

**REVIEW OF ELDER FINANCIAL EXPLOITATION STUDIES  
AND FEDERAL LEGISLATIVE AND ADMINISTRATIVE ACTION**

**Prepared by the Maryland State Bar Association’s  
Vulnerable Adult Exploitation Task Force**

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Passed in 2010, the Elder Justice Act is the first comprehensive legislation to address the abuse, neglect, and exploitation of older adults at the federal level. The law authorized a variety of programs and initiatives to better coordinate federal responses to elder abuse, promote elder justice research and innovation, support Adult Protective Services systems, and provide additional protections for residents of long-term care facilities. ....	24
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## REVIEW OF STUDIES ON ELDER FINANCIAL EXPLOITATION

- Elderly Abuse is an Epidemic
- Elder abuse and neglect continue to be one of society's great embarrassments. It is encouraging to note that all 50 states now have passed legislation relating to elder abuse.
- Older adults represent a distinct demographic group differentiated by a unique set of age-associated fraud–scam vulnerabilities
- 1 out of 10 older adults experiences some form of elder abuse
- More than 50% of all victims needed assistance with **ADLs** and nearly all required help with one or more **IADL**.
- Aging adults most vulnerable to fraud during the gradual period of cognitive and physical decline when deficits are hardest to recognize (and not usually documented in the medical records)
- Younger old (< 70) consistently associated with increased risk for financial exploitation which is more severe than the older old.
- Only a fraction of cases are actually reported to social services agencies
- Elder abuse is associated with significant morbidity and premature mortality
- Elders disproportionately targeted by fraudsters
- Elder financial exploitation takes two forms: fraud by third parties (scams) and theft by ‘trusted individuals’
- Fraud more likely with cognitively intact, mobile elders
- Abuse of cognitively intact Elders is like domestic abuse
- Abuse of cognitively impaired elders is like child abuse
- Theft by trusted individuals more likely with cognitively impaired, isolated elders
- Low social support was associated with more than triple the likelihood of abuse

- Cognitive and physical function impairment have been associated with increased risk for elder abuse
- Lack of community connections, social needs fulfillment and isolation increases risk of abuse considerably
- numerical reasoning during decision-making is often lower among older adults resulting in older adults' lower comprehension and worse decision making when unfamiliar numerical information is present
- Isolation, financial stress, and concerns about health can lead to depression and anxiety, all of which leads to exploitation
- Past trauma an indicator of susceptibility to exploitation
- Depression and anxiety lead to higher risks of elder abuse
- Structural issues in society continue to allow the predictable and common financial exploitation of older adults to occur

1. Financial Capacity and Financial Exploitation of Older Adults: Research Findings, Policy Recommendations and Clinical Implications, Stacey Wood, Ph.D. and Peter A. Lichtenberg, Ph.D., ABPP, Clin Gerontol. 2017 Jan-Feb; 40(1): 3–13.

- Elder abuse is a problem

Elder abuse is gaining attention as a public policy issue in the United States. Although the extent of such abuse is largely unknown, some studies indicate that it is prevalent and that many incidents of abuse are never reported.<sup>1</sup> A 2010 study of the extent of elder abuse in the United States found that 11% of individuals aged 60 and older residing in the community reported some type of abuse in the past year. A 2008 study found that 9% of community-residing older adults aged 57 to 85 reported verbal mistreatment, 3.5% reported financial mistreatment, and 0.2% reported physical mistreatment by a family member in the past year. Studies such as these likely underestimate the full extent of elder abuse because they do not include all categories of abuse, exclude individuals who reside in institutional settings such as nursing facilities, and generally exclude individuals with significant cognitive impairment.

2. Elder Fraud and Financial Exploitation: Application of Routine Activity Theory, Marguerite DeLiema, PhD, Gerontologist. 2018 Jul

- Elderly disproportionately targeted by fraudsters

Older adults may be disproportionately solicited by fraudsters ([Kieffer & Mottola, 2016](#)) because they are at or near the peak of asset accumulation or because perpetrators assume that cognitive impairment and isolating life events such as retirement, widowhood, and disability make them more susceptible ([Lee & Soberon-Ferrer, 1997](#)).

3. Advancing the Field Elder Abuse: Future Directions and Policy Implications, Xinqi Don, MD, MPH, J Am Geriatr Soc. 2012 Nov; 60(11): 2151–2156.

