of the victims and perpetrators, describe case outcomes, and identify information gaps that impair the ability of the ODA to assess its performance in handling prosecutions of PFE. We also describe tools other jurisdictions are using to facilitate data collection that can be used for outcomes assessment.

Methodology

The ODA provided a list of Pennsylvania Common Pleas Court docket numbers for 57 cases that involved elder abuse from July 2012 through March 2016. The docket for each case was downloaded from the Administrative Office of the Pennsylvania Courts Unified Docket System. A review of each docket revealed that 42 of the 57 cases involved PFE. The remaining 15 cases contained a variety of charges, including criminal homicide, assault, neglect of care of a

dependent person, robbery, terroristic threats, and criminal trespass. None of the excluded cases involved charges of financial exploitation.

In addition to the docket sheets, the ODA also provided the criminal complaint for each case. The criminal complaint provided information about the circumstances under which the case initially came to light, a description of how the offense occurred, and information about the victim. However, the information in the criminal complaints is not consistently recorded, which results in much missing information, especially about the victims. We created a codebook to systematically record relevant information regarding the victims and perpetrators available from these two sources of data. We then entered the data into SPSS, a statistical analysis software program.

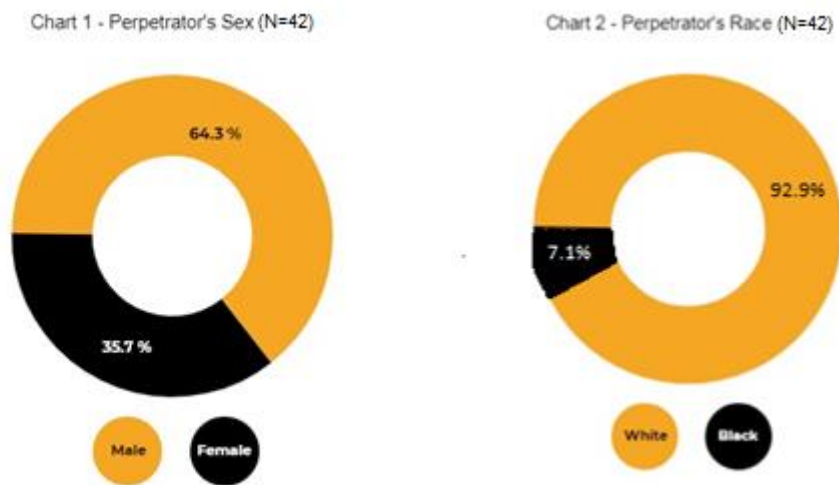
Findings

Offender Characteristics

Age was recorded in 41 of the 42 cases. As listed in Table 1, most perpetrators in Lancaster County are “middle aged” and are about 40 years old. This age range is consistent with the age range of perpetrators noted in the literature (Gibson & Greene, 2013; Spreng et al., 2016). The youngest perpetrator was 23 and the oldest was 59. At the time of the offense, five perpetrators were 42 years of age.

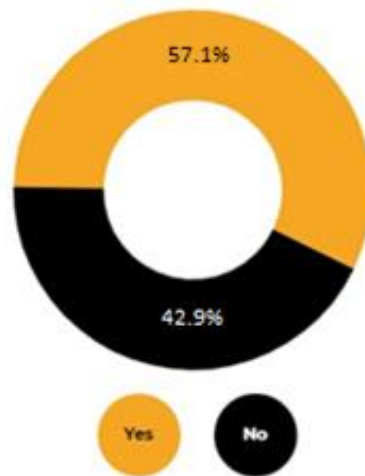
Table 1 Age of Perpetrators (N=41)	
Mode	42 years
Median	40 years
Mean	40 years
Range	23 to 59 years

Men are almost two-thirds (N=27) of the perpetrators in the 42 PFE cases prosecuted by the ODA's office, a finding consistent with the literature (Amstadter, Cisler, McCauley, Hernandez, Muzzy & Acierno, 2011). (See Chart 1) Chart 2 displays the racial makeup of offenders. Thirty-nine (92.9 %) of offenders were white. These findings also are consistent with the literature (e.g., Stamatel & Mastrocinque, 2011).



