



ncall



Best Practices for Prosecutors Working with Financial Institutions on Elder Financial Exploitation Cases

A Quick-Reference Tip Sheet

Financial exploitation is the most common form of elder abuse, and its scale is staggering. A Financial Crimes Enforcement Network (FinCEN) analysis found that financial institutions filed over 155,000 Bank Secrecy Act (BSA) reports related to elder financial exploitation in a single year, representing roughly \$27 billion in suspicious activity.¹ Financial institutions are often the first to detect exploitation—and may be the prosecutor’s most valuable partner in building a case. This tip sheet provides practical guidance for working with banks, credit unions, and other financial institutions to investigate, prosecute, and recover losses in elder financial exploitation cases.

Understand How Cases Reach You

Financial exploitation cases reach prosecutors through several pathways. Understanding each one helps you identify what evidence may already exist.

- ☐ **Suspicious Activity Reports (SARs):** Financial institutions are required under the BSA to file SARs when they detect suspicious activity that meets regulatory thresholds (\$5,000 for banks; \$2,000 for money services businesses). FinCEN’s 2022 Advisory specifically requests that institutions flag elder financial exploitation in SARs using the “EFE” checkbox and key term.² SARs are filed with FinCEN and may be shared with law enforcement—but prosecutors typically access them through law enforcement referrals, not directly.

- ❑ **Mandatory reporting:** Most states have some form of mandatory reporting requirement for suspected elder abuse, and a growing number specifically require financial institutions or financial professionals to report suspected exploitation to Adult Protective Services (APS) or law enforcement.³ In 2024 alone, four states enacted new laws directing financial institutions to play a role in preventing financial exploitation.
- ❑ **APS referrals:** APS receives many exploitation reports but may lack the expertise or authority to pursue criminal investigations. APS records—including financial documentation gathered during their investigation—can provide a strong foundation for criminal prosecution.
- ❑ **Direct victim or family reports:** Victims or their family members may report exploitation directly to law enforcement or the prosecutor's office. These reports often come after significant losses have already occurred.
- ❑ **Regardless of how a case reaches you, remember to center the victim.** Even if a victim of financial exploitation may not be experiencing other forms of abuse, they are likely to feel shame, embarrassment, fear, anxiety, or other strong emotions. Be prepared to provide support, resources, and referrals as appropriate.

Build Relationships Before You Need Them

The most effective prosecutor–bank relationships are built proactively, not in the middle of a crisis.

- ❑ Identify the compliance officer or BSA/Anti-Money Laundering BSA officer at the major financial institutions in your jurisdiction. This is the person who oversees SAR filings, fraud detection, and regulatory compliance.
- ❑ Introduce yourself and your office's elder abuse work. Many compliance officers have never been contacted by a prosecutor and are eager to collaborate.
- ❑ Offer to provide training to bank staff on recognizing and reporting elder financial exploitation. This builds goodwill and improves the quality of referrals you receive.
- ❑ Establish a communication protocol: Who should the bank call when they suspect exploitation? What information should they gather before calling? What can the bank share and what requires a subpoena?

- ☐ Know the legal framework for information sharing in your state. Some state laws specifically authorize financial institutions to share information with law enforcement and APS when exploitation is suspected; others require subpoenas or court orders.⁴

Use Transaction Holds and Disbursement Delays

A growing number of states authorize financial institutions to temporarily hold or delay suspicious transactions when elder financial exploitation is suspected. As of October 2024, approximately half of states have enacted hold laws for depository institutions, broker-dealers, or both.⁵

- ☐ Know whether your state has a hold law, what it covers (banks, credit unions, broker-dealers, investment advisors), and how long the hold period lasts. Hold periods typically range from 15 to 45 business days, with extensions available in some states.
- ☐ Understand that hold laws generally permit but do not require financial institutions to delay transactions. The institution needs to know that law enforcement is engaged and acting on the information.
- ☐ Move quickly when a hold is in place. The hold period is your window to investigate, obtain subpoenas, and seek emergency relief if needed. Delays by the prosecutor's office can result in the hold expiring and funds leaving the account.
- ☐ If your state does not have a hold law, work with the financial institution to explore other options: voluntary cooperation, existing fraud policies, or emergency court orders to freeze assets.