- Elder Abuse associated with significant morbidity and premature mortality

Elder abuse, sometime called elder mistreatment or elder maltreatment, includes psychological, physical, and sexual abuse, neglect (caregiver neglect and self-neglect), and financial exploitation. Evidence suggests that 1 out of 10 older adult experiences some form of elder abuse, and only 1 of out 25 cases are actually reported to social services agencies. At the same time, elder abuse is associated with significant morbidity and premature mortality

4. National Elder Mistreatment Study, (March 2009) Ron Acierno Ph.D.; Melba Hernandez-Tejada M.S.; Wendy Muzzy B.S.; Kenneth Steve M.S.

- Younger old (those under 70) at 3 times the risk for emotional abuse than the older old.
- Younger old were more at increased risk for financial exploitation than older old. Older old with trauma in past also at increased risk
- Lack of community connections and isolation increases risk of abuse considerably

Approximately 4.6% of adults over age 60 reported experiencing some form of emotional mistreatment in the past year, and only 8% of these individuals reported the event to the police. This contrasts with a prevalence of 9% reported by Laumann, Leitsch, and Waite (2008) in their recently completed nationally representative sample of older adults for what they called 'verbal mistreatment.'

\*\*\*

The 'younger old', here defined as below age 70, were at 3 times the risk of emotional abuse than those over age 70. This is consistent with recent findings of Laumann et al. (2008) and in contrast to earlier findings that our 'oldest old' are at increased risk of mistreatment (Tatara, 1997)

\*\*\*

Also at a three-fold elevated risk were those older adults reporting very low social support. The risk of negative outcomes associated with low social support is a theme echoed across mistreatment types, and speaks to the importance of considering an older adult's connection and utilization of community and interpersonal resources to prevent mistreatment. Risk was doubled for individuals who needed assistance in daily life activities and in those with prior traumatic event experiences. The greater need for help and assistance of some older adults in accomplishing everyday activities appears to elicit verbal abusiveness from caregivers.

\*\*\*\*

Current financial exploitation by family members in one form or another was present in over 5% of respondents, making this form of mistreatment by trusted others unexpectedly common. Not surprisingly, older adults who were somewhat functionally impaired, as evidenced by their need for assistance with activities of daily living, were most at risk. Disconcertingly, older adults who used social

services were more likely to be financially mistreated, perhaps indicating that interaction with service providers somehow failed to act as a barrier against financial exploitation by family members, despite the increased potential for detection.

\*\*\*\*

Not surprisingly, older adults with functional impairment, defined either as needing assistance with activities of daily life and poor health, were more likely to be targets of stranger-perpetrated financial exploitation. **More difficult to explain is the finding that younger older adults, and older adults with prior traumatic experiences, were also at increased risk for financial exploitation.**

\*\*\*\*

Emotional mistreatment of older adults in the workplace may be more common than we predicted, as employed older adults reported more of this for abusiveness. This, together with the first point seems to indicate a general societal acceptance of this behavior.

\*\*\*\*

Particularly striking was the older adult report that perpetrators of mistreatment were socially isolated, having fewer than three friends in about half of all the cases in which perpetrators were known. These perpetrator deficits may present targets for intervention which have the direct corollary benefit of reducing elder mistreatment.

5. Elder Abuse in the Time of COVID-19—Increased Risks for Older Adults and Their Caregivers, Makaroun, Bachrach, Rosaland, Am J Geriatr Psychiatry. 2020 Aug; 28(8): 876–880

- Isolation, financial stress, and concerns about health can lead to depression and anxiety, which can result in more abuse

For older adults themselves, social isolation is a known risk factor for experiencing elder abuse. The social distancing measures enacted to combat SARS-CoV-2 transmission, and recommendations by the Centers for Disease Control and Prevention for adults over the age of 65 to not leave their homes, are undoubtedly creating new degrees of social isolation even among those previously well connected. These limits on in-person contact can greatly limit ability for caregivers to provide care in person, and in general limit opportunities for ongoing elder abuse to be detected by others. In addition, **with unprecedented drops in the stock market, older adults may see any investments or retirement savings plummet, leading to financial instability, which is known to make them more vulnerable to financial scams and other types of abuse. Older adults, who often have chronic health conditions, may now find it more difficult to access healthcare and supplies needed to manage their conditions and stay healthy. All of these issues—isolation, financial stress, and concerns about health—can in turn lead to increased depression and anxiety, which is also known to make older adults more susceptible to suffering abuse**

6. Elder Abuse Severity: A Critical but Understudied Dimension of Victimization for Clinicians and Researchers, Burnes, Pillemer and Lachs, *Gerontologist*. 2017 Aug; 57(4): 745–756.

