

Transnational Scam Predators and Older Adult Victims: Contributing Characteristics of Chronic Victims and Developing an Effective Response

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I. Introduction

With the advent of new technologies that make financial exploitation crimes increasingly easy to carry out, more and more Americans are falling victim. Certain populations are especially vulnerable, including older adults. Older adults are often identified as a group with cash resources that can be exploited, as well as a sensitivity to falling victim to scams, particularly by international predators who are often working as part of a transnational criminal enterprise. As such, older adults are frequently targeted and prone to chronic victimization.

Financial fraud crimes result in more than just a loss of financial resources. Recent research identified an association between a sudden loss of net worth (characterized as a loss of 75% of net worth over a two-year period) and increased mortality.² This type of loss appears to double the risk of death. These frauds are also widespread among older adults. A recent meta-analysis of current research found that

¹ The information, views and opinions provided by the authors do not express the official policy of the FBI or United States Department of Justice.

² Lindsay R. Pool et al., *Association of a Negative Wealth Shock with All-Cause Mortality in Middle-aged and Older Adults in the United States*, J. AM. MED. ASS'N (2018).

financial fraud and scams reach approximately 1 out of 18 cognitively intact older adults each year.³

To address these increasing crimes, each United States Attorney's Office and federal investigative agency will need to move beyond the idea that susceptibility to this type of fraud is related to dementia or someone simply making a bad decision. In this article, we will attempt to characterize the needs of older adults and why older adults are more vulnerable to transnational fraud and chronic victimization. The article will also explore the innovative strategies being used to combat financial exploitation and protect our older adults.

II. Impact of financial exploitation crimes

Although it is not usually identified as such, serious financial exploitation, like violent crimes, can be traumatic and life changing to an older victim. According to the U.S. Department's Health and Human Services, Substance Abuse and Mental Health Services Administration, (SAMHSA), "trauma results from an event, series of events, or set of circumstances experienced by an individual as physically or emotionally harmful or threatening with lasting adverse effects on the individual's functioning and mental, physical, social, emotional, or spiritual well-being."⁴ It is defined by the experience of the victim involved. In many cases, these crimes are disruptive enough to make it difficult or impossible for victims to re-establish any sense of a return to "normal" daily living. One older victim of an investment fraud described it as a form of "financial violence"⁵ a term that is now used in academic research.⁶ The types of financial exploitation most likely to be investigated and prosecuted federally are those that may have a devastating impact on many older adults, particularly those identified as chronic victims. Chronic victims refer to those victims often repeatedly victimized by or compliant with the

³ David Burnes et al., *Prevalence of Financial Fraud and Scams Among Older Adults in the United States: A Systematic Review and Meta-Analysis*, AM. J. PUBLIC HEALTH (2017).

⁴ *Trauma*, SUBSTANCE ABUSE & MENTAL HEALTH SERVS. ADMIN., <https://www.integration.samhsa.gov/clinical-practice/trauma-informed> (last visited Oct. 31, 2018).

⁵ See Debbie Deem, *Assisting Financial Crime Victims*, 47 U.S. ATT'YS BULL., no.1, 1999, at 31–33.

⁶ Thomas Price et al., *Elder Financial Exploitation: Implications for Future Policy and Research in Elder Mistreatment*, WEST. J. EMERG. MED. (2011).

people exploiting them, to their continued financial, physical, and emotional detriment.

Transnational financial exploitation may include mass marketing crimes in which scam predators often assume “imposter” identities and affiliations, or other labels of “authority.” Examples include crimes of lottery or sweepstake fraud, online romance scams (a form of “cyber intimate partner exploitation” in which a victim truly believes he or she is in an intimate partner relationship), grandparent scams, IRS and tech support scams, variations on advance fee scams including the “Nigerian Scam,” various types of investment frauds, and certain health care frauds. Repeated victimization can create a domino effect, eventually negatively impacting the financial totality of a victim’s everyday life. Early deaths, physical decline, loss of credit, bankruptcy, isolation from others, and depression are all examples of the impact of such scams.⁷ Prosecutors can document the resulting impact on victims when prosecuting someone who will be sentenced for crimes involving certain frauds under the U.S. Sentencing Guidelines. The guidelines authorize enhancements for substantial financial hardship to victims that can include these factors, especially if that financial hardship impacts five or more victims.⁸

The True Link Report on Elder Financial Abuse (the True Link Report) found that older adults lose \$36.48 billion each year to elder financial exploitation.⁹ Fraud and other misleading sales tactics associated with mass marketing and related frauds were estimated at over \$30 billion of the \$36.48 billion quoted;¹⁰ much more than that reported in earlier published estimated surveys, such as the 2011 MetLife Study of Elder Financial Abuse (the MetLife Study).¹¹ The MetLife Study estimated exploitation at approximately \$2.9 billion. While the MetLife Study used a very different methodology, it was written only six years earlier.¹² The True Link Report found that for

⁷ *Mass-Marketing Fraud: A Threat Assessment* 7–9 (Int’l Mass-Mktg. Fraud Working Grp. June 2010).

⁸ OFFICE OF GEN. COUNSEL U.S. SENTENCING COMM’N, PRIMER ECONOMIC CRIME VICTIMS § 2B1.1(b)(2) (2017).

⁹ *The True Link Report on Elder Financial Abuse 2015* 1 (TRUE LINK Jan. 2015).

¹⁰ *Id.* at 2.

¹¹ *The MetLife Study of Elder Financial Abuse: Crimes of Occasion, Desperation, and Predation Against America’s Elders* 2 (METLIFE June 2011).

¹² *Id.*

older adult victims, “risk equals vulnerability plus exposure.”¹³ How systems and technology can be utilized to limit exposure and vulnerability remains an important question for future researchers and programs.

The True Link Report also described an exploitation progression to mass marketing frauds where small losses are often “the first step in a financial exploitation progression.”¹⁴ It also helps frame the importance of understanding and developing early intervention services for victims before they become chronically involved with perpetrators.

The impact of “imposter” crimes and other mass marketing crimes, such as investment frauds and cybercrime may be devastating to many older adults and their families.¹⁵ Yet in a research review for this article, little research on the impact of mass marketing fraud in regard to older adults has been published. Like other forms of financial exploitation such as the True Link and the Met Life Study indicate, these crimes are likely also vastly underreported.

In Author Deem’s experience, victims report feeling shame, humiliation, and guilt, and often blame themselves for the financial devastation they may face. Family and friends, who may have tried to stop the crimes, may be perceived as judgmental. One victim described her adult child’s voice as “like a sledgehammer” continually yelling at her to stop talking to perpetrators or to stop sending money. She described just “tuning out” anything family members said about the phone scammers who she thought of as her friends. Family responses perceived as judgmental and controlling may often further isolate the older adult from family and other support, especially if the older adult does not yet recognize they are a victim. Of course, this is what the scam predators want. The targeting, threats, promises, isolation, grooming, and manipulation techniques on vulnerable older adults by fraud predators are, in some ways, similar to the techniques used by perpetrators of domestic violence and human trafficking.

If the chronic victim is married, they may also destroy their spouse’s income and assets. Chronic victims may lie to their non-participating spouse, family members, investigators, and Adult Protective Services

¹³ *True Link Report On Elder Financial Abuse 2015*, *supra* note 9, at 1.

¹⁴ *True Link Report On Elder Financial Abuse 2015*, *supra* note 9, at 2.

¹⁵ *Mass-Marketing Fraud: A Threat Assessment 7–8* (Int’l Mass-Mktg. Fraud Working Grp. June 2010).

(APS) about their involvement with fraud predators. Such spouses may need financial and even physical protection from the chronic victim, especially if the spouse complains or tries to stop the hemorrhaging of joint life savings. Older chronic adult victims have also been subjected to physical and emotional abuse by family members when the victim finally admits how much money was stolen.¹⁶ To extort more money from victims, some scam predators make threats to harm a victim's family. Or, in romance or sextortion fraud crimes, the predators threaten to publicize intimate photos when victims finally attempt to stop contact.¹⁷

Older victims may not remember all of the details of the crimes committed. These crimes are often financially complex, involving multiple transactions over a long period of time and convoluted explanations to explain the various delays. The complex nature of the scheme makes it very difficult for older victims to report to the appropriate law enforcement agencies or participate meaningfully in any investigation. Still others will have all their transactions, records of every phone number used or text message received, and be very helpful to an investigation. Victim services, consultations with Multidisciplinary Teams (MDT's), APS, and knowledgeable banking and medical professionals, along with working with family members and long-term case managers, can make a difference both to a victim and to the case investigation and prosecution.