Investigate the Financial Story - But Don't Stop There

Financial records tell the story of exploitation—often more reliably than victim testimony. The prosecutor's job is to make that story clear and compelling.

- ☐ **Subpoena bank records early:** Include checking accounts, savings accounts, brokerage accounts, insurance policies, property records, credit card statements, and loan documents. Request records going back far enough to establish the victim's baseline financial behavior.
- ☐ **Remember that forms of abuse often co-occur:** Financial exploitation rarely occurs in a vacuum. Remember that victims often experience

multiple forms of abuse at the same time. Screening for physical, emotional, or sexual abuse, as well as neglect, should be part of your process.

- ☐ **Look for the inflection point:** the moment when the victim's financial pattern changed. Regular, predictable transactions suddenly replaced by large, unusual, or accelerating withdrawals and transfers are the hallmark of exploitation.
- ☐ **Use the Senior Abuse Financial Tracking and Accounting (SAFTA) Tool:** Developed by the International Association of Chiefs of Police (IACP), National White Collar Crime Center (NW3C) , and US DOJ Elder Justice Initiative (EJI), this free Excel-based tool helps organize raw financial records into chronological timelines, charts, and visual depictions suitable for prosecution. SAFTA also includes a subpoena template.⁶
- ☐ **Document who had access to the victim's accounts:** signatories, power of attorney holders, joint account holders, online banking users. Trace the money from the victim's account to its destination.
- ☐ **Consider retaining a forensic accountant for complex cases:** Forensic accountants can create financial timelines, quantify total losses, identify patterns, and testify at trial. New York's Enhanced Multidisciplinary Team (E-MDT) model has demonstrated that forensic accountant involvement significantly improves prosecution outcomes.⁷

Recognize Common Exploitation Patterns

FinCEN's 2024 analysis identified two primary categories of elder financial exploitation, each requiring different investigation strategies.⁸

Elder Scams

- ☐ The victim transfers money to someone for a promised benefit they never receive. Common types include romance scams, tech support scams, government impersonation, grandparent scams, lottery/prize fraud, and cryptocurrency investment fraud.
- ☐ Money is typically moved via checks, domestic wires, and methods that avoid in-person contact with bank employees.
- ☐ Financial institutions may detect these through account takeover alerts, unusual wire activity, or rapid depletion of accounts.

Elder Theft

- ☐ A trusted person—most often an adult child—steals the victim's assets, funds, or income. Perpetrators use cash withdrawals, card transactions, online bill pay, and fund transfers for their own benefit.
- ☐ These cases often involve power of attorney abuse, joint account manipulation, real estate fraud, or fiduciary breach.
- ☐ Financial institutions may detect these through changes in account behavior, new signatories, or discrepancies between the victim's known circumstances and account activity.

Asset Recovery: Restitution, Freezes, and Forfeiture

For many elder financial exploitation victims, recovery of stolen assets matters as much as—or more than—criminal conviction.

- ☐ Seek emergency asset freezes or restraining orders as early as possible. Once exploited funds leave the financial system—through cash withdrawals, cryptocurrency, or wire transfers overseas—recovery becomes exponentially more difficult.
- ☐ Request full restitution at sentencing. Document the total loss through financial records and, where possible, forensic accounting analysis. Present the court with a clear, verified restitution figure.
- ☐ Explore forfeiture of proceeds and instrumentalities under your state's forfeiture statutes. Some states allow forfeiture in exploitation cases even without a conviction.
- ☐ Coordinate with civil attorneys. Victims may have parallel civil remedies—breach of fiduciary duty, fraud, conversion, unjust enrichment—that can supplement criminal restitution. Civil discovery may also uncover assets or evidence useful in the criminal case.
- ☐ Connect victims with legal aid organizations and area agencies on aging that can assist with financial recovery, benefit applications, and housing stability while the criminal case proceeds.

Victim-Centered Considerations

Financial exploitation victims face distinct challenges that prosecutors must account for throughout the case.