As seen in Chart 3, twenty-four (57.1%) of the offenders had a prior criminal conviction, whereas 18 (42.9%) did not.

Chart 3 - Whether Offender Has a Prior Record/Conviction (N=42)



Relationships between Offenders and Victims

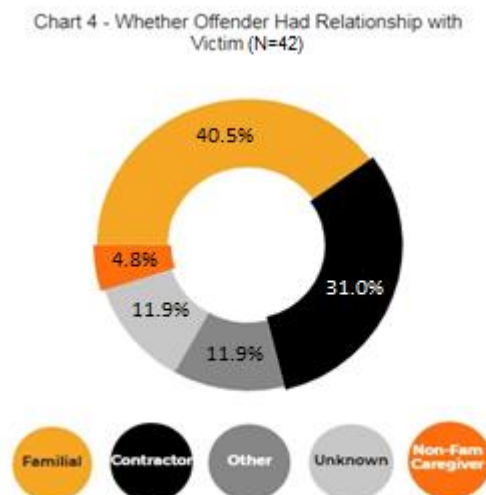
In about 88% (N=37) of the cases, the criminal complaint identified a relationship between victim and offender. Overall, 40.5% (N=17) of the cases featured a familial relationship between the victim and the offender.¹ Non-familial caregivers were the offender in 4.8% (N=2) of the cases. However, because non-familial caregivers often have a familial-type relationship with their care receiver, 45.2% (N=19) of the offenders have a familial or familial-type relationship with the victim.

Contractors are the next largest group of offenders at 31.0% (N=13). These types of cases usually are defined as scams wherein a contractor requires advance payment for an agreed

¹ Children are the perpetrators of the financial exploitation of their parents in 23.8% (N=10) of the 42 cases. According to the criminal complaints, in six cases, the victim is the father, in one case, the victim is the mother, and in three cases, the victim is identified as the “parents”, suggesting, although not saying explicitly, that both mother and father were victimized. In five cases (11.9%), grandchildren were the perpetrators, and in two cases (4.8%) the perpetrators were the victims’ nephews.

upon product or service and fails to deliver or provides a product or service but continues to demand additional payment from the victim.

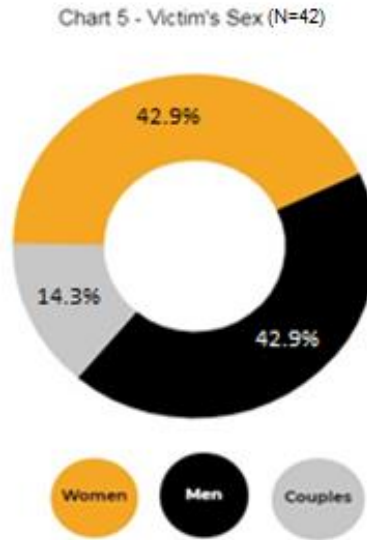
Five cases (11.9%) had differing relationships between victim and perpetrator. In one case, the offender was the boyfriend of the victim's home health aide, while in a second case, the offender was some type of employee of the victim, but no additional specifics were provided. In another case, the offender was a grandson's friend. In one case, the offenders are identified as "friends" of the victim. Case materials for the fifth case showed that the victims and perpetrator had the same last name, but there was no explicit confirmation that they were related. Finally, in five cases (11.9%), there was no information indicating the relationship between victims and offenders.



Victim Characteristics

Researchers (e.g., Laumann, Leitsch & Waite, 2008) found that women are the most frequent victims of financial exploitation, often because they are more likely to be available targets as they live longer than men. This outcome is not found in these PFE cases. Chart 5 shows that of the 42 cases examined, 18 (42.9%) of the victims were men, 18 (42.9%) were

women and the remaining six (14.3%) were couples. From the criminal complaints for the cases where victims were couples, it is unclear if husbands and wives are equal victims of the crime.