Many older adults do not understand how the perpetrator's manipulations, lies, and use of technology are being used against them. Perpetrators may have required victims to take large advances on credit cards; remortgage a home and/or car; deplete IRA's, investment accounts, or life savings; and borrow (or steal) money from family and friends that they cannot possibly repay. Victims are further damaged as they may be forced to pay penalties on IRAs or incur other huge tax liabilities and penalties. Later, victims may be re-victimized by the same or similar perpetrators through identity theft, or the unknowing installation of malware on their computer or cell phone.

¹⁶ *Id.*

¹⁷ Kate Murphy, *In Online Dating, 'Sextortion' and Scams*, N.Y. TIMES, Jan. 15, 2016, <https://www.nytimes.com/2016/01/17/sunday-review/in-online-dating-sextortion-and-scams.html>.

Victims describe to Author Deem the confusion on where to report such crimes, as well as disappointment and frustration by the lack of action taken by law enforcement once a complaint or crime report is filed. Victims further describe that being referred to other agencies, being personally blamed, lacking an opportunity to be heard, or being given excuses can be almost as damaging as the fraud itself, and may even aggravate the emotional impact of the crime.¹⁸ An Australian report on improving responses to online fraud victims found that “[f]or the small number of victims who had a positive experience in reporting, this was due to [the law enforcement representative] taking the time to acknowledge the victim and listen to their story in an empathetic manner.”¹⁹

Victims are also recruited to work as unwitting money mules, often once their own funds are gone. Many do so, believing it will be a way to finally get their promised winnings or for their online “fiancée or online true love” to finally appear in person. Testimony provided to the United States Senate Special Subcommittee on Aging, as well as news accounts, describe older victims traveling overseas to try to collect money won, or a return of their own funds, or to meet their “supposed true love,” only to end up in a prison overseas as money or drug mules.²⁰

Many older chronic victims describe being deeply depressed, isolated, financially devastated, and with little or no hope for a future in which they will not have basic financial and emotional needs met. Suicides and even murders have been connected by law enforcement and media to several of these types of crimes,²¹ although there is not a national database or any known mental health entity that collects this

¹⁸ Cassandra Cross et al., *Improving Responses to Online Fraud Victims: An Examination of Reporting and Support* 6–7, 14 (Criminology Research Grants Aug. 2016).

¹⁹ *Id.* at 7.

²⁰ *Do You Know What Is In Your Suitcase? How Drug Traffickers Are Deceiving Seniors To Smuggle Contraband: Hearing on International Drug Smuggling Scams Targeting Seniors Before the S. Special Comm. on Aging*, 114th Cong. 5–6 (2016) (statement of Alan Scott Brown, Acting Assistant Dir. for Investigative Programs, Homeland Sec. Investigations, U.S. Immigration and Customs Enf’t).

²¹ *Mass-Marketing Fraud: A Threat Assessment*, *supra* note 15 at 8–9.

information. “Simply put, a victim of any kind of elder financial abuse is never the same after it occurs.”²²

III. Current procedures for protecting elders

Many of the laws developed to protect exploited or abused older adults are modeled after earlier laws and programs, which were first established for children and domestic violence victims.²³ Later, laws and programs were created for older adults, leading to programs such as APS in each state.²⁴ The real move toward creating APS and related programs came with the passage of Title XX of the Social Security Act in 1974.²⁵ The Act authorized limited funding for such programs through the use of Block Grants to the states for the protection of children as well as adults.²⁶

One major way in which laws designed to protect older adults from abuse differ from the earlier child abuse models is that with children who are abused or exploited, there is no “right of self-determination” and children are not legally capable of giving consent (unless emancipated). This is a critical difference when working with adults, where competency and the right of self-determination or personal autonomy is presumed until taken away through a legal process. This may make efforts to protect an older adult more difficult, particularly for the spouse or family, especially if that adult does not perceive themselves as a victim in need of protection and is presumed competent.

²² *Broken Trust: Elders, Family, and Finances, A Study On Elder Financial Abuse Prevention*, 7 (METLIFE MATURE MKT. INST. Mar. 2009).

²³ See David A. Wolfe, *Elder Abuse Intervention: Lessons from Child Abuse and Domestic Violence Initiatives*, in 15 ELDER MISTREATMENT: ABUSE, NEGLECT, AND EXPLOITATION IN AN AGING AMERICA (Nat'l. Research Council, 2003).

²⁴ See Rosalie Wolf, *Elder Abuse and Neglect: History and Concepts* in Appendix C, ELDER MISTREATMENT: ABUSE, NEGLECT, AND EXPLOITATION IN AN AGING AMERICA (Nat'l. Research Council, 2003).

²⁵ See *id.*

²⁶ *History: About Adult Protective Services from 1960 to 2000*, NAT'L ADULT PROTECTIVE SERVS. ASS'N, <http://www.napsa-now.org/about-napsa/history/history-of-adult-protective-services/> (last visited Oct. 31, 2018); see also S. REP. 93-1356, reprinted in 1974 U.S.C.C.A.N. 8133.

Another way in which abuse of older adults is treated differently than abuse of children is in reporting requirements. While there is a federal statute that requires United States Department of Justice (DOJ) employees to report child abuse and exploitation under 42 U.S.C. § 13031,²⁷ there is not a corresponding federal statute requiring employees to report elder abuse, neglect, or exploitation. In some states the Department employee may have a professional license that requires reporting, but this is done only on the state level.²⁸ There is, however, the United States Attorney General Guidelines for Victim and Witness Assistance (hereinafter the Guidelines), which provides:

[W]henver Department personnel suspect that an elderly or otherwise vulnerable adult victim or witness may be suffering from neglect, abuse, or exploitation (whether or not the individual is the subject of the matter being investigated or prosecuted), Department personnel should promptly contact the local Adult Protective Services agency or local law enforcement agency to report the concerns. . . . In addition, Department personnel should identify and provide referrals to appropriate local social service agencies best able to meet the needs of the victim.²⁹

Under the Guidelines, such crimes occurring to an older adult in nursing homes and related situations should also be reported to APS, law enforcement, or the state Attorney General or other appropriate body as determined by each state.³⁰

A. APS referral

APS are government-funded social services programs administered at the county or state level to serve older adults and/or dependent

²⁷ 42 U.S.C. § 13031 is now codified at 34 U.S.C. § 20341.

²⁸ 2013 NATIONWIDE SURVEY OF MANDATORY REPORTING REQUIREMENTS FOR ELDERLY AND/OR VULNERABLE PERSONS (EVERSAFE, NAT'L ADULT PROTECTIVE SERVS. ASS'N Dec. 2015).

²⁹ U.S. DEP'T OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, OFFICE FOR VICTIMS OF CRIME, ATTORNEY GENERAL GUIDELINES FOR VICTIM AND WITNESS ASSISTANCE 23 (2011, rev. May 2012).

³⁰ *Id.*

adults who may need protection and assistance.³¹ APS hotlines take reports by phone or online from those concerned about the safety of an older or vulnerable adult due to various types of abuse, neglect (including self-neglect), or financial exploitation. Those filing reports may remain confidential. APS works closely with local law enforcement, local prosecutors, financial institutions, and medical providers during their investigation. APS programs help by assessing a reported abuse victim's unique needs and desires, as well as the nature of the abuse and neglect, identification of the perpetrators, and development of a service plan to maintain that victims' safety, health, and independence. Victims may choose to decline services or intervention, as well. Each state has different statutory requirements on what kinds of abuse, neglect or financial exploitation may be investigated, but each focuses on protection of older and/or vulnerable adults. Information on accessing each state's APS is available on the United States Department of Justice's Elder Justice website, as well as many additional resources are available at www.elderjustice.gov.

States also have mandated reporter laws, requiring those in certain professions to report elder abuse, neglect, and exploitation to APS and/or local law enforcement.³² There is not, however, a standard definition for all states as to what constitutes abuse, neglect, financial exploitation, or other safety issues for reporting. The minimum age required for APS to take a report, investigate allegations, and provided services also varies from state to state. There are states that under their current state codes for APS do not authorize APS involvement for the assessment, investigation, or creation of a service plan for an older adult who is a victim in a transnational fraud crime or other mass marketing fraud, cyber fraud, investment fraud, or other crimes that are typically investigated by a federal investigative agency.