- Elder mistreatment leads to shortened survival rates
- 7.6 – 9.5 % of cognitively intact elders subject to mistreatment
- younger old associated with more severe levels of EM across all mistreatment sub-types than older old

Elder mistreatment (EM) is a pervasive public health concern with major individual consequences, such as shortened survival as well as societal costs (Dong, 2014; Pillemer et al., 2015). One-year EM incidence among community-dwelling, cognitively intact older adults in the United States is 7.6–9.5% (Pillemer, Burnes, Riffin, & Lachs, 2015). EM refers to an intentional act or omission of care occurring in a relationship of trust, which cause harm or serious risk of harm to an older adult or deprives an older adult of basic needs. EM encompasses physical, sexual, emotional, and financial abuse or neglect. (National Research Council [NRC], 2003).

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Older adults enduring more frequent and varied mistreatment behaviors are more likely to experience poor mental and physical health, chronic pain, hospitalization, and all-cause mortality (Dong et al., 2009; Dong, Simon, & Evans, 2012; Fisher and Regan, 2011).

\*\*\*\*

**Counter to expectations, younger age was associated with more severe levels of EM across all mistreatment sub-types...** Using these theories, **old–old adults may be more avoidant of potentially abusive relationships than young–old adults**. Similarly, **perpetrators may also be less likely to engage in escalating mistreatment dynamics as they grow older themselves (e.g., older adult children, older spouses)**. Consistent with expectations, older adults with greater functional impairment endured more severe neglect. The opportunity of experiencing severe neglect escalates with the number of care needs.

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Our hypothesis suggested that higher levels of socio-cultural disadvantage would be associated with greater levels of EM severity. As expected, older adults living in households with lower incomes experienced more severe levels of neglect.

7. Elder Abuse: Research, Practice, and Health Policy. The 2012 GSA Maxwell Pollack Award Lecture, Xinqi Dong, MD, MPH, Gerontologist. 2014 Apr; 54(2): 153–162.

- 1 out of 10 older adults experiences some form of elder abuse
- only a fraction of cases are actually reported to social services agencies
- elder abuse is independently associated with significant morbidity and premature mortality
- cognitive and physical function impairment have been associated with increased risk for elder abuse
- Older adults with depression and signs of anxiety had higher risks of elder abuse

Elder abuse, also called elder mistreatment or elder maltreatment, includes psychological, physical, and sexual abuse, neglect (caregiver neglect and self-neglect), and financial exploitation. Evidence suggests that 1 out of 10 older adults experiences some form of elder abuse, and only a fraction of cases are actually reported to social services agencies. **At the same time, elder abuse is independently associated with significant morbidity and premature mortality**

\*\*\*\*

At the individual level, cognitive and physical function impairment have been associated with increased risk for elder abuse. In a population-based study of 238 community-dwelling older adults with elder abuse experience, Dong, Simon, Rajan, and Evans (2011) found that lower global cognitive function level, Mini-Mental State Examination (MMSE), episodic memory, and perceptual speeds are associated with increased risks of elder abuse.

\*\*\*

Older adults with depression and signs of anxiety had higher risks of elder abuse (Cooper et al., 2006; Dong, Simon, Odwazny, & Gorbien, 2008; Fulmer et al., 2005). In a community-based cohort, depression was significantly associated with elder abuse cases reported to APS (Lachs, Williams, O'Brien, Hurst, & Horwitz, 1997). Loneliness was associated with increased risk of elder abuse (Dong, Simon, Gorbien, Percak, & Golden, 2007). In addition, the association between psychosocial distress and elder abuse was affected by sociodemographic characteristics.

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Despite major gaps in our current knowledge, available evidence suggests that elder abuse is associated with significant adverse health outcomes.

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Previous studies have shown that elder abuse is associated with psychosocial distress. Abused older adults were more likely to report higher level of depression, anxiety, and posttraumatic stress disorder

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Evidence suggests that elder abuse is associated with emergency room visits, hospitalization, and nursing home placement and premature mortality

8. Elder Mistreatment in the United States, Laumann, Leitsch and Waite, J Gerontol B Psychol Sci Soc Sci. 2008 Jul; 63(4): S248–S254.