Unfortunately, in most cases, the victims' ages were not noted. Table 3 lists the ages for the 18 cases in which age was noted. The mean age was 79.39, the median and mode were 79, and the range was from 64 to 93. Spreng et al. (2016) found that victimization is increasingly likely with advanced age and conditions that become more likely over 80 years of age (e.g., increasing dependency and cognitive impairment) may be contributing factors. Knowing the victims' ages is crucial to understanding the circumstances giving rise to victimization.

Table 2 – Age of Victims (N=18)	
Mode	79 years
Median	79 years
Mean	79.4 years
Range	64 to 93 years

Chart 6 identifies the independent living status of the victims, while Chart 7 identifies whether the victim and offender resided together. Most victims lived independently at the time the crime was committed (72.6%; N=32). Three victims (7.1%) did not live independently, and

no information was recorded on independent living status in seven cases (16.7%). Most victims did not live with their perpetrator (69%; N=29), while 7 victims (N=16.7%) lived with their perpetrator; this information was not recorded in six cases (14.3%).

Chart 6 - Whether Victim Lived Independently at Time of Exploitation (N=42)

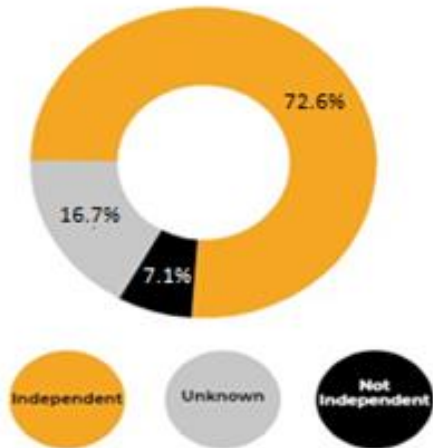
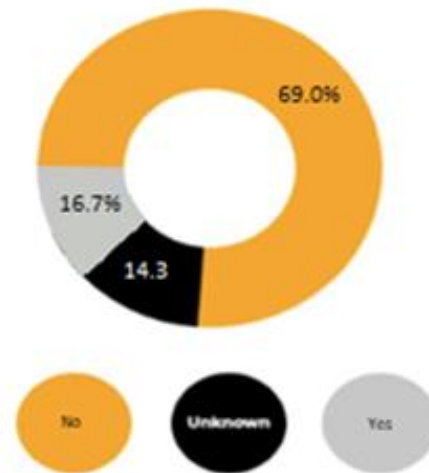


Chart 7 - Whether Victim Lived with Offender at Time Of Exploitation (N=42)



Additional Limited Victim Demographics

In five of the 42 cases (11.9%), there was a notation in the criminal complaint that the victim suffered some degree of cognitive impairment. In the remaining 37 cases, there was no indication regarding either the presence or absence of cognitive impairment. Further, in three cases (7.1%), the case complaints indicated that the victim had a physical impairment. No notation regarding physical impairment appeared in the remaining 39 cases.

Offenses Charged

As Table 3 shows, the ODA brought charges for 20 different offenses. Because some offenders were charged with multiple offenses, there are more offenses than there are cases.

Specifically, there are 81 charges and 42 PFE cases. The top 3 charges, accounting for nearly two thirds of the charges brought, were:

- (a) Theft by unlawful taking of moveable property, including conspiracy (22.2%, N=18);
- (b) Theft by deception (21.0%, N=17); and
- (c) Unauthorized use of an access device (19.8%, N=16).

Other offenses charged included forgery/bad check (16.0%, N=13) and consumer fraud (8.6%, N=7). There were six cases (7.4%) in which identity theft was charged. In each identity theft case, there were other charges filed against the offenders as well. In conjunction with other charges, the ODA also charged one offender with burglary and conspiracy to commit burglary and another offender with burglary. There was one charge (1.2%) of receiving stolen property.