APS agencies should also be aware of the advantages associated with helping a victim file a report with the Internet Crime Complaint Center (IC3), at www.IC3.gov, and the Federal Trade Commission

³¹ For information about the role and how to access each state's APS program, the National Adult Protective Services Association has information on many aspects of APS. *See* 2013 NATIONWIDE SURVEY OF MANDATORY REPORTING REQUIREMENTS FOR ELDERLY AND/OR VULNERABLE PERSONS (EVERSAFE, NAT'L ADULT PROTECTIVE SERVS. ASS'N Dec. 2015).

³² *See History: About Adult Protective Services from 1960 to 2000*, *supra* note 26.

(FTC), at <https://www.ftccomplaintassistant.gov/> in addition to filing a police report. The filing with IC3 or the FTC may lead to an investigation and possibly a later federal prosecution. In some locations, such as Ventura County, and Riverside California, APS workers are encouraged to file IC3 and/or FTC reports in addition to filing a local police report on cases involving mass marketing and cyber fraud crimes with unknown scam perpetrators.

Collaboration between APS programs and federal agencies—such as victim services, the United States Department of Justice’s Office for Victims of Crime, the United States Health and Human Services, Administration on Aging and Elder Justice, and coordinators at each United States Attorney’s Office—can help address these types of anticipated challenges.

B. Law enforcement referral

Local law enforcement is a critical referral when reporting older adult abuse, neglect, and exploitation, particularly if the crime involves more traditional forms of financial exploitation by those in positions of trust, such as family members, caretakers, or trusted professionals. Difficulties often arise, however, in cases of mass-marketing and some cyber fraud. Local law enforcement agencies may not have the resources or training to investigate mass-marketing or cyber fraud crimes, particularly when they are transnational crimes involving predators in other domestic jurisdictions or outside the United States.³³

A family member or others may try to report an older adult’s involvement in a scheme as a money mule to local police (often describing the behavior, not knowing the actual term), but receive little response or interest. Filing the reports with the IC3 and FTC national databases may be a helpful way to share information that may be useful to other law enforcement investigating a case. Encouraging victims to download copies of the IC3 and FTC reports before submitting them may also be helpful in dealing with creditors, taxes, and even bankruptcy by documenting their victimization.

The IC3 and FTC are national federal government databases that provide documentation of the crime through victim complaints that

³³ U.S. GOV’T ACCOUNTABILITY OFF., GAO-13-110, ELDER JUSTICE NATIONAL STRATEGY NEEDED TO EFFECTIVELY COMBAT ELDER FINANCIAL EXPLOITATION (Nov. 2012).

can include information on financial transactions, loss amounts and predator information.

The IC3 is available as a research tool for sworn law enforcement only and focuses on internet related fraud.³⁴ The FTC is available to both law enforcement (including prosecutors) and other regulatory agencies, and has a broader focus on accepting complaints on all fraud crimes, whether by mail, phone, internet, or other means.³⁵ Both websites provide useful annual reports with statistics on the incidence of various fraud crimes.

C. Conservatorship or guardianship proceedings

Where a question arises as to whether an older victim can handle their future financial affairs, a judge may require medical assessments to determine decision-making capacity. This process may be viewed by some victims as demeaning or unnecessary. Family members can seek assistance regarding this procedure in their state by sharing their concerns with the victim's medical doctor and APS, or consulting with an attorney who specializes in elder law issues.

Many states have established procedures meant to protect individuals who are deemed incompetent to manage their own financial or medical affairs.³⁶ While the form of proceedings and terminology vary from state to state, the proceedings are often characterized as conservatorship or guardianship proceedings.³⁷

The competency decisions are a legal finding, often based on both state law and evaluations by professionals. Competency decisions are also often broad, and determine an individual's ability to manage their financial and personal affairs as an all or nothing decision.

The exact requirements necessary to determine financial incompetency vary between states but, in general, there must be evidence of a disabling condition that causes cognitive impairment

³⁴ FED. BUREAU OF INVESTIGATION, INTERNET CRIME COMPLAINT CENTER, WWW.IC3.GOV BROCHURE.

³⁵ *Consumer Sentinel Network*, FED. TRADE COMM'N, <https://www.ftc.gov/enforcement/consumer-sentinel-network> (last visited Oct. 30, 2018).

³⁶ AM. BAR ASS'N & AM. PSYCHOLOGICAL ASS'N, ASSESSMENT OF OLDER ADULTS WITH DIMINISHED CAPACITY: A HANDBOOK FOR PSYCHOLOGISTS 20 (2008).

³⁷ *See, e.g.*, CAL. PROB. CODE § 1801; N.Y. MENTAL HYG. LAW § 81.01.

and results in diminished functional (decision-making) capacity.³⁸ While such proceedings can serve to protect an individual from impaired decision-making ability and significant financial loss, there are obvious limitations. Incompetency proceedings are not appropriate for healthy older adults who have fallen victim to financial exploitation. Often these individuals exhibit adequate decision-making ability in most domains, but fall victim to the particular manipulative circumstances present in the scams.

IV. Factors that contribute to financial exploitation

In exploring what may make older adults more prone to victimization by scams, an obvious area of concern is increasing age and accompanying life changes. Although dementia and other degenerative conditions have been a major focus, it is important to be aware of the changes that accompany healthy aging and that may make it more difficult for older adults to identify and appropriately respond to scams and financial exploitation.

A. Dementia

Dementia is a sometimes misunderstood concept. Dementia itself is not a disease, though much of the public use it interchangeably with the term Alzheimer's disease. When used in the medical field, it refers to a level of functioning. In particular, it indicates that an individual is exhibiting significant impairment in cognitive functioning that reduces daily living skills.³⁹ The presence of dementia is often one condition that can be used in determining decision-making capacity and the need for conservatorship. Dementia by itself does not establish the need for conservatorship. There must also be a corresponding loss or significant reduction in independent living skills, such as managing medications, finances, or personal care.⁴⁰

Although dementia is discussed as a monolithic term, there are many different conditions that result in dementia, and these

³⁸ AM. BAR ASS'N & AM. PSYCHOLOGICAL ASS'N, ASSESSMENT OF OLDER ADULTS WITH DIMINISHED CAPACITY: A HANDBOOK FOR PSYCHOLOGISTS 16–23 (2008).

³⁹ AM. PSYCHIATRIC ASS'N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS (5th ed. 2013).

⁴⁰ ASSESSMENT OF OLDER ADULTS WITH DIMINISHED CAPACITY: A HANDBOOK FOR PSYCHOLOGISTS, *supra* note 38, at 20.

conditions can be present with different types of cognitive impairment.⁴¹ Dementia of the Alzheimer's-type is the most common form of dementia and as noted above, the terms are used synonymously by many people.⁴² This condition initially results in disorientation, memory loss, impaired language skills, and a decrease in abstract reasoning.⁴³ In contrast, Frontal Temporal Dementia is first signified by dramatic behavioral change, such as disinhibition or impulsivity.⁴⁴ Obviously, either of these conditions can make older adults more prone to financial victimization for different reasons. In general, dementia should be considered a significant risk factor for both fraud victimization and repeat victimization. It is important to note though that dementia is not the only cause of financial victimization, and many normally aging, dementia-free seniors can also suffer from financial exploitation.

B. The aging brain

Brains begin developing before birth and continue to grow through childhood and young adulthood. Our brain neuronal volume peaks in an individual's 20s.⁴⁵ Atrophy (loss or shrinkage) of neurons becomes evident in the brain in an individual's 40s.⁴⁶ This atrophy continues with age. Atrophy matters because neurons are the specialized cells that comprise our brain and transmit sensory information and allow for motor responses.⁴⁷ Because brain capacity decreases, the brain begins to function more slowly. In addition to brain shrinkage due to neuronal loss, brain metabolism and cerebral blood flow also decline with age, further weakening the brain's functional capacity.⁴⁸

⁴¹ MARIO F. MENDEZ & JEFFREY L. CUMMINGS, *DEMENTIA: A CLINICAL APPROACH* 1–6 (Butterworth-Heinemann eds., 3d ed. 2003).

⁴² ALZHEIMER'S ASS'N, *What is Dementia? Types of Dementia*, <https://www.alz.org/alzheimers-dementia/what-is-dementia/types-of-dementia> (last visited Oct. 10, 2018).

⁴³ MENDEZ & CUMMINGS, *supra* note 41, at 68–76.

⁴⁴ *Id.* at 181–191.

⁴⁵ MURIEL LEZAK ET AL., *NEUROPSYCHOLOGICAL ASSESSMENT* 355 (Oxford Univ. Press, 5th ed. 2012).

⁴⁶ Ruth Peters, *Ageing and the Brain*, *POSTGRAD MED. J.* 82, 84–88 (2006).

⁴⁷ NEIL R. CARSON, *PHYSIOLOGY OF BEHAVIOR* 29 (11th ed. 2013).

