

Protecting Elders: A Case Study of Elder Exploitation and Self-Neglect

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A 79 year old woman lived in a nursing home in Clark County. She was diagnosed with dementia and had a series of strokes. She received an eviction notice from her nursing home because her son, and attorney-in-fact, had not paid her rent at the nursing home for a number of months. After investigation, it was discovered that the son had, instead of paying her rent, spent over \$12,000 of his mother's funds for purchases at Sears, and for paying his auto insurance, and other household bills. He was never prosecuted ¹.

An 86 year old Pierce County man resided in his longtime home and his wife resided in an adult family home. The man had been diagnosed with dementia and required assistance with meal preparation and housekeeping. Concerns were raised about a woman who recently befriended this vulnerable adult and began regularly visiting him in his home and he considered her his girlfriend. After investigation, financial records indicated this man had written numerous checks to her in a two-month period, totaling \$33,000 from one account and over \$64,000 from another account. When asked about the spending, the man had no recollection of gifting the money to her or writing the checks himself. She was never prosecuted ².

Mariana Cooper, 86, a widow living in East King County, wrote a dozen checks totaling more than \$217,000 to a person she considered a friend. The money was never paid back or used for Ms. Cooper's care. Family members became suspicious when repairs around the house were not being done and they noticed a change in their grandmother's behavior. They intervened and surfaced the theft that had taken place over several years. The financial loss forced her to sell her home and move into a retirement community in Snohomish County. While the loss of her retirement saving and her home were traumatic, the greater loss was the loss of her financial freedom and trust in people. Janet Bauml, the perpetrator, was convicted in 2015 on nine counts of felony theft and received a 43 month prison sentence ³.

Approach: Elder financial exploitation and self-neglect are the two most reported incidences of elder abuse reported to Washington State's Adult Protective Services. This capstone explores the evolving procedural and legislative interventions to respond and address these forms of elder abuse.

Financial exploitation and self-neglect cases are increasing reflecting societal and economic shifts. There is a relationship between these forms of abuse--preventing and decreasing them involves strategic policies including the following: targeted interventions by the current Washington State Adult Protective Services (APS); honing statutes governing and supporting the Department of Social and Health Services (DSHS); and increasing the enforcement and penalties for these crimes. Each of these strategic policies reflects the complexity of responding to these issues and the changing needs of the elderly as family and society evolves.

The present capstone details a case study of Washington State's passage of financial exploitation legislation to create a new elder abuse crime and creation of programmatic changes for the management of elder self-neglect. To examine the issue of self-neglect, the attitudes DSHS Adult Protective Service investigators have toward increasing workloads and programmatic changes are highlighted in interviews with staff, publicly accessible memos, and an attitudinal survey of APS staff. The formative phase of a legislative process is briefly summarized describing a proposed Long Term Care Trust Act. The societal impacts and implications are validated through data, research and media reports at the national and state levels. Storytelling is used to personalize and humanize the issue, and highlight the variety that these forms of abuse can take.

In Washington State, the passage of 2017 legislation (HB 1153 and SB 5099) created a new criminal statute to protect vulnerable populations, specifically senior citizens, from criminal neglect and financial exploitation. "The Narrative Policy Framework" outlined by Mark K. McBeth, Michael D. Jones and Elizabeth A. Shanahan⁴ detailing the macro and micro use and importance of

storytelling as an approach to policy change, including its role in the passage of legislation.

Storytelling is enforced by national and state statistics to support a lobbying strategy to strengthen laws and policies preventing the financial exploitation of vulnerable adults. Concurrently, Adult Protective Service under the Department of Social and Health Services (DSHS) have made changes to programs reflecting the changing needs and geographic locations of these vulnerable populations.

Research Question: What is the purported effect of legislative and procedural changes on the reported cases of financial exploitation and self-neglect?

Background: Currently, 15 percent of the Washington State's population is 65 years and older; 129,000 people will be 85 years or older and by 2040; and 22 percent of population will be over the age of 65⁵. The "aging" of the state is predominantly associated with the aging of the "baby boomers," the generation born before between 1946 and 1964. Health care for people dramatically changed in 1965 when President Lyndon B. Johnson signed Medicaid and Medicare into law. Prior to 1965, a little more than half of Americans 65 and older had health insurance. The universal provision of health care for seniors increased positive health outcomes and contributed to prolonging people's lives. While it should be cause for celebration that the population is living longer; however, there is a dark side to this longevity. In the last 10 years Adult Protective Services, the Attorney General, the King County Prosecutor and the Washington State Ombudsman's Office have seen dramatic increases in the number of self-neglect, abuse and financial exploitation cases being reported and investigated. At the same time, there is a lack of clearly defined criminal procedures and code outlining penalties and the statute of limitations for reporting these predatory crimes. The general public is unaware of the hidden form of abuse called self-neglect and that law enforcement does not have sufficient criminal authority to prosecute the perpetrators and those who abet self-neglect. A comparative analysis of the criminal codes across the United States shows that

Washington State lags behind other states, adjusting for population size and geographic location. The goal of this analysis will be to contribute to the discussion in making statutory changes and adjusting Adult Protective Services programming to protect the vulnerable adults from self-neglect or financial exploitation.

