TENNESSEE COMPTROLLER OF THE TREASURY

OFFICE OF RESEARCH AND EDUCATION ACCOUNTABILITY

FINANCIAL EXPLOITATION OF THE ELDERLY IN TENNESSEE

SEPTEMBER 2020

KIM POTTS
Principal Research Analyst

KRISTINA PODESTA
Legislative Research Analyst

JUSTIN P. WILSON
Comptroller of the Treasury

Table of contents

Introduction

Financial exploitation of the elderly is a form of elder abuse. In basic terms, elder financial exploitation is the wrongful or unauthorized use of the assets, funds, or property of elderly individuals.[A] Those who exploit the elderly may include family members, businesses, acquaintances, and strangers. Often, other forms of elder abuse – physical abuse, sexual abuse, psychological or emotional abuse, or neglect – occur alongside financial exploitation.[1]

> "If a new disease entity were discovered that afflicted nearly one in 20 adults over their older lifetimes and differentially struck our most vulnerable subpopulations, a public health crisis would likely be declared. Our data suggest that financial exploitation of older adults is such a phenomenon."
>
> Janey C. Peterson, et al., "Financial Exploitation of Older Adults: A Population-Based Prevalence Study," *Journal of General Internal Medicine*, Vol. 29, No. 12, 2014.

Over the last several years, the Tennessee General Assembly has strengthened state laws to protect the state's elderly population from financial exploitation, as well as from abuse and neglect. In 2019, the General Assembly created a task force focused on elder financial exploitation, three years after commissioning a report from the Tennessee Commission on Aging and Disability that reviewed the subject.[2] Legislators explained that although the laws previously passed concerning elder financial abuse were extensive, gaps remain that need to be addressed. (See a summary of the laws on pages 11-13.) The 2019 task force is scheduled to submit its findings and recommendations to the Governor and the General Assembly by January 15, 2021.[3]

The Comptroller's Office of Research and Education Accountability (OREA) developed this report at the request of legislators. The report briefly summarizes research about elder financial exploitation, and considers Tennessee's approach to identifying and investigating this type of elder abuse, and prosecuting and convicting perpetrators. It addresses stakeholders' views about potential gaps that remain in the system, as well as noting areas of progress. The report concludes with policy options for consideration by the General Assembly and relevant stakeholders.

Methodology and limitations

To conduct research for this report, OREA followed the stages of elder financial abuse allegations from their initiation, primarily through the statewide Adult Protective Services (APS) reporting system; APS distribution of reports about allegations to other appropriate agencies; investigations by law enforcement, Adult Protective Services, and other agencies; development of cases selected for prosecution by the state's district attorneys general; and resolution of cases. Connecting these stages is difficult in part because of the lack of a statewide data collection and reporting system. More information about this is provided later in the report. (See page 57.)

These are some of the steps that OREA completed:

- reviewed and analyzed data requested from Adult Protective Services
- reviewed and analyzed data requested from the Administrative Office of the Courts (AOC)
- reviewed and summarized information provided by 19 of Tennessee's 31 judicial districts, and analyzed information from districts that were able to supply data[B]
- reviewed the annual reports for 2017 and 2018 provided to the chairs of the Senate Judiciary Committee and House Criminal Justice Subcommittee by all Vulnerable Adult Protective Investigative Teams (VAPITs) operated in each judicial district
- reviewed summary data from the U.S. Department of Treasury's Financial Crimes Enforcement Network (FinCEN) for Tennessee (obtained by the Department of Financial Institutions on behalf of OREA)

For the full report methodology, see Appendix F.

[A] Definitions in federal and state laws, including Tennessee's, differ from this general definition.

How this report is structured

The first three sections of the report provide background information about the issue of elder financial exploitation. ***Section 1*** defines the issue in general terms and using Tennessee state law.

Section 2 discusses what is known about the prevalence of elder financial exploitation nationwide.

Section 3 describes efforts to estimate the cost of elder financial exploitation nationwide and in select states.