⁴⁸ Simonetta Camandola & Mark P. Mattson, *Brain Metabolism in Health, Aging, and Neurodegeneration*, *THE EMBO J.*, 2017 at 1474–1492.

Because of these physical brain changes, there is a normal transition in thinking abilities with age. The primary change is that the speed of information processing declines.⁴⁹ An aging individual can still learn new skills and function in the world, but it takes longer and requires more practice and effort. In addition, while basic attention remains adequate, complex attention becomes more challenging.⁵⁰ Similarly, it becomes more difficult to solve unfamiliar problems, because there are some changes in reasoning skills.⁵¹

One definition of intelligence is “the ability to apply knowledge to manipulate one’s environment or to think abstractly[.]”⁵² Intelligence can be further classified into crystallized intelligence (the ability to use our experiences and learned information to solve new problems) and fluid intelligence (the ability to use logic and pattern recognition to solve new problems).⁵³ As an individual ages normally, crystallized reasoning skills remain generally intact and continue to grow as they gain new experiences. This is sometimes characterized as wisdom.⁵⁴ In contrast, the area where an individual begins to decline is in fluid intelligence, likely at least partially due to the slowed processing and decreased complex attention that develops.⁵⁵ As fluid reasoning skills decline, it becomes much more difficult to solve novel abstract problems or understand unfamiliar or new situations.

As may be apparent, these changes in thinking ability and reasoning make rapid decision-making more difficult. When transnational financial fraud predators rely on creating a sense of urgency to respond, some older victims may be unable to carefully think through what is occurring and recognize the scam.

While these difficulties can make it more challenging to rapidly analyze the situation and make an appropriate decision, they do not fully explain why some older adults fall prey to scams so easily.

⁴⁹ See Mark A Eckert et al., *Age-Related Changes in Processing Speed: Unique Contributions of Cerebellar and Prefrontal Cortex*, FRONTIERS IN HUM. NEUROSCIENCE, Mar. 2010, at 1–14.

⁵⁰ LEZAK ET AL., *supra* note 45, at 358.

⁵¹ *Id.* at 356–57.

⁵² MERRIAM-WEBSTER, *Intelligence* 1a(2), <https://www.merriam-webster.com/dictionary/intelligence> (last visited Oct. 15, 2018).

⁵³ *Id.*

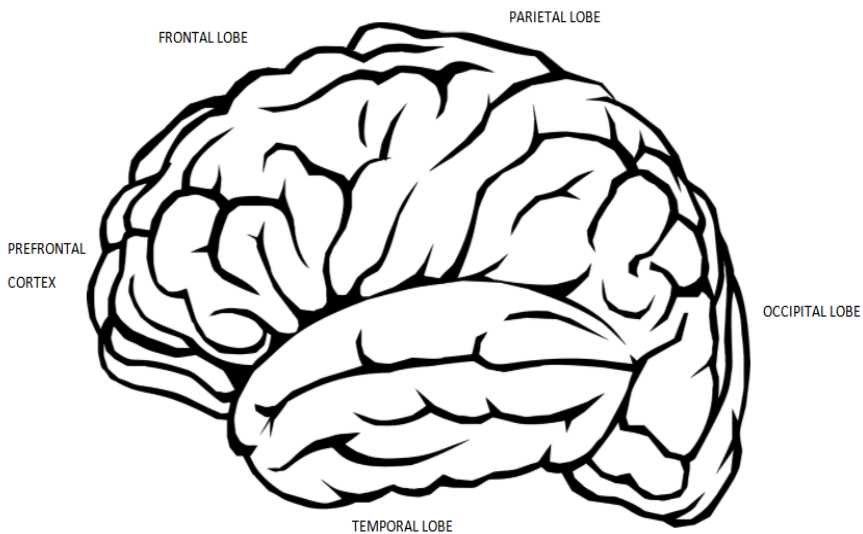
⁵⁴ *Id.*

⁵⁵ *Id.*

Understanding this requires a more thorough analysis of the brain and how it ages.

C. Frontal lobe hypothesis of aging

In examining the brain, specific functions can be associated with various regions. Older, inner portions of the brain relate to basic life support issues and alertness to threats.⁵⁶ Moving to the neocortex, the newer, outer portion of the brain, different functions predominate.⁵⁷ The neocortex is broken into different lobes (regions) that can be seen as responsible for different cognitive functions.⁵⁸ These include the temporal lobe, occipital lobe, and parietal lobe, which are respectively responsible for perception of sound, sight, and tactile sensation.⁵⁹



Lobes of the Human Brain

The largest lobe of the brain is the frontal lobe, which is the part of the brain responsible for our ability to make a decision and take action.⁶⁰ The frontal lobe is involved in the planning, execution, and control of movements and action.⁶¹ At the tip of the frontal lobe is an

⁵⁶ LEZAK ET AL., *supra* note 45 at 47–49.

⁵⁷ *Id.* at 52–57.

⁵⁸ *Id.* at 5, 57.

⁵⁹ *Id.* at 70, 81.

⁶⁰ *Id.* at 87.

⁶¹ *Id.*

important area known as the prefrontal cortex, which is primarily responsible for planning and decision-making.⁶² Damage to the prefrontal cortex can result in poor judgment, impulsivity, and poor awareness of deficits.⁶³ One source suggests that the cognitive deficits seen in older adults are primarily due to the anatomical and functional deterioration of the frontal lobes and that this region of the brain is one of the earlier areas of the brain to show aging effects.⁶⁴ This hypothesis is supported by several lines of evidence, including both observable physical changes in the brain and changes in cognitive functioning.⁶⁵

As noted above, physical changes to the aging brain include a reduction in brain volume (neuronal atrophy).⁶⁶ Research has found that age related atrophy and white matter deterioration (wearing away of the axons of neurons, the part of neurons that transmit information to other neurons) are more pronounced in the prefrontal cortex than in other brain regions.⁶⁷ Changes in neurotransmitter availability in this region is also evident, with decreases in the availability of dopamine evident with increasing age.⁶⁸

In addition to the physical changes that affect the frontal lobe and prefrontal cortex specifically, research found that the cognitive deficits exhibited by older adults are often related to impairment in executive functions.⁶⁹ Executive functions (higher level processing and concentration skills that include goal setting, planning skills, initiation and maintenance of effort, multitasking, and problem-solving skills) are generally believed to be mediated by the prefrontal cortex.⁷⁰

As a result of this more rapid aging and degeneration of the frontal lobe, older adults are more prone to deficits in executive control

⁶² LEZAK ET AL., *supra* note 45 at 87.

⁶³ *Id.*

⁶⁴ Robert L. West, *An Application of Prefrontal Cortex Function Theory to Cognitive Aging*, 120 PSYCHOLOGICAL BULL., 1996.

⁶⁵ *Id.* at 288–289.

⁶⁶ *Id.*

⁶⁷ See Faith M. Gunning-Dixon et al., *Aging of Cerebral White Matter: A Review of MRI Findings*, 24 INT. J. GERIATRIC PSYCHIATRY, Feb. 2009.

⁶⁸ West, *supra* note 64.

⁶⁹ *Id.*

⁷⁰ See LEZAK ET AL., *supra* note 45.

processes.⁷¹ This results in difficulty inhibiting irrelevant information, coordinating multiple operations at once (multi-tasking), manipulating information for use in decision-making, and decreased ability to rapidly retrieve memory for use in reasoning. Older adults will struggle with these skills, which are often the same skills necessary to detect and resist financial fraud and scams. Confirmation of this susceptibility to impaired decision-making has been found in research involving real world decision-making on individuals with damage to the frontal lobe of the brain and on older adults above the age of 55.⁷²

In neuropsychology, it has been challenging to develop tests that properly mimic real world decision-making situations. There are a number of measures that examine logical reasoning, pattern recognition, and concept formation, but real world reasoning can often rely on emotional components and other superficial criteria. Reasoning based on these issues is sometimes described as peripheral reasoning, whereas reasoning based on logic can be characterized as central reasoning.

Studies of one test that attempts to examine real world reasoning through a gambling paradigm, complete with flashing lights and sounds like a slot machine, have shown that individuals with impaired frontal lobe functioning will display impulsive decision-making marked by a tendency to make choices that focus on immediate rewards.⁷³ This remains true even when continuing the pattern will result in long-term negative consequences such as losing.⁷⁴ Essentially, the individuals are falling prey to the promise of a simple solution to a complex problem. They do not learn to adapt their behavior to the situation, but instead will maintain their pattern

⁷¹ West, *supra* note 64 at 288–289.