Methodology: National data exists from the National Conference of State Legislators and limited state research shows the impact of financial exploitation and self-neglect on vulnerable adults. Storytelling and a narrative approach will be used and combined with data from the National Adult Protective Services Association, MetLife and True Link Research, National Conference of State Legislators, Washington State Department of Social and Health Services, Washington State Adult Protective Services, and AARP Fraud Fighter Network. Additional anecdotal data on the financial exploitation of vulnerable adults and stories will be collected from cases filed by the King County Prosecutor's office and the Washington State Attorney General's office from 2015. Additional stories and cases will be gathered through staff interviews and media coverage.

Findings: The stories of the woman from Clark County, the woman from East King County and the man from Pierce County (see above page 1) are only three of the of the 7,852 cases of alleged financial exploitation reported to the Washington State Adult Protective Services (APS) in 2015 and forwarded on to the Washington State Attorney General's Office for further investigation and potential prosecution. In 2015, APS received 35,543 reports and opened 24,134 investigations alleging abuse, abandonment, neglect, self-neglect and financial exploitation of vulnerable adults from across the state ⁶. While the APS definition of *vulnerable adults* includes all adults, Washington State law specifically designates people over 60 years of age with mental or physical limitations as vulnerable adults [RCW 74.34.020 ; RCW 74.34.021].

Financial Exploitation

Vulnerable adults can become victims of a form of abuse called financial exploitation. Financial exploitation happens when a trusted individual steals or misuses the vulnerable adult's money or assets for financial gain, often without the consent or knowledge of the vulnerable adult⁷. One out of 20 older Americans are financially mistreated or victimized to some extent by a caregiver, friend, family member, lawyer, or financial adviser, according to a study financed by the US Justice Department⁸.

While financial exploitation can happen to anyone, older adults are more often targeted for this crime because they have amassed personal wealth over several decades and can be vulnerable due to mental incapacities, loneliness or social isolation. An additional contributing factor is the widening of the income gap between the very wealthy and the middle class. As the population ages, more than 10,000 people will turn 65 years old every day for the next decade⁹ increasing the number of retirees susceptible to financial exploitation. Nationally, financial exploitation is the most commonly reported form of abuse of adults, followed by neglect, emotional mistreatment, physical abuse and sexual abuse¹⁰. In Washington State, 25.57 percent of alleged abuse cases were financial exploitation. And, this state has seen a 92 percent growth in the number of cases investigated from 2010 to 2015. This number will continue to increase with population growth of people over 65 years of age¹¹.

It is estimated that only 1 in 44 cases of financial exploitation is ever reported¹². Those who are victimized are often reluctant to report the crime when the exploiter is someone they know or trust due to fear, shame or embarrassment. Other cases are not reported because people do not know where to report the crime or are afraid of becoming too involved. Often the financial exploitation

goes on for a long period of time before it ever comes to light, and in some cases, the crime is reported too late to prosecute under the appropriate statute of limitation for standard crimes of theft.

Financial exploitation, whether by a family member, trusted person or stranger who befriends older adults for the purpose of taking advantage of them, is often misperceived by the public as a private matter, and never reported to the authorities. Yet, financial exploitation does impact the public and the burden is felt by individuals, families, and communities. In the case of the Pierce County man, his ability to care for himself and pay for his wife's adult family home expenses has been nearly wiped out by the theft of his personal assets.

Victims of financial exploitation who lose their retirement savings "nest egg" and financial independence become dependent on federal and state funded government and social service programs to meet their basic needs for healthcare, housing and food. The National Adult Protective Services Association estimates that 1 in 10 victims of financial exploitation rely on public assistance, such as Medicaid ¹³. Research by the U.S. Department of Health and Human Services indicates victims also are more likely to be hospitalized and more likely to move into nursing homes which are costly alternatives to a vulnerable adult remaining in their own home ¹⁴.

Nationwide, only a handful of studies have attempted to attach a price tag to financial exploitation and even fewer studies have successfully determined the financial impact at the state level. Using a unique approach built around examples of financial exploitation reported in the media, MetLife estimated national losses experienced by seniors each year to be in the billions ¹⁵. In True Link's report on Elder Financial Abuse in 2015, financial exploitation is believed to cost older adults over \$36 billion annually ¹⁶. At the state level, Utah used data taken from a small sample of Adult Protective Services' referrals to estimate statewide impacts. Findings suggested statewide losses ranged between \$48 and \$209 million ¹⁷. In a study conducted by the State of New York in

June 2016, covering a single 12-month period, known incidents of financial exploitation cost New York State citizens and communities somewhere between \$352 million and \$1.5 billion in personal losses and public expenditures ¹⁸.

Given that financial exploitation is underreported and negatively impacts the individual and public, one policy approach suggests that laws and penalties for financial exploitation crimes need to be strengthened and *all* persons and businesses with knowledge or suspicions of malfeasance be required to report financial exploitation of vulnerable adults. By requiring *all* such persons and businesses to report financial exploitation, the stigma of shame or embarrassment be mitigated additionally it will deter potential perpetrators from taking advantage of vulnerable adults.