TABLE 3 OFFENSES CHARGED			
Offense Category	Specific Offenses	Charges N=81	Percent
Theft by unlawful taking of moveable property	Theft by unlawful taking of moveable property (16)	18	22.2%
	Criminal attempt – theft by unlawful taking of moveable property (2)		
Theft by deception	Theft by deception and failure to correct (2)	17	21.0%
	Theft by deception and false impression (14)		
	Theft by deception and preventing acquisition of information (1)		
Unauthorized use of an access device	Access device issued to another who did not authorize use (13)	16	19.8%
	Conspiracy – access device issued to another who did not authorize use (2)		
	Other reason access device unauthorized to user (1)		
Forgery, conspiracy to commit forgery, bad checks	Forgery – unauthorized act in writing (8)	13	16.0%
	Forgery – utters forged writing (3)		
	Conspiracy / forgery / altering writing (1)		
	Bad checks (1)		
Consumer fraud	Conspiracy – false statement to induce agreement for home improvement services (1)	7	8.6%
	False statement to induce agreement for home improvement (1)		
	Deceptive business practices – false/misleading statement (2)		
	Received advanced payment for services and failed to perform (3)		
Identity theft	Identity theft	6	7.4%
Burglary & conspiracy to commit burglary	Burglary – overnight accommodation, person present (2)	3	3.7%
	Conspiracy to commit Burglary – overnight accommodation, person present (1)		
Receiving stolen property	Receiving stolen property	1	1.2%

Amount of Money Lost

The amount of money victims lost ranged from a low of \$70 to a high of slightly more than \$141,000. The mean amount stolen was slightly above \$17,000, and the median was \$4,575.

Discovering and Reporting Victimization

Of the 42 cases of elder financial exploitation, 30 cases (71.4%) note the person or entity discovering the crime, and 35 (83.3%) cases identify the person or entity that reported it. Most often, the victim discovered the theft (28.6%, N=12) and reported it to police (35.7%, N=15). Banks rank second as the entity to discover the theft (21.4%, N=9) but only reported the crime in 7.1% (N=3) of the cases. This discrepancy may mean that banks inform their customer/victim and the customer/victim self-reports. Persons with power of attorney privileges rank third (7.1%, N=3) in discovering the crime and reporting it (7.1%, N=3). In four cases (9.6%), a son or daughter of the victim discovered the financial exploitation, and in 11 cases (26.2%), sons or daughters reported it. In one case (2.4%), victimization was discovered by a law firm and law firms reported victimization to the police in two cases (4.8%; N=2). In one case, a friend/acquaintance of the elder victim discovered the crime, and in another case, law enforcement reported the crime.

Chart 8 - Individual/Organization Who Discovered Exploitation (N=42)

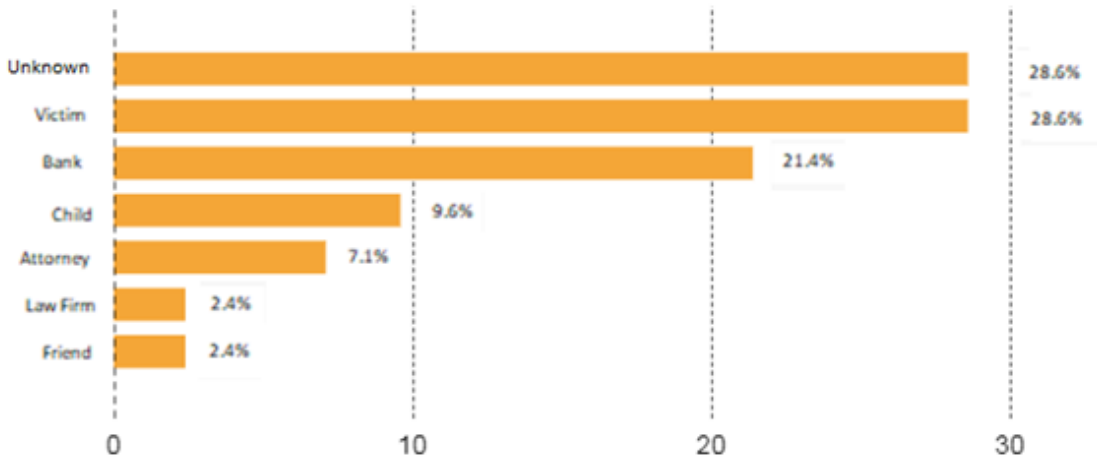
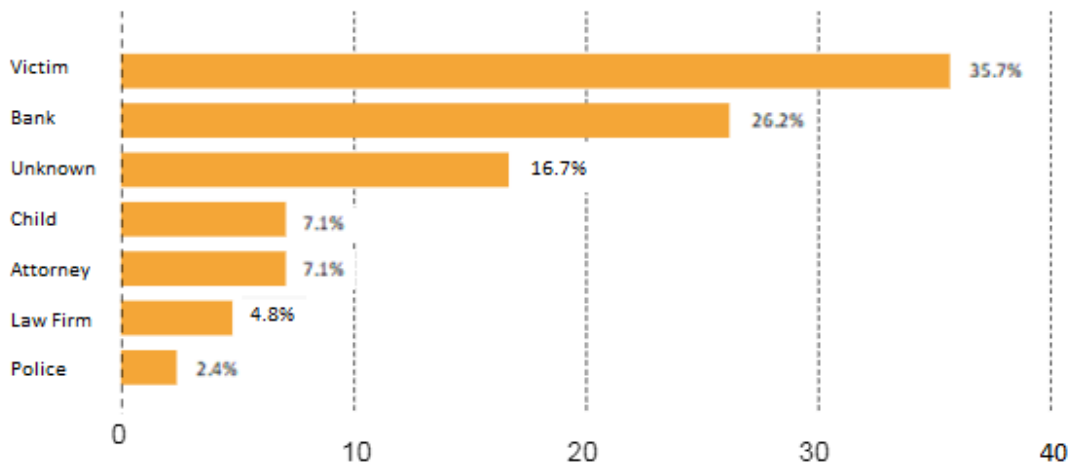