⁷² See Natalie L. Denburg et al., *The Ability to Decide Advantageously Declines Prematurely in Some Normal Older Persons*, 43 NEUROPSYCHOLOGIA, 2005, at 1099–1106; Natalie L. Denburg et al., *The Orbitofrontal Cortex, Real-World Decision Making, and Normal Aging*, ANNALS OF THE N.Y. ACAD. SCI., Dec. 2007, at 480–498; George Fein et al., *Older Adults Make Less Advantageous Decisions than Younger Adults: Cognitive and Psychological Correlates*, J. INT’L NEUROPSYCHOLOGICAL SOC’Y, 2007.

⁷³ Melissa T. Buelow & Julie A. Suhr, *Construct Validity of the Iowa Gambling Task*, 19 NEUROPSYCHOLOGY REV., Mar. 2009, at 102–114.

⁷⁴ See *id.*

of choices past the point when individuals with intact prefrontal cortex functioning will realize how the game works and change their behavior to be more successful. These individuals are demonstrating impaired self-awareness and continuing the poor choices, similar to the pattern of repeat or chronic victimization by financial predators seen with some older adults. On this particular gambling task, older adults over the age of 55 show a similar performance to individuals with impaired prefrontal cortex functioning.⁷⁵ A subset of approximately 35% did much worse than their peers, which may reflect the percentage susceptible to being chronic victims.⁷⁶

It is important to also note that these older adults are otherwise functioning normally and not exhibiting dementia. In fact, on this gambling task individuals with dementia show a different type of impaired performance marked by apparently random guessing rather than the pattern of risk-taking seen in normally aging older adults.⁷⁷

D. Age-associated financial vulnerability

Having discussed how the aging brain and diseases of the brain can result in fraud victimization, it is important to understand that there are many other factors that can contribute to or result in victimization by scams. Recognizing the need to study such factors, epidemiologist Mark Lachs, MD, MPH, in 2015, coined the term “Age-Associated Financial Vulnerability” as a way to characterize and study patterns of financial behaviors in older adults that put them at risk of financial loss, are inconsistent with their previous financial decision-making, and which are not due to dementia.⁷⁸

Dr. Lachs identified four primary factors that he felt should be studied further to determine their contribution to Age-Associated Financial Vulnerability, as well as multiple sub-factors within each category.⁷⁹ As would be expected, the cognitive changes associated with aging, as discussed above, compromise one factor. Other areas of

⁷⁵ *See id.*

⁷⁶ *The Ability to Decide Advantageously Declines Prematurely in Some Normal Older Persons*, *supra* note 72.

⁷⁷ *See* Laura Zamarian et al., *The Impact of Mild Cognitive Impairment on Decision Making in Two Gambling Tasks*, 66B J. GERONTOLOGY SERIES B PSYCHOLOGICAL SCI. AND SOC. SCI., 2010, at 23–31.

⁷⁸ Mark S. Lachs & S. Duke Han, *Age-Associated Financial Vulnerability: An Emerging Public Health Issue*, ANNALS OF INTERNAL MED., 2015, at 877–879.

⁷⁹ *See id.*

concern include (1) issues associated with the medical and functional decline many older adults experience as they age; (2) phase of life issues and their impact on psychosocial functioning; and (3) environmental concerns, primarily the difficulty adapting to our rapidly changing and fast-paced technological lifestyle.⁸⁰

Regarding the functional decline of older adults, impaired mobility and sensory loss are possible factors that may contribute to victimization. Older adults may not fully comprehend what is being explained or may be a captive audience for scam predators due to loss of mobility.⁸¹ As individuals age, polypharmacy (the use of multiple medications) becomes more prevalent and can limit functional abilities and cause a decline in cognitive functioning, thereby making it easier for older adults to become scam victims.⁸²

For many, adapting to a new phase of life can be challenging. This can be especially difficult for older adults, who may become more socially isolated. Social isolation can stem from mobility or health issues that limit them, or simply the loss of their loved ones or friends with increasing age. Transnational scam perpetrators are often eager to fill the social gap. The victim may see the perpetrator as a friend or, in some instances, more important than family members. Social isolation may also have the effect of limiting who an older adult can consult with.⁸³

In addition to social isolation and loneliness, emotional disorders, such as depression, may also affect functioning with age. While there is little evidence that depression is more common in older adults, there is some indication that it presents with different symptoms, such as apathy and a tendency to withdraw, rather than sadness.⁸⁴ Such depression may result in increased dependency or shame that makes older adults hide their difficulties, rather than seek help.⁸⁵

A last area of significant concern identified by Dr. Lachs is related more to the surrounding environment, rather than the older adult him or herself. In general, as the world has become more complex and

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² Robert L. Maher et al., *Clinical Consequences of Polypharmacy in Elderly*, 13 EXPERT OP. DRUG SAFETY, Jan. 2014.

⁸³ See Lachs & Han, *supra* note 78.

⁸⁴ Dan G. Blazer; *Depression in Late Life: Review and Commentary*, 58A J. OF GERONTOLOGY: MED. SCIS. 249–265 (2003).

⁸⁵ See Lachs & Han, *supra* note 78.

technologically advanced, more and more choices and options are available to us. With their lack of experience with technology and decreased cognitive efficiency, it may be that the choices become overwhelming to older adults or that sophisticated marketing techniques making use of urgency and emotional appeals result in greater difficulty making appropriate decisions.⁸⁶ In addition to these aging factors, there is a noticeable concentration of wealth in the older adult population which likely increases their attractiveness as a target for financial fraud predators.⁸⁷

V. Identifying victim needs

In victim-centered approaches that are trauma informed and culturally respectful, each victim's needs, safety, wishes, and well-being take priority (to the extent possible) in accessing services and in their dealings with the criminal justice process, including law enforcement interviews. Services and investigations are not done by multiple agencies acting "in silos" but rather are coordinated and respect the victim's ongoing and changing needs for information, intervention, advocacy, support, and services.⁸⁸ As with any crime victim, there are basic needs in assisting a chronic older victim that are helpful, culturally and trauma informed, and victim centered. This approach encourages a victim to be empowered in decision-making, and promotes self-determination and independence when possible.⁸⁹ As described by an older adult in the Cyber Seniors Program's⁹⁰ trailer video, "no matter how old we are, we do need a purpose for getting up in the morning."⁹¹ The challenge with chronic older adult

⁸⁶ *Id.*

⁸⁷ Neil Howe, *The Graying of Wealth*, FORBES, Mar. 16, 2018.

⁸⁸ U.S. DEP'T JUSTICE, ELDER JUSTICE INITIATIVE, DEVELOPING AN ELDER ABUSE CASE REVIEW MULTIDISCIPLINARY TEAM IN YOUR COMMUNITY 6 (Dec. 2015, rev. Sept. 2016).

⁸⁹ See *Trauma*, *supra* note 4.

⁹⁰ Cyber Seniors is a "connecting generations" program found in many locations in the United States and Canada, in which young students teach older adults who are not 'tech smart' how to use the internet to safely connect with family and friends. See *About Cyber-Seniors*, CONNECTING GENERATIONS: CYBER-SENIORS, <https://cyberseniors.org/about/> (last visited Oct. 31, 2018).

⁹¹ Cyber-Seniors, *Cyber-Seniors Documentary—Official Trailer*, YOUTUBE (Apr. 13, 2014), <https://www.youtube.com/watch?v=bemDf6wuHJ0>.

victims is helping them find ways to change their “purpose” from looking forward to participating with scam predators, to healthy behaviors, such as connecting with those in their community.

Below is a general summary of identifiable victim needs, with recognition that each victim may have differing and unique specific needs that should also be considered. While these are the often identified needs, the provision and funding of both short and long-term victim services and research into the most effective types of services are still in their infancy with older chronic victims of transnational crimes.

A. Information on where and how to report crime

Information on where and how to report a crime is especially important and online databases should be recommended. Many victims do not understand that, in many cases, they will not be contacted after filing a report with law enforcement or via an online national database, unless their information becomes useful in an investigation. Victims may need assistance in managing expectations about whether a crime will result in an investigation, a prosecution, restitution or their money repaid, or even access to victim services. Victims also may need information on the importance of not sharing information that they have reported the crime with scam predators. For support, safety planning and information, victims need referral to a local or federal victim assistance program, which may only assist victims of cases under an investigation. State and county 211 systems may have useful information to assist with coping with the aftermath, including information on food banks, government benefits, and job assistance.⁹² Additionally, staff at libraries and senior centers, as resources on reporting, safety from scams, and filing a complaint with IC3 and the FTC, can help victims better understand the complaint process and what to expect with respect to follow up (or the lack of it) after reporting a financial crime.