- Abuse of Cognitively Intact Elders is like Domestic Abuse
- Abuse of Cognitively Impaired Elders is like Child Abuse
- Frailest of Older Adults are not most vulnerable to Mistreatment

[A]mong older adults who are cognitively intact, mistreatment or abuse is conceptually much like domestic abuse in its etiology, appropriate prevention strategies, and consequences, whereas among cognitively impaired older adults mistreatment is conceptually similar to child abuse.

\*\*\*

The finding that adults in their late 50s and 60s are more likely to report verbal mistreatment or financial mistreatment than older adults is counterintuitive but suggests to us that respondents are including fairly routine arguments (perhaps about money) with their spouse, sibling, or child in their reports. Alternatively, older adults could be more reticent to report this type of negative behavior. Nonetheless, these results cast doubt on the assumption that the frailest of older adults are the most vulnerable to mistreatment

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Older adults with physical and cognitive impairments may be more vulnerable to mistreatment because of their inability to seek help or protect themselves from the abuse. Also, impairments can increase the stress experienced by the caregiver and may increase the likelihood of these negative interactions

9. Financial Capacity and Financial Exploitation of Older Adults: Research Findings, Policy Recommendations and Clinical Implications, Wood, Lichetenberg, Clin Gerontol. 2017 ; 40(1): 3–13.

- 20 % of older adults reported being taken advantage of financially in terms of an inappropriate investment, unreasonably high fees for financial services, or outright fraud.
- Financial exploitation has been increasing with losses of approximately \$ 2.9 billion dollars / year
- Older adults are targeted disproportionately, and are less likely to report financial exploitation
- Older adults who experienced having low social needs fulfillment and depression were significantly more likely to experience fraud.
- Older adults who have been victimized have been reported to demonstrate lower levels of confidence and increased rates of depression, placing them at greatly increased risk for future victimization
- Use of numerical reasoning during decision-making is often lower among older adults resulting in older adults' lower comprehension and worse decision making when unfamiliar numerical information is present
- Structural issues in society continue to allow the predictable and common financial exploitation of older adults to occur

Data sources tracking financial exploitation report that financial exploitation has been increasing with losses of approximately \$ 2.9 billion dollars / year.

\*\*\*

Financial exploitation can occur at any stage of the lifespan and the literature regarding prevalence amongst older adults has been mixed in terms of supporting a theory that older adults are more “susceptible” to fraud. However, there has been literature that documents that older adults are targeted disproportionately, and are less likely to report financial exploitation

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While it is certainly the case that older adults who retain capacity may become victims of exploitation, even subtle cognitive changes can increase risk of financial exploitation.

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The Elder Investment Fraud and Financial Exploitation Survey (The Investor Protection Trust, 2010) surveyed 2,022 individuals in the United States including 590 adults age 65 and older and 706 adult children with at least one parent aged

65 or older. Some key findings from this study included that 20 % of older adults reported being taken advantage of financially in terms of an inappropriate investment, unreasonably high fees for financial services, or outright fraud.

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Older adults who experienced having low social needs fulfillment and depression were significantly more likely to experience fraud.

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Older adults who have been victimized have been reported to demonstrate lower levels of confidence and increased rates of depression, placing them at greatly increased risk for future victimization

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The use of numerical reasoning during decision-making is often lower among older adults resulting in older adults' lower comprehension and worse decision making when unfamiliar numerical information is present (e.g., Hibbard, Peters, Slovic, Finucane, & Tusler, 2001). In some older adults low numeracy reflects a decline from earlier numeric skills, in others low numeracy may reflect lower lifelong abilities (S. A. Wood, Liu, Hanoch, & Estevez-Cores, 2015).

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Structural issues in society continue to allow the predictable and common financial exploitation of older adults to occur

10. Financial Exploitation of Older Adults: A Population-Based Prevalence Study, Peterson, et al, J Gen Intern Med. 2014 Dec; 29(12): 1615–1623

- Stealing and misappropriation most common exploitation
- Family members (less than ½ of whom were children) were most common exploiters followed by friends and neighbors then paid home health care aids.
- Disproportionately affects black older adults and those who lived below the poverty line.
- Factors increasing exploitation
  - Number of non-spousal household members
  - ≥ 1 IADL or ADL disabilities

Older adults are more likely to have financial resources than their younger counterparts, and this, in combination with the higher prevalence of social isolation, cognitive impairment, and other factors, renders them uniquely susceptible to financial exploitation

\*\*\*

Stealing or misappropriation of money or property was, by far, the most common

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Family members were the most common perpetrators of FEOA events (57.9 %), and were most often adult children (24.6 %). The next most common perpetrators were friends and neighbors (16.9 %), followed by paid home care aides (14.9 %).