Intervention: Legislation to address financial exploitation

Until 2017, Washington was one of 13 states that had not made it a crime to financially exploit a vulnerable adult leaving prosecutors limited to prosecuting cases only with the standard criminal theft statute ¹⁹; making it more challenging to criminally prosecute those who take financial advantage of vulnerable adults, whether through scams, fraud, misuse of a power of attorney, or outright stealing. During the 2017 Washington State Legislative session, the Attorney General Bob Ferguson sponsored legislation which creates a specific crime for the financial exploitation of vulnerable adults. The proposed statute increases criminal penalties and fines on the perpetrators of these acts (see below).

The King County Prosecutor started a conversation with AARP, an advocacy organization representing people as they age, in 2013. AARP was working with a broad coalition of organizations to create a streamlined approach to determine which priority issues should be put forward to the legislature. The group coordinated with the Governor's office to host a Governor's

Summit on Aging. One outcome was the creation of the Joint Legislative Committee on Aging and Disability in 2014. The committee had bi-partisan, bi-cameral representation and was given the responsibility for creating a report outlining a series of elder-focused recommendations to the legislature. The committee heard testimony from a variety of organizations and experts on aging and disability and created a five-year planning document to guide the priority work of the legislature. One priority focus areas was the increased protection of vulnerable adults from financial exploitation.

The King County Prosecutor's Office and AARP Washington State reached out to Rep. Roger Goodman (D.Kirkland) of the 45th District to discuss the challenge prosecutors were having in securing verdicts against people alleged of financially exploiting or neglecting vulnerable adults. Rep. Goodman is a strong advocate for seniors, a practicing attorney, and has a "kitchen cabinet" of very active and engaged seniors in his district. Rep. Goodman supported the idea began the process of drafting a bill and gaining additional sponsors including Rep. Brad Klippert (R-Kennewick), who is also a Deputy Sherriff of Benton County. The King County Prosecutors Office claimed that they did not have sufficient legal authority to criminally prosecute perpetrators for crimes against seniors. They had to use common theft statutes which did not take into account the predatory nature and intentionality of a crime against an elderly or disabled person which led to less punitive sentencing guidelines and a shorter statute of limitations.

This bill had been attempted in two previous years. In 2015, the bill never made it to a floor vote and stalled in committee because of the perceived cost associated with a potential increase in the number of people being added to the corrections system. In 2016, the bill made it through the House but never made it through the Senate because one Senate member questioned if the bill

“over-reached” into a parent’s right to discipline a child or the ability of a person to have a gun in the house. The transcript of the comment reads: (legislator’s name has been removed):

“This bill amends 8 different sections . . .

This bill is doing way more than what we having been discussing.

Section 3 – we were told that this applies to vulnerable adults and withholding necessities of life that vulnerable adults would need and or doing the same for children.

I would have no problem supporting that, but this bill goes way beyond that. It lowers the bar of threshold with regard to parental rights. (Reading) “with regard to creating an imminent and substantial risk of death or great bodily harm to children.

That provision, in my estimation, and what I would ask the body to consider, should be discussed in and of by itself and would be appropriate for a separate bill to do. We did not caucus on it. There are strong concerns that range from parental rights with regards to how they manage their kids, how they watch their kids, all the way up to your constitutional provisions including and up until the 2nd amendment. I would strongly urge a no vote.”

The challenge with working with the legislature is that there are no restrictions on what a legislator can say on the Senate or House floor. Often emotional appeals can outweigh logic and in this case the legislature was very sensitive to gun policy because of previous bills that they had recently heard. All it took to derail this bill was one legislator raising a question of concern in an open forum. The coalition scrambled to add clarifying language to the bill and to talk to individual Senators but a ‘poison pill’ has been inserted into the legislation and legislators were reluctant to vote on a bill that had even the slightest chance of harming a person’s Second Amendment rights.

During the interim the stakeholder group was reconvened by the Attorney General’s Office and AARP. There were three meetings with the Deputy Attorney Generals from King and Pierce

Counties who specifically worked on elder abuse crimes and had dozens of previous and current cases demonstrating the weakness in Washington State statutes. The meetings reinvigorated the coalition. Additional research from other states, specifically California, Nevada, New York and Florida, yielded language for the Washington State bill including proposed penalties and shifting burden to counties and requiring counties to build out their own plans. The group also reviewed transcripts from previous legislative committee hearings and floor discussions. Members of the coalition were assigned to meet with those legislators and address their specific questions.

Additional meetings were held with the Governor's staff and Senate and House leadership to brief them on the bill and the findings from the other states to show that Washington State was behind in addressing the issue.