B. Informed and victim-centered crisis intervention

When chronic victims learn that they have been defrauded and there is little hope for a return of their money or the apprehension of

⁹² *Consumer Help Center*, FED. COMM’NS COMM’N, <https://www.fcc.gov/consumers/guides/dial-211-essential-community-services> (last visited Oct. 31, 2018).

the criminal, they may be emotionally and financially vulnerable. Some may even express thoughts of extreme hopelessness or suicide.

Victim assistance programs and crisis intervention services are critical needs. Crisis response teams working with APS to connect victims with services that focus on safety, mitigating further victimization and dealing with immediate financial and emotional issues is a very important need. Referrals and access to emergency funds that can cover loans, one-time payments for mortgage and rent, and food vouchers or access to food bank programs, as well as emergency intervention with creditors are critical needs, as well. Phone support groups and other counseling for chronic victims as well as family members is also a critical need.

C. Coordinated case management

Coordinated case management for victims in the long term is also a need for many victims. APS is usually a short-term intervention program.⁹³ Their tools for assisting and referring older chronic fraud victims are often limited since these services are in their infancy. It is known that for most “chronic” victims, one time “interventions,” whether by police, family, APS, bankers, or others, will normally not be successful. Instead, victims may respond to whoever makes contact last with them, whether it be a scam predator, law enforcement, victim assistance, or APS program. Programs and services that encourage checking in if a victim is unsure what to do with new or continued solicitations and rewarding successes with earned praise, when even small steps are taken to avoid a predator’s call, mailing, or email, can be critical. Also finding and encouraging activities that can help replace the relationship and reliance that a victim had with a scam predator is important. This is also consistent with what we know of the aging brain, as older adults will require more repetition and practice to take in and understand new information.

Case management may include programs that can help access emergency funds, housing, help with utility bills, even finding work or additional benefits for which they may be eligible. Continuing education and assistance with preventing or mitigating against future

⁹³ NAT’L CTR. ON ELDER ABUSE, *What We Do, Practice Intervention Partners: How APS Works*, <https://ncea.acl.gov/whatwedo/practice/intervention-APS-howitworks.html> (last visited Oct. 30, 2018).

crimes is a needed service on an ongoing and long term basis for victims. Habits and addictions are both very difficult to change for most people, even when good advice is given by a doctor, the police, or a banker. Chronic victims may exhibit “relapse” behaviors in which a victim is convinced to send even more money, after being warned that it is to their continued detriment. Professionals who understand that this is a normal part of the cycle of changing long-term behaviors will do much better if victims believe they are respected and consulted even if they “make a mistake.” This is again very similar to what is experienced by domestic violence and human trafficking victims, who may continue contact with their abuser/predator several times before stopping all communication, and regaining “power and control” of their lives once again.

D. Financial counseling and creditor/legal intervention

Financial counseling and creditor/legal intervention, including options regarding possible bankruptcy, is a needed service. This may include tasks such as taking a financial assessment of remaining funds and assets, outlining how to protect those assets, changing bank account and credit card numbers, and taking other steps to stop the financial hemorrhaging of those still believing they should send money to a scam predator.

It may also include help by family members or an attorney to intervene with banks and other creditors or those from whom a victim may have borrowed money. Victims may need assistance contacting the IRS through their Taxpayer Advocate Service or dealing with possible tax deductions available.⁹⁴ Nonprofit legal services may be helpful in notifying creditors that a victim is “judgment proof,” or helping them document that they are a victim of a crime in hopes of forgiveness of certain debts, especially in dealings with banks and credit cards for debt and advances that cannot easily be repaid. Creditor intervention letters as well as notifications that a victim has been identified in a criminal investigation, usually available through victim assistance programs where a victim has a case that is under investigation have been very helpful to some victims for these purposes. Copies of police reports and reports filed with IC3 and the

⁹⁴ See *Taxpayer Advocate Service*, INTERNAL REVENUE SERV., <https://www.irs.gov/taxpayer-advocate> (last visited Oct. 31, 2018).

FTC are also helpful for these purposes. Intervention in identity theft-related crimes that may come afterward are also a continuing needed intervention service.

E. Mental health counseling and support groups

Mental health counseling and phone or online survivor-based support groups for victims and family members can help a victim deal with the guilt, shame, and humiliation that many victims feel when they are defrauded.⁹⁵ Currently, very few states authorize Federal Victim of Crime Act (VOCA)⁹⁶ compensation or assistance funding or programs to cover the costs of counseling, intervention, or support groups for victims of financial crime, or to fund programs specifically for chronic older victims of transnational fraud crimes. With the passage of the Elder Abuse Prevention and Prosecution Act of 2017, it is anticipated that states will increase funding for these programs as elder abuse is prioritized by various federal agencies including the Office for Victims of Crime.

This is a critical need especially for older chronic victims of transnational fraud crimes. After sending their life savings and incurring lifetime debt, victims may not be able to afford co-pays to counselors covered by health insurance or have no access to trauma informed counseling, particularly in rural areas or if they are low income or self-employed. In addition, few counselors have received specialized training on chronic fraud victim issues.

In Los Angeles, California, older victims of internet romance scams had access to a survivor-based phone support group facilitated by a mental health counselor at Wise and Healthy Aging.⁹⁷ Participating victims shared their stories with other survivors including that they were suicidal, that they were involved in money mule activities, and that they continued contact with the scam predator after learning it

⁹⁵ FIN. INDUS. REGULATORY AUTHORITY, TAKING ACTION: AN ADVOCATE'S GUIDE TO ASSISTING VICTIMS OF FINANCIAL FRAUD 20–21 (2018).

⁹⁶ *About OVC: Crime Victims Fund*, U.S. DEP'T OF JUST., OFF. FOR VICTIMS OF CRIME, <https://www.ovc.gov/about/victimsfund.html> (last visited Oct. 15, 2018).

⁹⁷ Anai Ibarra, *This Valentine's Day May You Find A Real Relationship, Not An Online "Romance Scam,"* AARP CALIFORNIA (Feb. 12, 2018), <https://local.aarp.org/news/this-valentines-day-may-you-find-a-real-relationship-not-an-online-romance-scam-los-angeles-ca-2018-02-12.html>.

was a scam by law enforcement. Each of them stopped these harmful behaviors due to the help of fellow victims on the weekly calls.

F. Computer and cellphone hygiene and theft precautions

Computer/cellphone safety hygiene and identity theft precautions, as well as safety planning against future re-victimizations is critical. While older victims use some of the latest communication devices and applications, many chronic victims do not have a basic understanding of how these crimes work or how perpetrators are able to target them. They may need assistance in learning skills on how to block a cellphone number, register for phone-blocking programs, access voice mail messages, or distinguish spam email or junk mailings.

G. Victim assistance post-scam

Assistance in helping a victim re-learn how to spend time without the scam perpetrator in their life will be important. When there is no longer contact with the scam perpetrator, this can leave, what is perceived by a victim as a very empty void. Previously, each day included interactions on a deeply intimate or personal level with the scam perpetrator, whether for the chance to win money, or with the belief they were in an intimate relationship (and sometimes a combination of both). Many chronic victims spend hours on the phone or computer communicating with their predators. It can be difficult, but critical, for friends and family members to help them find a way to replace this time with other more positive activities and connections with people.

H. Managing victim expectations

Managing expectations is also critical for victims who have filed a complaint with law enforcement or the national databases, or have been contacted by a federal or local law enforcement officer or victim assistance staffer. Chronic victims may continue contact with perpetrators, believing they have a mutual relationship. Victims may hope to convince the perpetrator to return the money sent or borrowed, or talk them into following through on their promises. They may even divulge that they have been contacted by law enforcement, hoping this will scare the perpetrators into returning the money.

During this time, victims may need additional reassurance and gentle convincing that they should prepare for the fact that there is little likelihood of getting any money returned, or in many cases, no

perpetrator is likely to be apprehended (at least soon), especially if the perpetrator is located overseas. Many of these victims do not understand that they were victimized by those in criminal enterprises or transnational crimes in which their money has already been spent. Assistance in helping them transition to this reality, stopping contact with their perpetrators, and planning for living out their final years with reduced financial assets is a very sensitive and difficult task. This process may take several weeks or months.