The remainder of the report is focused on Tennessee. ***Section 4*** describes the legislation that the General Assembly has passed over the last five years in an effort to address elder financial exploitation in Tennessee. Changes in state laws are referred to throughout the sections that follow.

Section 5 describes how reports of elder financial exploitation are made through the agency most central to the issue, Adult Protective Services (APS) in the Department of Human Services, and how APS determines which to investigate and which to refer to other agencies.

Some of the changes in state laws (described in Section 4) reflect a legislative intent to increase the prosecution of perpetrators of elder financial exploitation. ***Section 6*** discusses how cases of elder financial exploitation are prosecuted in Tennessee, and features state district attorneys' responses to questions from OREA about how well the new laws are working.

Two state laws were crafted specifically to address the financial sector with regard to elder financial exploitation. ***Section 7*** focuses on financial institutions and the role they play in identifying and reporting elder financial exploitation, both at the state and federal level.

Section 8 describes ongoing efforts to coordinate the various state and local agencies to address elder financial exploitation in Tennessee.

Section 9 discusses difficulties inherent in estimating the prevalence and cost of elder financial exploitation in Tennessee.

Finally, the report includes overall conclusions and policy options for consideration.

See Appendix A for examples of cases of elder financial exploitation in Tennessee

For this report, OREA requested that Adult Protective Services (APS) in the Department of Human Services provide examples of actual cases of elder financial exploitation in Tennessee. The summaries, which can be found in Appendix A beginning on page 63, illustrate the serious and complex nature of cases involving elder financial exploitation.

Section 1: Defining elder financial exploitation

Elder financial exploitation is a general term for acts that target the assets of elderly individuals, from theft undertaken by trusted persons, including family members, friends, and caregivers, to scams carried out by technologically savvy strangers. In this report, the term "elder" refers to someone who is 60 years of age or older, unless otherwise noted. Some examples of elder financial exploitation that involve family, friends, or other trusted individuals include:[4]

- taking the elder's money, property, or valuables, through force or coercion
- borrowing money (sometimes repeatedly) and refusing to pay it back
- denying or withholding services or medical care to conserve funds
- giving away or selling the elder's possessions without permission
- signing or cashing pension or social security checks without permission
- misusing ATM or credit cards, or using them without permission
- giving away the elder's money to family or friends without permission
- forcing the elder to part with resources or to sign over property

Further, these actions may be complicated by an elder's lack of cognitive capacity, potentially rendering them unable to consent.

Other acts of elder financial exploitation include scams conducted by strangers, often by email, phone, or through social media. Common hoaxes include IRS impersonation scams (impersonating an IRS agent and falsely accusing seniors of owing back taxes and penalties);[5] sweepstakes scams (telling victims they must pay something to receive their prize);[6] computer scams (contacting elders to claim that their computer has a serious problem and offering to help them fix it, often by gaining remote access to their computer);[7] romance (or "sweetheart") scams (playing on emotional triggers to get elders to provide money, gifts, or personal details);[8] and grandparent scams (impersonating a grandchild who claims to need money for an emergency).[9]

Financial exploitation can affect individuals at all income levels, though some research has found that poverty may increase the risk and exacerbate the consequences of elder financial exploitation.[10] Some elder victims are reduced to poverty as the result of an incident of financial exploitation that depletes their savings and other assets. According to the National Association of Adult Protective Agencies, almost one in 10 financial abuse victims will turn to Medicaid as a direct result of their own monies being stolen from them.[11]

Definitions in Tennessee state law

Tennessee law contains more than one definition of financial exploitation of elderly and vulnerable adults.[C] The definitions vary according to the part of state law addressing the subject. Definitions appear in Title 71 concerning the operations of Adult Protective Services (APS), the central agency concerned with elder abuse in Tennessee. Definitions also exist in Title 39 concerning criminal offenses, Title 45 concerning banks and financial institutions, and Title 48 concerning the regulation of securities.

In the section of state law that describes the work of APS and defines various types of elder abuse, exploitation is defined as "the improper use by a caretaker of funds that have been paid by a governmental agency to an adult or to the caretaker for the

Definitions vary among Tennessee statutes in describing age of the elderly

Title 71, governing the operations of Adult Protective Services, sets eligibility for APS services because of "advanced age" at age 60 and over.