For the 2017 Washington State Legislative session, the "vulnerable adults bills" were given new numbers for the 2017-18--biennium HB 1153 and SB 5099. Unlike previous years, this bill was "Attorney General requested legislation" which increases the importance of the bill, but it also adds to the political nature of the bill as the Attorney General is an elected office with a political leaning. It was important that the newest version of the bill was very specific as to its purpose and intent. While the bill seemed to be identical to previous versions, it was critical that the bill achieve three specific goals. First, the new proposed statute creates a specific crime for the financial exploitation of vulnerable adults; second, a lengthened the statute of limitations to prosecute the crime; third, increased criminal penalties and fines on the perpetrators of these acts. HB 1153 was again sponsored by Rep. Roger Goodman (D. Kirkland). It was a key strategy to have Republicans and Democrats sponsoring the bill, so Rep. Brad Klippert (R. Kennewick) agreed to be a sponsor of the bill again. He was interested in this issue because as a Deputy Sherriff he had responded to numerous complaints of financial exploitation. The sponsor of the Senate bill SB 5099 was Sen.

Barbara Bailey (R. Oak Harbor). Sen. Bailey has a legislative record as a strong advocate for seniors. She is also the chair of the Joint Legislative Executive Committee on Aging and Disability and well-respected for her knowledge and passion for supporting legislation impacting seniors. For this session, Rep. Goodman, Rep. Klippert and Sen. Bailey were strongly encouraged to tell the stories of financial exploitation they had encountered. The Attorney General's staff and King County Prosecutor's staff also met with legislators and recounted 10 cases and stories of financial exploitation to drive home the importance of this issue and the need to improved legislation.

To expand outreach and storytelling efforts, Amy Lecoq, the granddaughter of Mariana Cooper (her story is in the opening of this paper), agreed to share her grandmother's story at a briefing with legislators and in committee meetings. Ms. Lecoq also lives in Sen. Bailey's district and her mother lived in Rep. Goodman's district at the time she was financially exploited by her caregiver. As part of the media campaign, AARP developed an e-petition for members to sign generating nearly 10,000 signatures which were delivered both electronically and in person to legislators. During Rep. Goodman's 45th District town hall, Amy Lecoq hand-delivered more than one hundred petitions from constituents in his district. The exchange and her advocacy were covered in the *New York Times* on April 14, 2017 which was the same day the Speaker signed the bill which sent it to the Governor's Desk for final signature. Additionally, Facebook promotion and earned media coverage to targeted districts helped the bill gain and sustain momentum. The bill passed and was signed by Governor Inslee on May 10, 2017 and became effective July 23, 2017. If this law would have been in place, the perpetrator who had swindled \$217,000 from Mariana Cooper would have received a minimum of six years in prison instead of the three and a half years she did receive.

The passage of legislation is a clear signal that theft from an elderly person needs and requires its own statute giving prosecutors additional tools when prosecuting financial exploitation cases. For “would be” thieves who prey on the elderly, substantially increasing the potential prison time could be a deterrent or at the very least give them pause before committing the crime.

Intervention: Mandatory Reporters

While laws to protect the elderly are a significant step forward, financial exploitation crimes often go unreported. For the person being exploited, there are feelings of shame and embarrassment associated with being taken advantage of or fear of retaliation if they do report the crime. For the general public the early warning signs are not always visible and there is reluctance for some not to want to get involved. All states have some form of definition for a mandatory reporter and some states have gone so far to make all residents mandatory reporters. Currently in Washington State mandatory reporters are defined under [RCW 74.34.020(10)] as professionals identified by law who must make a report if they have reason to believe the abuse, abandonment, neglect, or financial exploitation of a vulnerable adult has occurred. Mandatory reporters include:

- Employees of the Department of Social and Health Services (DSHS).
- Law Enforcement.
- Social Workers.
- Professional School Personnel.
- Contracted Individual Providers caring for a DSHS client.
- Employees of a social service, welfare, mental health, home care, hospice, home health, adult day care, and adult day health agency.
- Owners or employees of nursing homes, boarding homes, or adult family homes.

- Health Care Providers subject to Title 18 RCW (such as nurses and doctors).
- Christian Science Practitioner.

In 2010, financial institutions were added not as mandatory reporters but permissive reporters. Under [RCW 74.34.215], if a financial institution reasonably believes financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted, the financial institution may, but is not required to, refuse a transaction requiring disbursement of funds contained in the account of the vulnerable adult. If they do refuse a transaction, they must report the incident to Adult Protective Services and local law enforcement. Financial institutions are required to provide training to employees to understand the issue and know the signs of financial exploitation of vulnerable adults. Financial institutions are considered permissive reporters²⁰ and are distinct from mandatory reporters. This distinction between mandatory and permissive reporting is important because 21 states require banks and other financial institutions to be mandatory reporters. During the passage of the proposed legislation in 2010 the financial services industry pushed back on the reporting aspects indicating it infringed on the trusted relationship the banks had with their customers. Additionally, they cited increased cost to report the alleged crime and to be involved with follow up investigations including providing extensive documentation.