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Financial exploitation disproportionately affected black older adults and those who lived below the poverty line.

the presence of ≥ 1 IADL or ADL disabilities was significantly associated with FEOA, as was increasing numbers of non-spousal household members.

The most common perpetrator was not an outsider, but most often a family member (57.9 %), followed by friends and neighbors (16.9 %), or a paid home aid (14.9 %)

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If a new disease entity were discovered that afflicted nearly one in 20 adults over their older lifetimes and differentially struck our most vulnerable subpopulations, a public health crisis would likely be declared. Our data suggest that financial exploitation of older adults is such a phenomenon.

11. Elder Fraud and Financial Exploitation: Application of Routine Activity Theory, Marguerite DeLiema, Phd, Gerontologist, 2018, Vol. 58, No. 4, 706–718

- Older adults may be disproportionately solicited by fraudsters because they are at or near the peak of asset accumulation or because perpetrators assume that cognitive impairment and isolating life events such as retirement, widowhood, and disability make them more susceptible
- Aging adults most vulnerable to fraud during the gradual period of cognitive and physical decline when deficits are hardest to recognize
- At the later stages of impairment, the model predicts that elders are more vulnerable to financial exploitation by “trusted others.”
- More than 50% of all victims needed assistance with ADLs and nearly all required help with one or more IADLs.
- Those more mobile more likely to be victims of fraud (as opposed to exploitation) because of contact with community.

Older adults may be disproportionately solicited by fraudsters (Kieffer & Mottola, 2016) because they are at or near the peak of asset accumulation or because perpetrators assume that cognitive impairment and isolating life events such as retirement, widowhood, and disability make them more susceptible

\*\*\*

Whereas fraud perpetrators must convince their targets to willingly cooperate with the proposed exchange (Holtfreter, Reisig, & Pratt, 2008), many financial exploiters already have access to the elders’ accounts or the legal authority to act on their behalf (Payne, 2002). Thus, they can pilfer assets without the elders’ awareness or explicit agreement

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**Unlike fraud, financial exploitation does not require that the perpetrator have an intent to deceive the elder**, although exploiters sometimes make false promises, such as when a grandchild vows to care for his aging grandparents in exchange for inheriting their home.

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Older adults who engage in remote purchasing activities face greater risk of being targeted by fraud. Having low self-control also increased the risk of fraud victimization once targets were solicited in remote purchasing environments

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Aging adults may be most vulnerable to fraud during the gradual period of cognitive and physical decline when deficits are hardest to recognize by capable guardians, such as family members, friends, or medical professionals. Although

not all people develop dementia as they age, those who do often exhibit subtle signs of diminished problem solving and difficulties with complex transactions in the early stages of the disease despite normal functioning in other areas, such as language and semantic knowledge, and need no assistance with personal care (Triebel & Marson, 2012). These adults may even downplay their cognitive deficits in order to protect their financial independence. By the time capable guardians recognize the elders impairments, financial predators (motivated offenders) may have already succeeded in committing fraud. The resulting financial loss may be the event that causes others to step in.

\*\*\*

The majority of financial exploitation and fraud victims presented with deficits in some or all areas of cognitive functioning when they were evaluated following the allegations. Fraud victims performed significantly better on the MMSE compared with financial exploitation victims

\*\*\*

Sixty-four percent of victims in both groups had a history of cognitive impairment that was documented in their medical records or was described by collateral sources ... Among the fraud victims who tested as cognitively impaired by the neuropsychologist (85%) and had data on prior cognitive functioning, the average length of impairment was 3 years, whereas for financial exploitation victims (88% impaired), it was slightly longer—4.4 years.

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Routine activity theory predicts that engagement in activities away from the household increases opportunities for crime because it brings suitable targets in contact with motivated offenders (Cohen & Felson, 1979). Older adults have more opportunities to engage with community members if they are ambulatory/

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The majority of victims needed assistance with instrumental activities of daily living (IADLs)—driving, shopping, and money management, but needed help with only some basic activities of daily living (ADL) such as bathing, toileting, transferring, and getting dressed.