Title 39, concerning criminal offenses, sets the age for victims of the crime of elder financial exploitation at 70 or older.

Title 45, concerning banks and other financial institutions, and Title 48, concerning securities, both define elderly adults as those age 65 or older.

[C] Tennessee's laws concerning financial exploitation apply to both elderly and vulnerable adults. This report focuses on elderly adults though vulnerable adults are referred to at various points.

use or care of the adult."[12] This definition has not changed since the original law concerning adult protective services was passed in Tennessee in 1978.[13]

Title 39 of the Tennessee Code Annotated, which concerns criminal offenses, contains a definition that was created in 2017 and amended in 2019. In this part of state law, financial exploitation is described as:[14]

> The use of deception, intimidation, undue influence, force, or threat of force to obtain or exert unauthorized control over an elderly or vulnerable adult's property with the intent to deprive the elderly or vulnerable adult of property;
>
> The breach of a fiduciary duty to an elderly or vulnerable adult by the person's guardian, conservator, or agent under a power of attorney which results in an appropriation, sale, or transfer of the elderly or vulnerable adult's property; or
>
> The act of obtaining or exercising control over an elderly or vulnerable adult's property, without receiving the elderly or vulnerable adult's consent, by a caregiver committed with the intent to benefit the caregiver or other third party.

In Title 45, Chapter 2, Part 12, concerning banks and financial institutions, financial exploitation "means the unlawful appropriation or use of an elderly or vulnerable adult's property . . . for one's own benefit or that of a third party."[15]

In Title 48 concerning the regulation of securities, financial exploitation of elderly and vulnerable adults (here referred to as "designated adult") is described as:[16]

> The wrongful or unauthorized taking, withholding, appropriation, or use of money, assets, or property of a designated adult; or
>
> Any act or omission by a person, including through the use of a power of attorney, guardianship, or conservatorship of a designated adult, to:
>
> > Obtain control, through deception, intimidation, or undue influence, over the designated adult's money, assets, or property to deprive the designated adult of the ownership, use, benefit, or possession of his or her money, assets, or property; or
> >
> > Convert money, assets, or property of the designated adult to deprive such designated adult of the ownership, use, benefit, or possession of his or her money, assets, or property.

Section 2: The prevalence of elder financial exploitation nationwide

Several studies suggest that financial exploitation is a growing form of elder abuse, and some call it the most common form.[17] It is difficult, however, to estimate the prevalence of financial exploitation of the elderly (or any type of elder abuse) in part because of the likelihood of underreporting and because there is no mechanism to require national data collection from states (although a voluntary system is in the first years of use).[18,D] Researchers suggest that underreporting occurs for a variety of reasons, including victims' embarrassment, fear of retaliation from a perpetrator who may also act as a caregiver, and fear of placement in a facility.[19] Despite the obstacles to estimating prevalence with certainty, researchers agree that elder financial exploitation is a significant and growing problem.[20]

> "Many elderly victims do not report fraud because they feel ashamed, or they fear others will think they cannot care for themselves, which may trigger placement in a nursing home or long-term care facility. Significantly, many victims are not aware of support resources or do not know how to access them. In the case of financial exploitation, many victims have close ties to the offender and may feel protective. They may want to stop the exploitation and recover their assets, but not want the offender punished. In addition, many victims believe they are at least partially to blame."
>
> Kelly Dedel Johnson, Financial Crimes Against the Elderly, Problem-Oriented Guides for Police, Problem-Specific Guides Series, No. 20, U.S. Department of Justice, Office of Community Oriented Policing Services, 2003, p. 4.