VI. Promising practices in serving chronic victims

The provision and funding of crisis and long-term intervention and support services, as well as research into the most needed and effective types of services for serving older chronic victims of transnational crimes are still in their infancy. Current protections, funding, and programs are inadequate in dealing with the large numbers of victims living throughout the United States. Unlike victims of violent crimes, there are very few referrals in our communities that are available to victims, families, or professionals trying to help. The hope is that this will change as the profile of these victims and the devastating impact they endure is made known to researchers and grant funders. Technological innovations in terms of devices design, and applications for both protection and assistance, are hopefully on the horizon as well.⁹⁸

For victim assistance programs in federal investigative or prosecution programs at the United States Attorney's Offices, the victim lists may include hundreds or even thousands of victims. "Ensuring [victims'] rights is among the most challenging problems facing criminal justice and victim services providers today."⁹⁹

The examples below briefly describe promising practices that may be helpful for professionals working with older chronic adult victims. Some of the programs are not specifically for the older chronic adult victim population but may have services that can benefit this population.

⁹⁸ STEPHEN DEANE, U.S. SEC. & EXCHANGE COMM'N, OFFICE OF THE INVESTOR ADVOCATE, *ELDER FINANCIAL EXPLOITATION: WHY IT IS A CONCERN, WHAT REGULATORS ARE DOING ABOUT IT, AND LOOKING AHEAD* 18 (June 2018).

⁹⁹ Debbie Deem, et al., *Victims of Financial Crime*, in *VICTIMS OF CRIME* 205 (Robert C. Davis, et al. eds., 4th ed. 2013).

Additional agencies that may be useful include American embassies or the State Department's Overseas Citizen's Services, who can offer tips to verify if the situation is legitimate or a scam and even help ensure money is only legitimately wired through a special program with the State Department.¹⁰⁰ Contact can be made, as well, with state lottery commissions or the Publisher's Clearinghouse Fraud website if it involves a lottery scam¹⁰¹ to help a chronic victim understand that they are not dealing with real lottery agents. Families may request blocks on money transmitter services, such as Western Union¹⁰² and Money Gram,¹⁰³ to prohibit a chronic older victim from wiring money using those services, by contacting their fraud departments located on their websites. Additionally, banks may be able to red flag or place security alerts on victim accounts to ensure that scammers cannot as easily impersonate a victim to transfer money, cash checks or open accounts in their names. So much more needs to be done.

A. Multidisciplinary teams (MDTs) and working groups

The use of MDTs is a collaborative attempt to identify, assess, and develop a service delivery plan for older adult victims. "No one agency can address all the needs (physical, emotional, intellectual, familial, interpersonal, financial, social, cultural, and spiritual) of an older victim."¹⁰⁴ Using a team of professionals from a variety of disciplines, including law enforcement, MDTs are better able coordinate various

¹⁰⁰ See *International Financial Scams*, U.S. DEP'T OF STATE, BUREAU OF CONSULAR AFFAIRS, <https://travel.state.gov/content/travel/en/international-travel/emergencies/international-financial-scams.html> (last visited Oct. 31, 2018).

¹⁰¹ See *Consumer Information, Fraud Protection*, PUBLISHERS CLEARING HOUSE, <http://info.pch.com/fraud-protection-2/> (last visited Oct. 31, 2018).

¹⁰² See *Report Fraud*, WESTERN UNION, <https://www.westernunion.com/us/en/fraudawareness/fraud-report-fraud.html> (last visited Oct. 31, 2018).

¹⁰³ See *Consumer Fraud Prevention Center*, MONEYGRAM, <http://corporate.moneygram.com/compliance/fraud-prevention> (last visited Oct. 31, 2018).

¹⁰⁴ U.S. DEP'T OF JUSTICE, ELDER JUSTICE INITIATIVE, DEVELOPING AN ELDER ABUSE CASE REVIEW MULTIDISCIPLINARY TEAM IN YOUR COMMUNITY 6 (Dec. 2015).

agency involvement in a way that ensures respect for each victim's priorities and needs.

Similarly, Financial Abuse Specialist Teams (FAST) are professionals in a wide variety of disciplines who meet to discuss complicated financial exploitation cases presented by members.¹⁰⁵ The meetings often involve discussion of a complex case that an APS worker is currently working. The meetings provide free and confidential consulting about possible solutions, as well as training on trends and various types of elder financial exploitation. FASTS may differ based on the varying needs of an individual county or community.

Other types of working groups include Elder Abuse Forensic Centers and Rapid Response Expert Teams. These are specialized multidisciplinary teams of professionals—usually county based—that provide expert case examination, documentation, and consultation, as well as prosecution of elder and dependent adult abuse cases. The teams usually meet monthly or weekly to share information and create a plan of action for working complex abuse/neglect and exploitation cases. The plan often involves assessment of older victims at home. Such teams may include APS, law enforcement, a district attorney representative, a member of the Long-Term Care Ombudsman Program, a geriatrician, nurse, certified fraud examiner, attorney, a neuropsychologist, and often a case manager from a county program that works with vulnerable/dependent adults. Other professionals may be invited on a case-by-case basis.

An Enhanced Multi-Disciplinary Team¹⁰⁶ (E-MDT) such as teams in New York are Multi-Disciplinary Teams that include members with professions such as those listed above but are also enhanced with additional professionals as members including a forensic accountant, geriatric psychiatrist, and community legal services as team members.

Working groups usually have less structure, are not funded, and meet on an informal basis to work on a single issue, such as international financial scams. For example, the Oregon Social Services Fraud Working Group, which is coordinated by the

¹⁰⁵ *What We Do, Practice, Multidisciplinary Teams, Financial Abuse Specialist Teams (FAST)*, NAT'L CTR. ON ELDER ABUSE, <https://ncea.acl.gov/whatwedo/practice/Teams-fast.html> (last visited Oct. 31, 2018).

¹⁰⁶ See JENNIFER ROSENBAUM ET AL., N.Y. STATE OFFICE FOR AGING, ELDER ABUSE INTERVENTIONS AND E-MDT INITIATIVE (June 6, 2018).

United States Attorney's Office in Oregon, has a mission to promote and encourage the confidential sharing of information between law enforcement agencies and government investigators involved in the investigation of identity theft, fraudulent receipt of government benefits, and abuse of the elderly and disabled. They have collaborated on several successful prosecutions since their founding.

Additionally, SCAMS LA Working Group and the Central Coast Stop Scams Working Groups are two multidisciplinary groups of professionals in Los Angeles and the central coast of California (Santa Barbara, Ventura and San Luis Obispo Counties). The teams are coordinated by elder abuse prosecutors at the Los Angeles and Santa Barbara District Attorney's Offices along with Victim Specialist Debbie Deem. They have bi-monthly speakers and meet to collaborate on encouraging better reporting of these crimes, and to develop a more effective service agency safety net for victims of international and other fraud crimes. The Los Angeles group recently sponsored a summit for first responders, and created a checklist of "to do" intervention items that first responders, such as police and APS, may use to assist victims.¹⁰⁷

B. Nonprofit agencies

The Holistic Elder Abuse Response Team (HEART),¹⁰⁸ with Wise and Healthy Aging, partners with the Long Beach California Police Department to help vulnerable older adults, especially those at risk of re-victimization, including victims of transnational fraud crimes. Wise and Healthy Aging provides case management, advocacy, and counseling in the home for older and vulnerable adult victims.

The Coalition for Family Harmony in Ventura, California¹⁰⁹ is a nonprofit agency primarily working with victims of domestic violence and related crimes. In 2018, they extended their vision to include internet romance scam victim services. Services available include free counseling, walk-in counseling, shelter services, and a survivor-based

¹⁰⁷ SCAMS LA Working Group, Don't Get Scammed! Tips for Avoiding Financial Scams (Oct. 24, 2016).

¹⁰⁸ News Release, WISE & Healthy Aging, WISE & Healthy Aging, Long Beach Police Department Launch Collaborative Holistic Elder Abuse Response Team (Aug. 31, 2016).

¹⁰⁹ See *Online Romance Scams*, COALITION FOR FAMILY HARMONY, <http://thecoalition.org/online-romance-scams/> (last visited Oct. 31, 2018).

phone support group for victims who reside in Ventura County, and other parts of California.¹¹⁰

The Jewish Free Loan Association in Los Angeles is another example.¹¹¹ It is a nonprofit and non-sectarian agency providing emergency interest free loans to people of all faiths. While not specifically for crime victims, this program fulfills a very important void by providing access to a one-time “bridge” financial assistance loan. Such loans can make the difference in paying one or two months of a victim’s rent, mortgage, medical bills, or car loans. It enables the victims to get back in control of their finances. Loans must be co-signed and can be for a maximum amount of \$5,000.