Chart 9 - Individual/Organization Who Reported Exploitation (N=42)



It is also important to note that, often, a long period of time elapses between the occurrence of the crime and the initiation of prosecution. The length of time between the commission of the offense and the initiation of criminal charges ranged from seven days to 1,972 days, with the average being 363 days. The median length of time was 168 days. Long delays in

the discovery and reporting of cases of financial exploitation of the elderly make investigation and prosecution much more challenging.

Police Departments Bringing Charges

As shown in Table 4, three departments stand out in bringing forward the largest percentage of cases: East Hempfield Township (16.7%; N=7), Manheim Township (11.9%; N=5), and Pennsylvania State Police (11.9%; N=5). Five departments brought charges in three cases (7.1%) each: Akron Borough, East Cocalico Township, Manor Township, Northwest Regional, and West Lampeter Township. Three departments charged two cases (4.8%) each: Lancaster Bureau of Police, New Holland, and Strasburg Borough. Columbia Borough, Quarryville Borough, West Hempfield Township and the ODA brought charges in one case (2.4%) each. The police departments cover urban, suburban, and rural areas, as well as several small boroughs spread across Lancaster County.

Table 4 Police Departments Bringing Charges

Name of Agency	% of Cases Brought	Number of Cases
East Hempfield Township Police Department	16.7%	7
Manheim Township Police Department	11.9%	5
Pennsylvania State Police-Lancaster	11.9%	5
Akron Borough Police Department	7.1%	3
East Cocalico Township Police Department	7.1%	3
Manor Township Police Department	7.1%	3
Northwest Regional Police Department	7.1%	3
West Lampeter Township Police Department	7.1%	3
Lancaster Bureau of Police	4.8%	2
New Holland Police Department	4.8%	2
Strasburg Borough Police Department	4.8%	2
Columbia Borough Police Department	2.4%	1
Lancaster County District Attorney's Office	2.4%	1
Quarryville Borough Police Department	2.4%	1
West Hempfield Township Police Department	2.4%	1

Length of Time to Case Resolution

At the present time, 40 of the 42 cases have reached a final disposition. From the time a case was initiated to final disposition took, on average, 411 days. The average number of days for cases in which the defendant was represented by a public defender or court appointed counsel was slightly fewer: 401 days. Private attorneys represented defendants in 13 cases (32.5%) that have been resolved. The average length of time from case initiation to completion of cases with private counsel was 430 days. The shortest time from initiation to resolution for public defender cases was 42 days. In contrast, for cases with private representation, the shortest time from initiation to resolution was 151 days.