Prevalence in research about elder financial exploitation is generally reported in two ways: as a percentage of the elderly experiencing financial exploitation (1) in the past year (past-year prevalence) or (2) at any time since the age of 60 (lifetime prevalence). In one summary of prevalence studies, estimates of past-year prevalence of elder financial exploitation ranged from 2.7 percent to 6.6 percent and lifetime prevalence at 4.7 percent (or about one in 20 older adults in their lifetimes).[21,E]

Although calculating the prevalence rate is difficult, several converging factors suggest that elder financial exploitation is likely to continue and to increase:[22]

- *Continuing surge in the elderly population, largely driven by the aging of the baby boomers.* By 2030, the U.S. population aged 65 and over is projected to be 20 percent of the total population, up from 13 percent in 2010.[23] In Tennessee, by 2030 seniors will make up 22 percent of the population, compared to 13 percent in 2010.[24]
- *Financial stability of seniors.* Seniors are more financially stable than any other demographic group, making them a worthwhile target for criminals and, often, family members.[25]
- *Life expectancy increases.* People are living longer but do not necessarily remain healthy in later life, increasing their dependency on others.[26]
- *Tech savvy criminals.* Technological advances continue, leading to ever-increasing ways for criminals to commit fraud and theft, frequently targeting the elderly.[27]

> "As people age, they often become increasingly dependent on their family members and older people's finances and other assets can become an area of contention within families. Financial abuse is usually not reported by older people and in many cases is not even detected because of discomfort or denial, and yet it potentially has devastating effects."
>
> Sarah Wendt, et al., "Financial abuse of older people: A case study," *International Social Work*, Vol. 48, Number 2, 2015, pp. 287-296.

[D] The National Adult Maltreatment Reporting System (NAMRS), developed by the Administration for Community Living (ACL) under the U.S. Department of Health and Human Services, has been collecting data on elder abuse from state Adult Protective Services programs since 2016. Submission to NAMRS is voluntary for states, which are asked to provide, at a minimum, information about APS agencies' policies and practices. They may also submit case component data and key indicators data. Tennessee is a participant. ACL officials expect that reporting will increase over time.

[E] Stephen Deane, *Elder Financial Exploitation: Why it is a concern, what regulators are doing about it, and looking ahead*, U.S. Securities and Exchange Commission, Office of the Investor Advocate, June 2018, p. 8, https://www.sec.gov/files/elder-financial-exploitation.pdf (accessed Oct. 24, 2019). Each of the five studies examined in the 2018 SEC report had limitations, including that many were based on interviews with elders who were cognitively intact and lived in the community, thus excluding a portion of the population most at risk – those with dementia or other cognitive impairments living in institutions, such as nursing homes. The authors of the SEC report, however, suggest that, taken as a whole, the studies demonstrate the "alarming significance" of financial exploitation of the elderly.

- *Cognitive loss with aging.* As people age, cognitive impairment becomes more likely, making some older individuals more susceptible to deception[28] and decreasing their ability to make sound financial decisions.[29]
- *Opioid crisis.* The opioid crisis has been linked to increases in elder abuse, including financial exploitation.[30] In 2017, Virginia Tech researchers explored the relationship between increasing high rates of opioid use and elder abuse. Through focus group interviews in four states and counties where deaths from opioids were the highest, participants reported that "the problem is escalating in scope and severity," and that "elder exploitation was the predominant form of abuse."[31]

Section 3: The cost of elder financial exploitation nationwide and in select states

As with prevalence, there is no definite conclusion about the financial losses to victims of elder financial exploitation or to society as a whole, except that the total losses are large and damaging to victims at all income levels. In 2015, the U.S. Department of Justice published *The Elder Justice Roadmap,* a broad consideration by stakeholders and subject matter experts of how to heighten public and private responses to elder abuse. One of the report's suggestions was to "identify the costs and consequences of elder financial exploitation, such as the impact on health, financial well-being, and risk for other types of elder abuse."[32]

Two frequently referenced national reports on the cost of elder financial exploitation cite estimates that range from $2.9 billion in annual financial losses for victims to an estimate of more than $36 billion a year. The authors used different methodologies to produce their estimates. MetLife[F] developed the $2.9 billion estimate in 2011 based on the financial losses of victims reported in three months of published news stories. In 2015, True Link[G] developed the estimate of more than $36 billion a year primarily using data from a survey of Americans age 50-70, which asked them to describe financial issues they experienced in caring for an older adult in the previous five years.[33]