- ☐ Many victims do not recognize they have been exploited—especially when the perpetrator is a family member. They may resist prosecution or minimize the harm.
- ☐ Financial exploitation often co-occurs with other forms of abuse: physical abuse, neglect, psychological abuse, and isolation. Screen for all forms of abuse, not just the financial dimension.⁹
- ☐ The victim's financial capacity may have been declining before the exploitation began. Declining capacity does not mean the victim consented—it means they were more vulnerable.¹⁰

- ❑ Loss of financial resources can cascade: lost savings leads to inability to pay for care, which leads to institutionalization, which leads to depression and decline. Present this cascading harm at sentencing.
- ❑ Protect the victim's dignity throughout the process. Financial exploitation victims often feel deep shame and embarrassment. Treat them with the same respect and sensitivity you would bring to any violent crime victim.

Resources

- **NCALL**
 - **Prosecutor Resources:** www.ncall.us/for-professionals/prosecutors/
 - **National Institute on the Prosecution of Elder Abuse (NIPEA):**
Contact alaatsch@ncall.us
- **NDAAs Elder Justice Initiative:** www.ndaa.org/elder-justice-initiative
- **AEquitas – Free 24/7 Case Consultations:**
www.aequitasresource.org/consultations
- **DOJ EJI – Financial Exploitation Resources:**
www.justice.gov/elderjustice
- **SAFTA Tool – Financial Investigation:**
www.justice.gov/elderjustice/saftatoolkit
- **FinCEN – Elder Financial Exploitation Advisory (2022):**
<https://www.fincen.gov/system/files/advisory/2022-06-15/FinCEN%20Advisory%20Elder%20Financial%20Exploitation%20FINAL%20508.pdf>
- **FinCEN – EFE Trend Analysis (2024):** www.fincen.gov/news/news-releases/fincen-issues-analysis-elder-financial-exploitation
- **Interagency Statement on Elder Financial Exploitation (2024):**
www.fdic.gov/news/press-releases/2024/agencies-issue-statement-elder-financial-exploitation
- **FTC – State Transaction Hold Laws Overview (2024):**
www.consumer.ftc.gov
- **DOJ National Elder Fraud Hotline:** 833-FRAUD-11 (833-372-8311)

References

1. FinCEN, Financial Trend Analysis: Elder Financial Exploitation (2024). fincen.gov/news/news-releases/fincen-issues-analysis-elder-financial-exploitation. See also Interagency Statement on Elder Financial Exploitation (Dec. 4, 2024), issued by FRB, CFPB, FDIC, FinCEN, NCUA, OCC, and state financial regulators.
2. FinCEN, Advisory on Elder Financial Exploitation, FIN-2022-A002 (June 15, 2022). See also FinCEN Advisory FIN-2011-A003 (Feb. 22, 2011).
3. DOJ EJI, State Elder Abuse Statutes. justice.gov/elderjustice/elder-justice-statutes-0. See also NCSL legislative tracking. As of 2024, 34 states and Puerto Rico addressed financial exploitation in their legislative sessions.
4. Interagency Statement on Elder Financial Exploitation (Dec. 4, 2024). See discussion of information sharing, SAR confidentiality, and reporting to LE/APS.
5. FTC, Financial Institution Transaction Holds State Overview (Oct. 2024). consumer.ftc.gov. See also ABA Foundation, State Hold Laws and Elder Financial Exploitation Survey Report (2025). aba.com
6. IACP/NW3C/DOJ EJI, SAFTA (Senior Abuse Financial Tracking and Accounting Tool). justice.gov/elderjustice/saftatoolkit. User Guide (2019): theiacp.org/elder-abuse
7. Journal of Accountancy, “Forensic Accountants Team Up to Fight Elder Abuse” (June 2020). See also Navarro, A.E. et al., “Prosecutors’ Perspectives on Elder Justice Using an Elder Abuse Forensic Center,” J. Am. Geriatrics Society (2016).
8. FinCEN, Financial Trend Analysis: Elder Financial Exploitation (2024). 80% of reported EFE involved scams; 20% involved theft by trusted persons; adult children identified as perpetrators in nearly 40% of theft cases.
9. AEquitas, The Prosecutor’s Resource: Elder Abuse, 7–8 (2017) (co-occurrence of abuse types). aequitasresource.org/category/our-focus-area/elder-abuse/
10. APA/ABA, Assessment of Older Adults with Diminished Capacity: A Handbook for Psychologists (2008). See also DOJ EJI, Decision-Making Capacity Resource Guide (2022).

This project is supported by Grant No. 15JOVW-24-GK-03047-ALLX awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.