Table 5 Length of Time for Case Disposition by Type of Attorney			
Cases Resolved	Mean	Median	Range
Total Cases (N=40)	410.6 days	393.5 days	42 – 1076 days
Public Defender/Court Appointed Cases (N=27)	401.3 days	367 days	42 – 1076 days
Private Counsel Cases (N=13)	430 days	424 days	151 – 939 days

Case Outcomes and Sentencing

As noted, 40 of the 42 cases have been resolved, six by being nolle prossed and 34 (85%) through guilty pleas². Guilty pleas resulted in the following sentences:

- 85.3% (N=29) restitution
- 82.3% (N=28) probation
- 47.1% (N=16) confinement

² Two guilty pleas were entered at Magisterial District Courts.

- 35.3% (N=12) confinement and probation
- 32.4% (N=11) confinement, probation, and restitution
- 17.6% (N=6) other sentences³.

Discussion

Examination of these 42 cases reveals strengths in the prosecution of cases, as well as opportunities for improvement. We commend the Lancaster County ODA for establishing an Elder Abuse unit. The existence of the Elder Abuse Unit shows that the ODA recognizes that elderly victims are a unique population that faces significant challenges. This unit provides a foundation on which to build enhanced collaboration among community entities concerned with the welfare of the elderly. The unit may be able to add mechanisms to better document the circumstances under which PFE is occurring and to assess whether current prosecution strategies are meeting the needs of the victims, their families, and the community.

The Elder Abuse Unit could be strengthened through the inclusion of professionals from multiple disciplines (e.g., social work, mental health, Lancaster County Office of Aging, healthcare professionals) who can work collaboratively in assessing victims of PFE for financial, social, and physical health. A victim's level of cognition might impact the type of crime(s) charged or the penalty sought. Further, the victim may require a financial, social, and/or physical health care plan during and after case processing.

The Elder Abuse Unit may wish to review available scales to measure a victim's financial decision-making cognitive ability, such as the Lichtenberg Financial Decision Screening Scale

³ Two cases were resolved with ARD; two were sentenced to house arrest and probation; another case was handled by the Magisterial Court but the sentencing outcome is unclear. In one case, the original sentence was a sentence to drug court; this sentence was later changed to confinement to be followed by 15 years' probation.

(<https://www.olderadultnestegg.com/decision-tracker>) or the Older Adult Financial Exploitation Measure (Phelan, Fealy, Downes & Donnelly, 2014). A multidisciplinary team could evaluate the reliability and validity of these and other scales, as well as identify cases in which their use is warranted.

Community education and awareness initiatives may assist in the prevention and early identification of financial education of the elderly. For example, a multidisciplinary team could enlist the assistance of various schools or departments at Millersville University to develop, promote, and conduct these efforts. Other community partners could include retirement communities, houses of worship, and civic associations. Community outreach initiatives that educate the public about financial exploitation may aid in its prevention or earlier detection.

It would be advantageous if the ODA could engage with the multiple police departments in Lancaster County to standardize reporting of perpetrator and victim demographics and relationships. This would facilitate a better understanding of who is most at risk for financial exploitation, and who is most likely to victimize the elderly in this way. For example, consistent documentation of victims' and offenders' ages, sex, and race/ethnicity would be valuable. Victims' physical and cognitive abilities also should be documented, as well as the relationship between victims and offenders.

Using an electronic database to formalize the recording of data collected by the Elder Abuse Unit would facilitate retrieving and studying these cases. Ideally, all reported cases would be documented, not only those prosecuted. These data could aid the ODA in planning programs and making policy recommendations in this rapidly developing area of criminal activity.

The National Center for State Courts has published many resources to enhance the ability of a community to address the problem of financial exploitation of the elderly effectively. These

resources include prosecution guides, checklists, and data collection forms⁴. One of the publications details the types of performance measures that prosecutors may use to increase their effectiveness in handling these types of cases. Systematic assessment of case preparation, case processing, victim outcomes, and offender sanctions can help assure that the ODA is meeting its goals in this important part of its mission.

⁴ See Appendix A for a list of some of these resources.

Appendix A

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