> "When financial exploitation occurs, individuals, families, and communities may all be adversely affected. The vulnerable adult may lose his/her capacity to pay for rent, food, and medicines and may become ill, fearful, or depressed. Families may find it necessary to step in and provide care and housing for relatives who were once financially independent. At the community level, APS may be called in to investigate, and government benefits and agency services, including food, housing, and health care assistance, may be needed to compensate for stolen assets."
>
> New York State Office of Children and Family Services, *The New York State Cost of Financial Exploitation Study*, June 2016, p. 7.

In the last few years, some states have published reports with estimates of losses to victims and others resulting from elder financial exploitation. Methodologies vary among the state reports, based on available data and differing state definitions. The most rigorous methodology is often attributed to *The New York State Cost of Financial Exploitation Study* published in 2016. Researchers estimated that fiscal costs resulting from elder financial exploitation range from about $352 million to more than $1.5 billion in the state of New York, which includes service agency costs (e.g., Adult Protective Services), public benefit costs (e.g., Medicaid), and victims' financial losses. The study documented costs taken from 928 Adult Protective Services financial exploitation cases from 31 of the state's 58 social services districts during three quarters of 2013, and adjusted the results to estimate an additional $6.2 million in agency costs if the study had collected data on all referrals across the state for the 12-month observation period.[34] See Exhibit 1 for brief summaries of other states' estimated losses associated with elder financial exploitation.

> Some elder victims are reduced to poverty as the result of an incident of financial exploitation that depletes their savings and other assets. According to the National Association of Adult Protective Agencies, almost one in 10 financial abuse victims will turn to Medicaid as a direct result of their own monies being stolen from them.

Section 9 of this report addresses OREA's efforts to estimate the prevalence and cost of financial exploitation in Tennessee.

[F] MetLife is a global financial services company, providing insurance, annuities, employee benefits, and asset management. See https://www.bloomberg.com/profile/company/MET:US.

[G] True Link is a financial services firm that offers debit and credit cards and investments management for older adults, people with disabilities, and people in recovery. See https://www.truelinkfinancial.com/.

Exhibit 1: Other states' estimates of financial losses resulting from financial exploitation of the elderly

State (year of report)	Estimated financial losses
Maine (2017)	$74 million to $451 million in victims' losses only, from 2009 to 2016 (does not include public benefits costs, such as Medicaid, required because of victim losses or the cost of protective services)
*New York (2016)	$352 million to $1.5 billion estimated annual loss, including protective services or other agency costs, public benefit costs, and victim losses, based on 928 case reviews of APS referrals involving financial exploitation of vulnerable adults from 31 of the state's 58 social services districts
Oregon (2013)	$3,189,121 (in the review of 623 cases in 2013, lower estimate is based on cases for which it was possible to assign a dollar amount) up to $11,585,745 (higher estimate created by applying average loss amount based on the lower estimate to all substantiated cases of elder financial exploitation in 2013)
Utah (2011)	$47,661,900 to $209,712,624 (estimate of losses to victims, financial institutions, and government entities, based on 52 cases in 2011 and extrapolated to estimate losses for all cases)
**Wyoming (2013)	$851,693 (based on 10 cases in 2011); $1,054,472 (based on 16 cases in 2012; $493,454 (based on six cases in 2013). All estimates include losses to victims and financial institutions, and potential Medicaid costs.