12. Elder Abuse "Society's Dilemma" Eugene Hardin, MD, FACEP, FAAEM and Alia Khan-Hudson, MD, Journal Of The National Medical Association Vol97, no 1 (2005)

Elder abuse and neglect continue to be one of society's great embarrassments. It is encouraging to note that all 50 states now have passed legislation relating to elder abuse. Most states also have specific reporting requirements, and it is now a misdemeanor in some states for not reporting suspected elder abuse or neglect.

13. Elder Abuse, Mark S. Lachs, M.D., M.P.H., and Karl A. Pillemer, Ph.D., N Engl J Med 2015;373:1947-56.

- Financial Exploitation of older adults is an epidemic
- Functional impairment and poor physical health put at greater risk
- Younger Older adults consistently associated with a greater risk of abuse, including emotional, physical, and financial abuse and neglect

Financial exploitation of older adults, which was explored only minimally in the initial studies, has recently been identified as a virtual epidemic and as a problem that may be detected or suspected by an alert physician.

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When the available evidence is taken into consideration, an estimated overall prevalence of elder abuse of approximately 10% appears reasonable.

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Among older adults, a younger age has been consistently associated with a greater risk of abuse, including emotional, physical, and financial abuse and neglect

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With the exception of dementia, which is a documented risk factor for financial exploitation, specific diseases have not been identified as conferring a greater risk of abuse.

\*\*\*

In general, however, functional impairment and poor physical health have consistently been shown to be associated with a greater risk of abuse among older persons, irrespective of the cause of such limitations

14. Prevalence and Correlates of Emotional, Physical, Sexual, and Financial Abuse and Potential Neglect in the United States: The National Elder Mistreatment Study, Ron Acerno, PhD, et al, Am J Public Health. 2010 February; 100(2): 292–297.

- Low social support was associated with more than triple the likelihood that mistreatment
- Non-use of social services and required assistance with daily activities associated with increased likelihood of financial exploitation
- Previous traumatic events increased the risk for emotional, sexual, and financial mistreatment.
- Young-old respondents (aged < 70 years) were more likely than respondents in the old-old group to fall victim to emotional, physical, and financial mistreatment by strangers

Our data showed that abuse of the elderly is prevalent. Addressing low social support with preventive interventions could have significant public health implications.

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The multivariate model showed that only nonuse of social services and required assistance with daily activities remained uniquely associated with increased likelihood of mistreatment.

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Slightly more than 1 in 10 of our community-residing, cognitively intact elderly respondents reported experiencing some type of abuse or potential neglect (excluding financial exploitation) in the past year; low social support significantly increased the risk of virtually all forms of mistreatment. Relatively little of this mistreatment was reported to authorities.

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Low social support was associated with more than triple the likelihood that mistreatment of any form would be reported. These findings are disconcertingly consonant with those of mental health epidemiological reports about this age group. Older adults who reported low social support and experienced extremely stressful events such as natural disasters had increased risk of suffering posttraumatic stress disorder, depression, and generalized anxiety disorder

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consonant with the literature on mental health functioning in older adults was the finding that experience of previous traumatic events—including interpersonal and domestic violence—increased the risk for emotional, sexual, and financial mistreatment.

\*\*\*

our young-old respondents (aged < 70 years) were more likely than respondents in the old-old group to fall victim to emotional, physical, and financial mistreatment by strangers.

15. Prevalence of Financial Fraud and Scams Among Older Adults in the United States: A Systematic Review and Meta-Analysis, David Burnes, et al, Am J Public Health. 2017 August; 107(8): e13–e21

- Age-associated vulnerability to financial exploitation is rooted in exposure to neurological, cognitive, functional, and psychosocial risks and is conceptualized as a potential clinical syndrome for screening.
- Older adults represent a distinct demographic group differentiated by a unique set of age-associated fraud–scam vulnerabilities

Although it is unclear whether older adults experience higher rates of fraud–scam victimization than other age groups, older adults represent a distinct demographic group differentiated by a unique set of age-associated fraud–scam vulnerabilities. The decision-making process necessary to actively avoid and resist fraud–scam activities requires complex, higher-order cognitive functions that decline disproportionately among older adults. For example, mild cognitive impairment is associated with poor financial decision-making, reduced financial literacy, and greater susceptibility to scams. Even among older adults without mild cognitive impairment or dementia, age-related changes in cognition are associated with poor decision-making and greater susceptibility to scams. Older adults are more likely to have financial resources than are their younger counterparts, and this, in combination with the higher prevalence of cognitive, functional, and health impairments, renders them uniquely susceptible to fraud and scams. Indeed, older adults are disproportionately targeted by fraud–scam attempts and encounter fraud–scam schemes that are specifically designed to exploit age-associated vulnerabilities.