The definition of mandatory and permissive reporters differs from state to state. In reviewing the list of reporters by state there are noticeable groups of individuals not included in Washington State law, in particular: clergy, restaurants, retailers, coffee shops, veterinarians, dog groomers, beauty salons, manicurists, dentists, optometrists, fire fighters, funeral homes and contracted personnel providing services to facilities caring for vulnerable adults. Several states including Delaware, Florida, Indiana, New Mexico, and New Hampshire have gone so far as to make all persons responsible for reporting the financial exploitation of vulnerable adults²¹. The New Mexico statute

reads as follows: *New Mexico has a “Duty to Report” provision in the Adult Protective Services Act (27-7-30) which states: “Any person, or financial institution, having reasonable cause to believe that an incapacitated adult is being abused, neglected or exploited shall immediately report that information to Adult Protective Services²².”*

There have been a series of recent cases that if family members or casual observers were aware of the crime being committed they could have reported the crime to Adult Protective Services. In one case in Lynnwood, Washington, an elderly man was told by a person he met online to go to two local Best Buy stores and purchase \$2000 in gift cards. The first store sold the cards to him but the second store limited his purchase to \$200 in gift cards. He returned to the first store and purchased \$1800 in gift cards. Recently, an elderly woman walked into Target in a the neighborhood of Northgate, Washington and purchased \$10,000 in gift cards to give to her grandchildren. If the law was different in Washington State, employees at Target and Best Buy would have not processed the transaction and would have reported the financial exploitation²³. Unlike the banking and financial services industry who receive a regular training on the signs of financial exploitation, other industries like the retail, hospitality and restaurant industries do not.

By contrast, New Mexico requires all persons to be reporters and while there is limited documentation as to the impact of the law has had on reporting, a recent case shows the important role a casual relationship can play in reporting these crimes. In December 2016, a 95 year old vulnerable adult and WWII military veteran living in New Mexico confided in a fellow church goer that he believed he was being financially exploited. The friend reported the case to the police and the initial investigation found that an estimated \$340,000 was allegedly stolen in the form of credit card transactions and personal checks. The man is now no longer living on his own because his nest egg is all but depleted²⁴.

The designation of mandatory reporters for allegations of child abuse are much more extensive than those for reporting elder abuse. In approximately 18 States and Puerto Rico, any person who suspects child abuse or neglect is required to report. Of these 18 States, 16 States and Puerto Rico specify certain professionals who must report, but also require all persons to report suspected abuse or neglect, regardless of profession²⁵.

Critics against increasing mandatory reporting requirements cite costs associated with additional investigations and prosecutions. If mandatory reporters were each and every person, there is a concern that false claims could be used as retaliatory strikes against a family member in guardianship battle or false claims would hamper the investigation of legitimate claims by “clogging up the system.” Yet, comparative analysis suggests that there needs to be some additional examination of the Washington State definition of mandatory reporters.

Financial Exploitation and Self-neglect.

Financial exploitation and self-neglect have a reciprocal and volatile relationship. After a person experiences financial exploitation, they often find that they have lost much of their retirement nest egg and paying for daily expenses becomes more difficult. Along with feelings of shame and embarrassment, come feelings of depression which can lead to isolation. The flexibility to rebound from being a victim of a predatory crime is compounded further if the person lacks a social safety net of family and friends. On the other side of the same coin, seniors who are self-neglecting are often more vulnerable to financial exploitation. They seek a person or opportunity to add meaning to their lives. And, the perpetrator seeing the senior in need and vulnerable seizes on the opportunity to financially exploit the senior for their own personal gain.

The arguments for advocating for self-neglect policy changes are similar to financial exploitation policy. Both create a financial burden for society. Recent polling, shows more than

84% of people want to stay in their homes as they age ²⁶. Financially, it is a wise choice because remaining in the home is far less expensive than living in an institutional setting. Socially, it allows people to stay connected with their family, friends, and community. Yet, self-neglect is often viewed as a person's choice and their right to live how they want as they age. In Washington State, citizens embrace the "pioneer spirit" of self-sufficiency and the rewards of hard work. That spirit is often in conflict with reality because most people have not saved or prepared for the long term care they will need as they retire. Washington State is leading the effort to find sustainable solutions to address current needs of seniors who self-neglect and a long term care system to prevent future self-neglect cases from spiraling into further crisis. Outlined are two interventions: the procedural changes being made by the Department of Social and Health Services (DSHS) to address self-neglect and the development of legislation to create the Long Term Care Trust Act (LTCTA).

Self-Neglect

It happens slowly and over months or years. First, a neighbor does not see the elderly woman who lives next door as often and when they do see her, she looks tired, thin and unkempt. Newspapers begin piling up on the front porch. The once loved garden becomes overgrown. The lights are never on. When the concerned neighbor goes to see the woman, she will not open the door more than a crack and claims she is busy. All are telltale signs of self-neglect.

Washington State law defines [\[RCW 74.34.020\(19\)\]](#) self-neglect "as the failure of a vulnerable adult, not living in a facility, to provide for himself or herself the goods and services necessary for the vulnerable adult's physical or mental health, and the absence of which impairs or threatens the vulnerable adult's well-being." Signs and symptoms *may* indicate self-neglect is occurring or has occurred include inability to manage finances; decrease in mental functioning;

cannot perform activities of daily living; not keeping medical appointments; poorly kept environment; no food in the house; malnourished/dehydrated, weight loss or physical sores, poor hygiene, body odors. Self-neglect is “a result of medical, neurologic, or psychiatric disorders coupled with lack of capacity for self-care and self-protection in the absence of necessary services or medical care, and leads to increased morbidity and mortality”²⁷.