Notes: * New York's study included data pertaining to vulnerable adults of all ages. New York's study found that alleged victims tended to be over 60 but 19 percent of the sample represented vulnerable individuals between 18 and 59. In substantiated cases, the average age was 73. **Wyoming's study also included data for vulnerable adults of all ages, but the average age of victims was 73.5 in 2011, 78 in 2012, and 67 in 2013.
Sources: Maine: Eileen Griffin, Catherine McGuire, and Kimberly Snow, *Financial Exploitation of Maine's Older Adults: An Analysis of Maine Adult Protective Services and Legal Services for the Elderly Case Records, State Fiscal Years 2010-2016*, Dec. 2017. New York: Yufan Huang and Alan Lawitz, *The New York State Cost of Financial Exploitation Study*, New York State Office of Children and Family Services, June 15, 2016. Oregon: Rebecca Fetters, *Financial Exploitation Data Book: A Retrospective Look at Community Based Financial Exploitation in Oregon in 2013*, Office of Adult Abuse Prevention and Investigations, Sept. 10, 2014. Utah: Jilenne Gunther, *The 2011 Utah Economic Cost of Elder Financial Exploitation*. Wyoming: Dorothy E. Thomas, Dept. of Family Services, *The Wyoming Cost of Financial Exploitation 2011, 2012 and 2013*, Dec. 2014.

Section 4: The state legislature's efforts to address financial exploitation of the elderly

This section describes the legislation that the General Assembly has passed over the last few years to address various aspects of elder financial exploitation in Tennessee. Changes in state laws are referred to throughout the sections that follow.

The Tennessee General Assembly has enacted several laws over the last few years that affect elder abuse broadly, including several laws that specifically address financial exploitation of the elderly. Three major bills passed in 2017 made substantial changes and additions to the state's laws concerning financial exploitation of Tennessee adults who are elderly or have diminished capacity. One law passed in 2018 made it easier for district attorneys general to acquire copies of APS files once they have begun to prosecute cases of neglect or financial exploitation. Another law passed in 2016 made changes that affect how reports of all types of elder abuse are reviewed with district attorneys general as the coordinating authority in each judicial district. As noted previously, a law passed in 2019, formed a task force to further address financial exploitation of the elderly, with its findings and recommendations due to the General Assembly by January 15, 2021.[35] The laws are briefly summarized below.

> "We started in 2017 in passing comprehensive elder abuse laws and every year, members of [the Senate Judiciary] committee who are returning have helped us and given us powerful tools."
>
> District Attorney General Matt Stowe, 24th Judicial District, testifying before lawmakers in 2019.

New offense of financial exploitation of elderly or vulnerable adults created

Public Chapter 466 of 2017, the **Elderly and Vulnerable Adult Protection Act,** defines and creates the new offense of financial exploitation of elderly or vulnerable adults, including the use of deception, intimidation, undue influence, force, or threat of force to obtain or exert unauthorized control over an elderly or vulnerable adult's property with intent to deprive them of it. Financial exploitation of the elderly in Tennessee was previously treated as theft under Tennessee law. But with PC 466, the Tennessee General Assembly made financial exploitation of the elderly a stand-alone offense, still punished as theft but as one classification higher than otherwise provided in law when the victim is elderly or vulnerable. From July 2017 (when the law went into effect) to March 2020, the law has been used to prosecute 353 cases in trial courts across Tennessee. (See Exhibit 4 on page 24.)[36]

Definition of financial exploitation in Tennessee state law concerning criminal offenses

TCA 39-15-501(7) "Financial exploitation" means:

(A) The use of deception, intimidation, undue influence, force, or threat of force to obtain or exert unauthorized control over an elderly or vulnerable adult's property with the intent to deprive the elderly or vulnerable adult of property;

(B) The breach of a fiduciary duty to an elderly or vulnerable adult by the person's guardian, conservator, or agent under a power of attorney which results in an appropriation, sale, or transfer of the elderly or vulnerable adult's property; or

(C) The act of obtaining or exercising control over an elderly or vulnerable adult's property, without receiving the elderly or vulnerable adult's consent, by a caregiver committed with the intent to benefit the caregiver or other third party.

PC 466, 2017; PC 474, 2019.

Under certain conditions, if a person is charged with financial exploitation of an elderly or vulnerable adult, a court may freeze assets of the offender up to 100 percent of the alleged value in question. The statute further requires those convicted to be included on the state Abuse Registry, which is maintained by the Department of Health. Businesses that employ caregivers can check the registry before hiring to ensure applicants have not been substantiated as abusers; certain state government agencies are required to do so and are prohibited from hiring any person listed on the registry.[37]

The law includes a provision that permits courts to preserve the testimony of elderly or vulnerable adult victims by taking out-of-court depositions, important because of the frailty of some

victims. PC 466 also creates a civil cause of action, allowing a victim (or their heirs, in the event of the victim's death) to recover property and damages.