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Elder financial fraud and scams is a common problem, affecting approximately 1 of every 18 cognitively intact, community-dwelling older adults each year

\*\*\*\*

Elder financial fraud–scam prevalence findings in this study likely underestimate the true population prevalence

\*\*\*\*

Elder financial exploitation victimization is associated with mortality, hospitalization, and poor physical and mental health

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The Centers for Disease Control and Prevention recently recognized and defined elder mistreatment as a serious public health problem requiring formal surveillance. The 2015 decennial White House Conference on Aging designated elder mistreatment as one of 4 top-priority issues affecting older adults. As a

derivative of elder mistreatment, the financial exploitation of older adults is associated with increased risks of mortality and hospitalization, poor physical and mental health, and diminished quality of life. Age-associated vulnerability to financial exploitation is rooted in exposure to neurological, cognitive, functional, and psychosocial risks and is conceptualized as a potential clinical syndrome for screening.

## KEY FEDERAL LEGISLATION

### ELDER JUSTICE ACT

Passed in 2010, the Elder Justice Act is the first comprehensive legislation to address the abuse, neglect, and exploitation of older adults at the federal level. The law authorized a variety of programs and initiatives to better coordinate federal responses to elder abuse, promote elder justice research and innovation, support Adult Protective Services systems, and provide additional protections for residents of long-term care facilities.

<https://acl.gov/about-acl/elder-justice-act>

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The proportion of the United States popu-  
4 lation age 65 years or older will drastically increase  
5 in the next 30 years as 77,000,000 baby boomers  
6 approach retirement and old age.

7 (2) Each year, anywhere between 500,000 and  
8 5,000,000 elders in the United States are abused,  
9 neglected, or exploited.

10 (3) Elder abuse, neglect, and exploitation have  
11 no boundaries, and cross all racial, social class, gen-  
12 der, and geographic lines.

1 (4) Victims of elder abuse, neglect, and exploi-  
2 tation are not only subject to injury from mistreat-  
3 ment and neglect, they are also 3.1 times more likely  
4 to die than elders who were not victims of elder  
5 abuse, neglect, and exploitation.

6 (5) There is a general dearth of data as to the  
7 nature and scope of elder abuse, neglect, and exploi-  
8 tation.

9 (6) Despite the dearth of data in the field, ex-  
10 perts agree that most cases of elder abuse, neglect,  
11 and exploitation are never reported and that abuse  
12 and neglect shorten a victim's life, often triggering  
13 a downward spiral of an otherwise productive, self-  
14 sufficient elder's life. Programs addressing other dif-  
15 ficult issues such as domestic violence and child  
16 abuse and neglect have demonstrated the need for a  
17 multi-faceted law, including public health, social  
18 service, and law enforcement approaches.

18 **SEC. 3. PURPOSES.**

19 The purposes of this Act are as follows:

1 (2) To raise the issue of elder abuse, neglect,  
2 and exploitation to national attention, and to create  
3 the infrastructure to assure that individuals and or-  
4 ganizations on the front lines, who are fighting elder  
5 abuse, neglect, and exploitation with scarce re-  
6 sources and fragmented systems, have the resources  
7 and information needed to carry out their fight.

§ 2, Findings, Elder Justice Act, Senate Bill 2933, 107<sup>th</sup> Congress, 2d Session.

(5) Elder.—**The term “elder” means an individual age 60 or older.**

NOTE: The final statute reduced the age in this Bill from “65 or older,” to “60 or older”

(6) **Elder Justice.** The term “elder justice” means—

- (A) from a societal perspective, efforts to—
- (i) **prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation;** and
  - (ii) protect elders with diminished capacity while maximizing their autonomy;

SEC. 2011. [42 U.S.C. 1397j], the Federal “Elder Justice Act”

IN GENERAL.—The Council shall make recommendations to the Secretary for the coordination of activities of the Department of Health and Human Services, the Department of Justice, and other relevant Federal, State, local, and private agencies and entities, **relating to elder abuse, neglect, and exploitation and other crimes against elders.**

Sec. 2021. [42 U.S.C. 1397k]Part I—NATIONAL COORDINATION OF ELDER JUSTICE ACTIVITIES AND RESEARCH, Subpart A—Elder Justice Coordinating Council And Advisory Board On Elder Abuse, Neglect, And Exploitation, part of the Federal “Elder Justice Act”