Elder self-neglect is the second most frequently reported type of elder abuse behind financial exploitation to Washington State Adult Protective Services. Yet, nationally, self-neglect is on average the most common non-financial form of elder abuse/neglect. A 2014 survey of 298 geriatric care managers by the National Association of Professional Geriatric Care Managers found 92 percent of care managers said that elderly self-neglect was a significant problem in their community, with 52 percent saying it is significant and growing problem and 94 percent of care managers agreed that elderly self-neglect is a largely hidden problem with cases frequently or mostly going unreported²⁸. The increasing prevalence of elder self-neglect makes it a growing public health and social justice crisis that affects millions of older people each year. It is difficult to capture the true number of seniors who self-neglect because it often occurs over months or years; it is hidden “behind closed doors” and seniors are reluctant to admit and accept outside assistance. Unfortunately, self-neglect has high rates of recidivism and can also lead to further vulnerable adult abuse and financial exploitation²⁹.

Early signs of self-neglect should be warning signs to family, neighbors and friends to take action. Public policy makers and public health officials recognize the peril created by self-neglect. According to the National Adult Protective Services Association and Consortium of Research in Elder Self-Neglect, self-neglect is the most common reported form of elder abuse nationwide and self-neglectors are twice as likely to die prematurely as non-self-neglectors³⁰.

But there are ethical issues around self-neglect reporting and response. What if the senior does not want assistance and has the mental capacity to make that decision yet not able to care for themselves? When do personal freedoms outweigh public safety? Self-neglect is emerging in some states as a public health issue because of the impact on a community. While the self-neglector often lives in isolation, their inaction and inability to care for themselves shifts the burden to costly calls to police, emergency medical, animal control, public health and county zone enforcement. A loss of self-reliance and independence, places burdens on state and federally funded programs like Medicaid ³¹.

While no two cases of self-neglect are identical there are general characteristics to describe the person, they are often isolated, untrusting, fearful, independent, do not see any problem with the situation, do not want help and may have a history of trauma. Self-neglectors are more likely to live alone, be female, be older and have a substance abuse problem. They are also likely to have higher rates of heart disease, diabetes, depression, poor nutrition and two-thirds have a physical impairment which hampers their abilities to care for themselves. Mentally they are more likely to have dementia, mental illness and declining in cognitive abilities. Many fail to recognize the danger they are in further contributing to a disastrous cycle. Self-neglect occurs in isolation with 95% of the cases lacking adequate social supports from family, neighbors, friends and the community³².

In a study done with 4,627 older adults living in Chicago, self-neglect and specific behaviors of hoarding, poor hygiene, and other environmental hazards were higher among black older adults and among those with lower levels of education and income. Black older adult residents (men 13.2% and women 10.9%) had a significantly higher prevalence of self-neglect than white older adults (men 2.4% and women 2.6%). For those with less than high school

education, the prevalence of the self-neglect was 14.7% in men and 10.9% in women. For those with an annual income of less than \$15,000, the prevalence of self-neglect was 21.7% in men and 15.3% in women³³.

Intervention: Shift from Investigations to Case Management

Currently, Washington State Adult Protective Services (APS) staff “investigate” allegations of abuse, abandonment neglect, self-neglect, and financial exploitation of vulnerable adults. Self-neglect is the second most reported and investigated allegation that APS receives at an estimated 19% (FY 2015). APS staff use an evaluation tool called SPACED (Short, Portable Assessment of Capacity and Everyday Decision) to determine if a person has the mental and physical capacity to care for themselves—do they understand the situation they are in and can they comprehend the options available. While APS prefers to keep a person in their own home, if the person has diminished capacity determined through a series of two investigations, the person can be removed and placed into a nursing home or other care setting until their mental and physical health improves. But, as the population ages, there are limited alternate care options available and so more is being done to help people “age in place” and in their own homes³⁴.

On May 2, 2016 Bea Rector the Director of Home and Community Services Division of DSHS sent the following memo to APS staff: “In 2010, the Department of Social and Health Services (DSHS) Secretary convened the ‘Abuse/Neglect of Adults Who Are Vulnerable Study Group’ to provide recommendations to improve Washington State’s adult abuse response system. One of the group’s recommendations was that an ‘investigative’ approach may not be the most effective method to engage people who self-neglect, and recommended that the department develop a more person-centered ‘case management’ approach rather than an investigative approach.”

“(On April 1, 2016) Self-Neglect Specialists (SNS) in each region will assigned and will be responsible for taking a collaborative person-centered approach to serving people who are allegedly self-neglecting. The SNSs were trained in Person-Centered planning and Motivational Interviewing. The SNSs completed a risk screening tool and administer the Short Portable Assessment of Capacity for Everyday Decision-Making (SPACED) with each client. The pilot emphasizes a collaborative team approach between APS and case management entities such as Home and Community Services, Developmental Disabilities, and Area Agencies on Aging case management, for those clients who have case managers. APS may coordinate a joint face-to-face visit with the client’s case manager as a collaborative approach to best serve the client who is allegedly self-neglecting. The goal of the pilot is to foster the enhanced collaboration between APS and case managers successfully mitigating self-neglect issues and improving the vulnerable adult’s health and safety. Designated Social and Health Program Consultants (SHPC) in each region will be responsible for monitoring the Self-Neglect Pilot implementation, tracking and reporting.”