A new agency, the Cybercrime Support Network is working to create an effective partnership with various nonprofits in an effort to aid, support, and give out referrals to victims of cybercrime, including chronic victims of mass marketing fraud. One of their pilot programs involves training 211 phone staff to effectively assist and help victims of such cyber-financial crimes to know and understand how to report these crimes.¹¹² If successful in Rhode Island, Orlando, Florida, and Grand Rapids, Michigan, author Debbie Deem believes these pilot referral service programs could become a model for integrating other 211 phone assistance programs into an effective resource nationwide for assisting victims and informing them of where to report transnational fraud crimes.

Curtiling Abuse Related to Elderly and Disabled Adults (CARE) in Riverside, California is an example of a program affiliated with the county’s APS.¹¹³ CARE coordinators are stationed in sheriff offices and are available to respond to reports of allegations involving older and dependent adult victims involved in serious consumer crime. Coordinators meet with clients; provide resources, support, and advocacy, including drafting letters to creditors and assisting

¹¹⁰ See COALITION FOR FAMILY HARMONY, ONLINE ROMANCE SCAM PHONE SUPPORT GROUP (2016).

¹¹¹ See *General Loans*, JEWISH FREE LOAN ASS’N, <https://www.jfla.org/loan-programs/general-loans/> (last visited Oct. 31, 2018).

¹¹² See *Cybercrime Resources: Before, During and After*, CYBERCRIME SUPPORT NETWORK, <https://cybercrimesupport.org/> (last visited Oct. 31, 2018).

¹¹³ See *C.A.R.E. Program (Curtiling Abuse Related to the Elderly)*, CTY. OF RIVERSIDE DEP’T OF PUB. SOCIAL SERVS., <http://dpss.co.riverside.ca.us/adult-services-division/care-program> (last visited Oct. 31, 2018).

with filing forms and complaints; help victims protect remaining funds; and, if possible, work to regain financial assets.¹¹⁴

C. Law enforcement and related victim assistance program interventions

The Federal Bureau of Investigation (FBI) recently hired victim specialists to assist older adults and other fraud victims who have filed complaints with the Internet Crime Complaint Center (IC3). These specialists are part of the FBI's Victim Services Division.¹¹⁵ When an online complaint is received and it is determined that the victim needs assistance, crisis intervention, referral, or safety planning, the call center victim specialists assist the victim by phone or email. The call center victim specialists work with field-based FBI victim specialists and other victim assistance programs throughout the United States for follow up assistance, as needed.

Both the FBI and Homeland Security have child/adolescent forensic interviewers who are available to do forensic interviews with older adults.

Victim assistance positions in the FBI, United States Postal Inspection Service, and United States Department of Homeland Security, as well as United States Attorneys' Offices, have trained staff who are available to provide crisis intervention, safety planning, assistance, and resource referral to victims. County or state victim assistance program staff, often a part of local district attorney's offices, particularly those with elder abuse/exploitation programs, may also be helpful in these efforts. For example, the Colorado Department of Investigation initiated an Identity Theft, Fraud, and Cyber Crimes Victim Support Unit.¹¹⁶ The program helps victims file police reports, report to other agencies and organizations, obtain referrals, and obtain support to address and repair the damage caused by identity theft and fraud, including assistance to chronic older victims.

¹¹⁴ *Id.*

¹¹⁵ U.S. DEP'T OF JUSTICE, FED. BUREAU OF INVESTIGATION, OFFICE OF VICTIM ASSISTANCE, FBI VICTIM ASSISTANCE PROGRAM.

¹¹⁶ *Identity Theft, Fraud and Cyber Crimes Victim Support*, COLO. BUREAU OF INVESTIGATION, <https://www.colorado.gov/pacific/cbi/identity-theft-fraud-and-cyber-crimes-victim-support> (last visited Oct. 31, 2018).

Another example is Senior Police Partners.¹¹⁷ It is a volunteer-based organization of individuals age 50 and older working under the direction of the Long Beach, California Police Department. Based on referrals by the police department, volunteers assist older adults in their homes by providing crime prevention and resource referrals, including instruction on how to recognize various fraud crimes if they are identified by police as a potential or chronic victim. Repeat visits are made to chronic victims to help repeat the message of fraud intervention as well as serving as a sometimes much needed relationship.

The National Association of Triads is a partnership of three organizations—law enforcement, older adults, and community groups, who collaborate to promote older adult safety and reduce the fear of crime that older adults may experience.¹¹⁸ Triads are found in locations throughout the United States. The programs are increasingly focused on prevention and intervention with chronic victims of international fraud crimes.

Further, police departments and sheriff offices are creating their own scam hotlines the public can use to make reports if they receive scam calls, emails, mailings, or social media solicitations. In Moorpark, California, the police department's scam hotline is managed by a fraud detective who works closely with specially trained volunteers and interns.¹¹⁹ They respond and provide follow-up support and services as needed, including assistance to chronic scam victims and their families.

D. Victim assistance fraud helplines

The Identity Theft Resource Center, while not specifically for older adult victims, has a victim centered website, cell phone app, and phone line support available in both English and Spanish to assist anyone who is victimized in identity theft and related scams.¹²⁰ Many

¹¹⁷ *Senior Police Partners*, LONG BEACH POLICE DEP'T, <http://longbeach.gov/Police/About-the-LBPD/Employment/Senior-Police-Partners/> (last visited Oct. 31, 2018).

¹¹⁸ *National Triad*, NAT'L SHERIFFS' ASS'N, <https://www.sheriffs.org/programs/national-triad> (last visited Oct. 31, 2018).

¹¹⁹ Press Release, Ventura Cty. Sheriff's Office, IRS Phone Scam Involving Law Enforcement (Sept. 16, 2015).

¹²⁰ IDENTITY THEFT RESOURCE CENTER, <https://www.idtheftcenter.org/> (last visited Oct. 31, 2018).

of their information guides involve useful tips for those who have been harmed in financial and cybercrimes. This website and helpline is also an important resource for victims who discover unauthorized credit card charges, accounts opened in their names, and other forms of identity theft related to earlier crimes.

AARP Fraud Watch Helpline and Fraud Watch Network has a call center where mass marketing fraud victims can call to learn about a prospective fraud and ways to protect themselves.¹²¹ It can be a useful resource for chronic victims who are ready to accept that they have been victimized and want further information. Victims can also go online to register for fraud alerts.

The Financial Industry Regulatory Authority (FINRA) operates a toll-free number for older adult investors to get assistance from FINRA, and address concerns about issues with brokerage accounts and investments or a broker.¹²² It is an important resource for any victim making or considering making unwise financial decisions after being solicited online or by phone or mail. They may be especially helpful in sharing warnings on trending investment scams such as those involving various cyber currencies.

Finally, the National Telemarketing Victim Call Center provides education and prevention services to older consumers who have been victimized or are at risk of being victimized by mass marketing and investment frauds, particularly by scam companies who purchase lists of victims to solicit.¹²³ Volunteers are trained to address risk victims and provide a specific prevention message, including tips on avoiding future re-victimization.

VII. Concluding thoughts

This article focuses on several promising programs that strive to prevent or address financial fraud predators. As the full force of the Elder Abuse and Protection Act of 2017 is engaged, community-based

¹²¹ *Report Fraud*, AARP FOUND.,

<https://www.aarp.org/aarp-foundation/our-work/income/elderwatch/report-fraud/> (last visited Oct. 31, 2018).

¹²² *FINRA Securities Helpline for Seniors*, FIN. INDUS. REGULATORY AUTH., <http://www.finra.org/investors/highlights/finra-securities-helpline-seniors> (last visited Oct. 31, 2018).

¹²³ *Preventing Consumer Fraud*, NAT'L TELEMARKETING VICTIM CALL CENTER, <http://ntvcc.org/> (last visited Oct. 31, 2018).

and national organizations will work toward solutions for victims and their families. Training professionals, including law enforcement, medical personnel, law professionals, APS, elder advocacy programs, grant funders, senior centers, and researchers is critical.

In addition, knowledge of the factors that contribute in making older adults particularly vulnerable to scam predators and even re-victimization by such predators is critical. Older adults face two kinds of risk. “First, there is the risk that an elderly person becomes the target of attempted financial exploitation. Second, once targeted, a person may be less able to protect himself.”¹²⁴ Professionals need to consider the changes associated with aging, not just the aging brain. It is important to continue to study the physical, emotional, technological, and societal factors that make older adults vulnerable. Without awareness and study of this more universal view of the challenges faced by older chronic victims and their families, the needs of present and future victims of international fraud crimes are not being served.

About the Authors

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¹²⁴ Deane, *supra* note 98, at 7.

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