**The signing of the Elder Justice Act** into law as part of the Affordable Care Act (P.L. 111-148) occurred on March 23, 2010 (Patient Protection and Affordable Care Act, P.L. 111-148). It represented a partial culmination of a legislative crusade that spanned most of the previous decade, yet it really reflected a larger accomplishment; **it brought the issue of elder abuse to the national consciousness and elder justice to the nation’s conscience after six decades of work.**

The first EJA also contained some powerful findings which provided the basis for why the legislation was deemed necessary. The findings focused on the estimated range of the problem (i.e., between 500,000 and 5 million elders abused each year), the dearth of data on the scope of elder abuse, the lack of reporting of elder abuse and the absence of a coordinated federal effort to combat the problem. ***Yet, its most often repeated and chilling finding was “victims of elder abuse, neglect, and exploitation... are also 3.1 times more likely to die at an earlier age than expected than elders who were not victims of elder abuse, neglect and exploitation”*** (Elder Justice Act, 2002, p. 3)

History of the Elder Justice Act, Robert B. Blancato, Volume 22, No. 1 Oxford Public Policy & Aging Report.

## THE OLDER AMERICANS ACT

The OAA was in response to concern by policymakers about a lack of community social services for older persons. New language in Title II and Title VII emphasize multi-disciplinary and collaborative approaches to addressing elder maltreatment when developing programs and long-term strategic plans for elder justice activities. AoA has funded the [National Center on Elder Abuse \(NCEA\)](#) to examine issues, current practices, and future directions for the enhanced coordination between elder rights and ADRC systems. In FY 2008, the NCEA will study successful collaboration between home and community-based service providers, Adult Protective Services, and Long-Term Care Ombudsman to ensure the safety and well-being of vulnerable seniors as they are diverted or transitioned from institutional settings to community based care.

<https://acl.gov/about-acl/authorizing-statutes/older-americans-act>

U.S.C. 1990 et seq., 1990 et seq.).

(15) The term “elder abuse” means abuse of an older individual.

(16) The term “elder abuse, neglect, and exploitation” means abuse, neglect, and exploitation, of an older individual.

(17) The term “elder justice” means—

(A) from a societal perspective, efforts to—

(i) prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation; and

(ii) protect older individuals with diminished capacity while maximizing their autonomy; and

(B) from an individual perspective, the recognition of an older individual’s rights, including the right to be free of abuse, neglect, and exploitation.

(18)(A) The terms “exploitation” and “financial exploitation” mean the fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual, including a caregiver or fiduciary, that uses the resources of an older individual for monetary or personal benefit, profit, or gain, or that results in depriving an older individual of rightful access to, or use of, benefits, resources, belongings, or assets.

(40) The term “older individual” means an individual who is 60 years of age or older.

§ 102 of the Older Americans Act.

## **SAMPLE FEDERAL AGENCY ACTION TO STOP ELDER ABUSE (FCC)**

Statement from the FCC to Congress:

Protecting older consumers in the marketplace has been a top FTC priority for decades. Unfortunately, in numerous FTC cases, older adults have been targeted or disproportionately affected by fraud. For example, the FTC has seen schemes targeting Medicare recipients; a robocall interest rate reduction scheme touting a purported special government program for senior citizens; and advertising claims for brain training programs that allegedly combat cognitive impairment associated with aging. Further, as described in Section II.A, older adults report some of the highest dollar losses to certain types of fraud.

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... the Consumer Sentinel Network data shows significant individual financial losses reported by older consumers, particularly those age 80 and older. In 2017, the largest individual losses to fraud were reported by older consumers. Figure 3 shows that when they reported a monetary loss, people ages 60 and older reported much higher median losses than the younger age groups. In fact, consumers ages 80 and older report the largest median losses of \$1,100, over twice the median loss amount reported by each of the age groups under age 60.

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the median reported loss to prizes/sweepstakes/lottery scams is \$1,300 for seniors ages 60 and over, but only \$431 for younger people.

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In 2017, people ages 60 and older paid \$104 million via wire transfer to fraudulent schemes, far surpassing the amounts they reported paying through any other payment method

PROTECTING OLDER CONSUMERS, Federal Trade Commission (F.T.C.)(Remarks October 18, 2018) 2018 WL 5267211,.