This pilot is significant because the shift from an investigation model to a case management model for self-neglect cases means a considerable amount of time needs to be spent on each case meeting with the person and building trust. The goal is to have people remain in their homes but to have system of “wrap around” services to support the person as they work through the issues which cause them to self-neglect. The case managers also have to be well connected to the community and know the resources available to assist the self-neglector. Services can include a home health aide who periodically checks in on the person to make sure they are taking their medication or enrolling the person in a Meals-on-Wheels program to make

sure the person is eating a nutritious meal or scheduling an access van to take them to a local senior center ³⁵.

An additional goal is to free up time spent with self-neglect cases and give APS staff the ability to investigate more cases. The overall intent is to improve the quality of responses to self-neglect cases and prevent recidivism of dangerous behaviors that could escalate into other forms of abuse and exploitation of this vulnerable population ³⁶.

To gauge the response to the new Self-Neglect Specialist pilot a survey was taken shortly before the launch of the program and 14 months after the launch of the initial survey to get staff response to “How do you expect your own work to change with the new Self-Neglect Specialists positions?”

“Pre-launch” survey responses were submitted between March 30, 2016 and April 19, 2016 with 151 staff responding to the survey. The “Post-launch” survey responses were submitted between May 30, 2017 and July 3, 2017 with 96 staff responding. Responses were captured verbatim. Those responses were then tabulated into three categories: “More time for other cases/investigations,” “No Impact on Workload,” and “N/A or does not apply to my position.” In the “Pre-launch” survey 41% of the respondents said they would have “More time for other cases/investigations. An equal number of respondents said that it would have “No Impact on Workload.” And, 17.8% said they were not sure. Those responses could be summarized as “wait and see” if the self-neglect case manager would really be effective. In the “Post-launch” survey 58.3% of the respondents said there was “No Impact on Workload” and 35.4 % said they had “More time for other cases/investigations.” Only 6.25% of the respondents were “N/A or does not apply to my position.” In the “Post-launch” survey, the respondents had definite feelings about the self-neglect case managers and more than half did not experience the

benefit of having a reduced case load and more specifically less, time-consuming self-neglect cases. While the tone of the verbatims in the “Pre-launch” survey seemed more optimistic about the new program thought expressions such as “I am hoping”, “hopefully and “potentially,” the verbatims in the “Post-launch” survey had a more unhappy and frustrated tone such as “I don’t think it works very well”, “no effect” and, “not much.”

While the true measure of the effectiveness of the self-neglect case manager program is the impact it has on the clients served by APS, both survey groups “Pre-launch” and “Post-launch” responded “Strongly Agree” and “Agree” to the statement “The SN Specialist position will benefit the clients that we serve” with 66% and 69%, respectively. More needs to be done to prepare the systems to meet the needs of elders who self-neglect and to anticipate the increasing demand as the baby boomers age.

Intervention: Long- Term Care Trust Act

Seventy percent of Washingtonians over 65 will need long-term care support in their lifetime. Many people falsely believe that Medicare will pay for their long term care. Medicare does not cover long-term care services with the exception of a limited three-month rehabilitation benefit. Both long-term care insurance and long-term care are prohibitively expensive with the average lifetime cost estimated at \$260,000 and with median retirement savings for people over 65 at just \$148,000, the retirement savings gap is apparent. For many low income seniors Medicaid is the only option for care and some seniors are forced to “spend down” their life’s savings into poverty in order to access Medicaid benefits ³⁷.

Starting in 2016, a coalition of organization began working on a bill to create the Washington Long-Term Care Trust Act (LTCTA). The act establishes a responsible long-term care insurance program to provide high-quality and flexible long-term care coverage for

Washington employees financed by a 0.49% (half of one percent) payroll deduction on all workers (an average of \$23.30/ month). The program provides 365 days-worth of coverage at \$100 per day benefit.

In 2016, a “test bill” sponsored by Laurie Jenkins (D., Tacoma) HB 1636 was floated in the legislature to gauge legislators’ responses and attitudes. It had a House committee hearing but did not move out of committee. In 2017, the coalition rushed to introduce a similar bill by Rep. Jenkins HB 2533 and by Sen. Guy Palumbo (D. Bothell)-SB 6238 but there was concern by coalition partners over the bill’s limited focus to compensate individual providers. Individual providers (IP) are care providers who have received 75 hours of training and become part of a collective bargaining unit. While a majority of IPs are family members, the trust money exempted payment to spouses for providing care. There were less onerous training requirements of 30 hours for adult children. Grandchildren, brothers/sisters, aunt/uncle and other family members could only be paid by the trust if they completed the required 75 hours of training and became part of the collective bargaining unit. Additionally, trust funds could not be used to pay for services that a person might require as they age such as transportation, meals, home modification, emergency alert devices, adult day care or respite care. The House bill passed through its committee of origin and the Appropriations Committee. One of the partners pulled support for the bill and stopped the bill from moving forward to a House vote.