Financial institutions authorized to delay or refuse transactions thought to be suspicious

Public Chapter 264 of 2017, the **Elderly and Vulnerable Adult Financial Exploitation Prevention Act,** gives financial institutions, including banks and credit unions, money transmitters, mortgage loan companies, and others, the authority to delay or refuse to conduct transactions that permit the disbursement of funds when financial exploitation of elderly or vulnerable adults is suspected. The law provides immunity for the financial services provider from all criminal, civil, and administrative liability for taking any such action. It also permits financial institutions to establish a list of persons the customer would like to have contacted if the bank suspects the customer is a victim of exploitation or theft.

PC 264 also requires financial institutions to respond, within 14 business days, to an administrative subpoena issued by APS for access to or copies of records relevant to suspected actual or attempted financial exploitation.

Requires APS to provide district attorneys general investigative files under certain circumstances, among other provisions to improve law enforcement's ability to prosecute

Public Chapter 1050 of 2018, the **Elderly and Vulnerable Adult Protection Act of 2018** added increased penalties for aggravated elder abuse. Among its many provisions, it requires APS to provide complete, unredacted copies of investigative files (excluding the identity of the referral source) to district attorneys general once they have begun prosecution for neglect or financial exploitation of an elderly or vulnerable person. It further requires APS to disclose to the district attorney general the identity of the individual who made the original allegation after an indictment has been returned.

Broker-dealers and investment advisors allowed to delay transactions thought to be suspicious

Public Chapter 424 of 2017, the **Senior Financial Protection and Securities Modernization Act** authorizes broker-dealers and investment advisors to voluntarily report to the Commissioner of Commerce and Insurance suspected instances or attempts of financial exploitation of an elderly or vulnerable person, and gives them civil and administrative immunity for making such reports. Similar (but not identical) to the provisions of PC 264 for financial institutions, PC 424 authorizes broker-dealers and investment advisors to delay disbursements from an account when they have reason to believe the disbursement may result in exploitation of an elderly or vulnerable adult, and requires them to report the delays to the commissioner.

In some cases, broker-dealers and investment advisors themselves may commit acts of financial exploitation using their customers' accounts. The Department of Commerce and Insurance has the authority to deny, revoke, or suspend licenses of broker-dealers and investment advisors, and to levy civil penalties against them. PC 424 permits the Department of Commerce and Insurance to levy a civil penalty of up to $20,000 against such broker-dealers and investment advisors when the victim of the violation is elderly or vulnerable. The penalty is capped at $10,000 for victims that are not elderly or vulnerable.

Judicial districts required to create Vulnerable Adult Protective Investigative Teams to coordinate investigations of suspected abuse, neglect, or exploitation

In 2016, the General Assembly passed Public Chapter 1006, requiring that the district attorney in each of Tennessee's 31 judicial districts create one or more **Vulnerable Adult Protective Investigative Teams** (VAPITs), to coordinate the investigation of suspected cases of abuse, neglect, or exploitation of elderly or vulnerable persons. Members of VAPITs include district attorneys, local law enforcement, APS personnel, and any others that the district attorney determines necessary. VAPITs meet at least quarterly, but may meet as often as needed. District attorneys are required to report annually to the legislature summarizing the work of each VAPIT over the previous calendar year.

Section 5: Reports of allegations and investigations of elder financial exploitation in Tennessee

This section describes how reports of elder financial exploitation are made through the agency most central to the issue, Adult Protective Services (APS) in the Department of Human Services, and how APS determines which to investigate and which to refer to other agencies. It also describes how APS investigates the cases that fit its criteria.