Both Republican and Democrat legislators were warm to the bill because it would slow down the number of people accessing Medicaid to pay for their long term care needs and save the state \$1.4 billion per biennium by 2040 due to an estimated 18% of Medicaid caseload being served in entirety by Long-Term Care Trust Act.

Seeing the bill had stalled, the legislature added budget to the coalition's efforts to do additional actuarial analysis on expanding the family members who could access and be paid by the trust as well as the impact of payment for long term care services.

As of May 27, 2018 there is not consensus among the coalition partners on a bill. Yet, a bill needs to be drafted, revised and ready for Committee Days in late November so sponsor signatures can be added and the bill is ready for the "hopper."

Conclusion

Several lessons can be drawn from this case study.

Financial exploitation and self-neglect of vulnerable adults impacts everyone and everyone should have some level of responsibility for reporting cases of financial exploitation and self-neglect. Washington State is leading the way in its support of the elderly as evidenced by the recent recognition by AARP as the leader among states for its comprehensive programs to meet the long term support and services needs by people as they age. Yet, there is more that can be done by continuing to find legislative and programmatic interventions that reflect the prevalence and complexity of elder abuse. Policy responses need to focus on the prevention of elder abuse, the reporting of criminal acts against the elderly and the compassionate care and treatment of victims including connecting them to community-based resources as they age. Before those interventions can be successful there has to be the publicwill to engage in the issue and a recognition by both Democrats and Republicans that we all age.

Aging needs to be elevated to a public health status by policy makers, the business community and social service agencies. By engaging everyone in the State of Washington in this effort to, change our systems, build new systems like the Long-Term Care Trust Act and create more public awareness, we can bring a spotlight onto the issue of aging. Bringing aging out of the shadows will

help to prevent the crimes being perpetrated on/by the elderly and we can help remove the stigma of what it means to grow old.

Equally important is to know which agency to report these crimes and who should be required to report elder abuse. Currently, Washington State statute is not clear on who is required to report these crimes and who is not. The list is limited and definitions could be modeled after child abuse criteria. Various industries should not be able to dictate whether they are designated as mandatory reporters or not.

There is much that Washington State can learn from other states and other countries about the legislative and programmatic interventions used to deter the exploitation and abuse of seniors. No longer can people hide from this issues and challenges of aging, they need to remember everyone gets older and getting older does not mean being a victim or a burden on society. All people should have the ability to age with dignity and purpose.

Policy Recommendations:

- Study impact of 2017 legislation and impact on Adult Protective Services reports and investigations through a county audit of financial exploitation plans developed and implemented per the legislation to analyze turnaround time further investigation and prosecution. Also passed in 2017, SB 5349 requires the department of social and health services to establish elder justice center demonstration programs to be operated in counties with a population of between 400,000 and 500,000 but it is important to include counties of smaller sizes by reexamining and potentially amending this legislation in 2027 as the elder population shifts to other counties.
- Expand definition and training of ‘mandatory reporters’ under current Washington State statute. While making all citizens reporters; more can be done to expand the mandatory

reporter list. Some states include vendor/contractors at care facilities, funeral homes, and even music therapists so there is flexibility to understand the reluctance industries and trade associations have and why they should be involved in providing training to their employees.

- Increase public awareness of elder abuse including senior isolation, financial exploitation self-neglect and vulnerability. Delaware, Illinois, California and Michigan recognize the month of June as Elder and Vulnerable Adult Abuse Awareness Month to encourage their citizens to learn about how to protect and nurture elderly citizen this includes producing educational materials for elderly citizens of explaining their rights, the warning signs of financial exploitation, and appropriate reporting methods ³⁸.
- Increased research on the correlation on senior isolation, financial exploitation, self-neglect and vulnerability. Several organizations are studying parts of these issues. The Legislature should support the creation of a task force and including the states two major universities to provide ongoing research based findings ³⁹.
- Expand the number of self-neglect specialists throughout the regions. Review the data derived from the Elder Justice Centers derived from the elder justice centers.
- Abandon the 90-day APS investigation resolution goal for self-neglect cases to remove the time constraint and give case managers the ability to manage the unique challenges of self-neglect cases.
- Increase funding for adult day programs and transportation to meet the increasing demand and shifting populations of seniors moving to more affordable counties that lack the infrastructure to meet their needs.
- Increase funding for a/the Long Term Care Ombudsman who has the responsibility for complaints from individuals and families living in an institutional setting. The dollars spent

and number of volunteers per citizen 60 or 65 years or older should be established as key indicators and for making additional budget requests to the state legislature ⁴⁰.

Washington State is not alone in recognizing the implications created by the “aging” of the state. The state has taken several important steps in developing policies to address the issues associated with aging. Other states and countries around the world are struggling with how to care for people as they age. Yet, the significant common marker for success is the full integration of aging into all aspects of society where everyone recognizes the contributions seniors have made to give us the vibrant communities we appreciate today. Continued work to refine legislation and policies needs to be a priority for everyone. It is out of respect for the generation before us that we should design policies to give seniors the ability to live in dignity and with purpose free from abuse and neglect. Those same policies will be the frame work for the protections for the next generation.

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