Under Tennessee law, every individual in the state has a responsibility to report suspected or known incidents of abuse involving vulnerable and elderly adults (defined as 60 years or older) to the Adult Protective Services (APS) division in the Department of Human Services.[38,H] The fundamental purpose of APS is, as its name suggests, to protect adults from harm.[39] APS investigates reports that meet its criteria (see the box titled "APS criteria for investigating allegations of the abuse of elderly and vulnerable persons"), involves and works with other entities (such as law enforcement, licensing agencies, district attorneys general, among others) when necessary, and aims to ensure the safety and welfare of victims (such as ensuring safety from abuse and initiating access to social supports). APS accepts reports about all types of vulnerable and elder abuse in Tennessee through a 24-hour, seven-day-a-week telephone hotline, in person, by fax, or online.[I] Failure to report abuse or suspected abuse is a Class A misdemeanor under state law.[40] (See more about APS operations in "About Adult Protective Services in Tennessee.")

The following section contains brief descriptions of how APS moves from receiving a report alleging elder financial exploitation to closing an investigation. Sections summarize how:

- APS determines which reports meet its criteria for investigation
- APS screens out reports that do not meet its criteria and forwards them to other entities
- APS investigates cases and takes actions based on investigation findings

APS determines which reports meet its criteria for investigation

APS intake staff, located in the Nashville office, initially determine whether each report of abuse it receives meets the agency's criteria for investigation, based on state law.[41,J] The criteria serve to regulate the number of investigations that APS can address within its resources. APS criteria for investigating a report of financial exploitation is based on state law, which defines financial exploitation as "the improper use by a caretaker[42,K] of funds that have been paid by a governmental agency [e.g., Social Security funds] to an adult or to the caretaker for the use or care of the adult." Thus, APS screens out reports of alleged financial exploitation that do not involve a caregiver and misuse of government funds. The law governing Tennessee's provision of adult protective services has contained this criteria since it was first passed by the General Assembly in 1978.[43] (See Appendix C for a blank copy of the intake form completed by APS staff when a report is made. See box titled "APS criteria for investigating allegations of the abuse of elderly and vulnerable persons.")

In state fiscal year 2019, out of 3,824 reports of suspected elder financial exploitation, APS screened out 756 reports that did not involve government funds and 1,565 reports that did not involve a caregiver or because

[H] Although this OREA report focuses on elder financial exploitation, state law also requires individuals to make reports involving abuse or suspected abuse concerning vulnerable adults age 18 and over who are mentally or physically impaired, and provides protective services for vulnerable adults as well. In instances or suspected instances involving sexual battery or rape, *TCA* 39-15-509 requires the individual making a report to notify law enforcement in addition to APS.

[I] Reports of adult abuse in Tennessee may be made online at https://reportadultabuse.dhs.tn.gov/ or by phone at 1-888-APS-TENN (1-888-277-8366).

[J] The determination about whether a report that is initially assigned by intake staff for APS investigation may be reconsidered, a decision that ultimately rests with the director or a designee, and screened out. According to the APS manual, this can occur when a duplicate report is received, when reported allegations do not meet criteria for APS investigation, when allegations occurred in a facility operated by the Department of Intellectual and Developmental Disabilities or by the Department of Mental Health and Substance Abuse Services, both of which conduct their own investigations, or when allegations involve a patient-to-patient or resident incident.

[K] For APS to investigate physical abuse or neglect allegations, a caregiver must be involved. This report uses the terms caretaker and caregiver interchangeably.

the alleged victim did not qualify as vulnerable.[L] In the previous year, of 3,288 reports of elder financial exploitation, the agency screened out 172 reports that did not involve government funds and 1,423 reports that did not meet the caregiver or vulnerability criteria.[M] (See box below.)

APS criteria for investigating allegations of the abuse of elderly and vulnerable persons

Under the statute defining the work of APS, "adult" is defined as a person 18 years or older who because of mental or physical dysfunctioning or advanced age is unable to manage their own resources, or protect themselves from neglect, hazardous, or abusive situations without assistance from others, and who has no available, willing, and responsibly able person for assistance. ("Advanced age" is defined as 60 years of age or older.) *TCA* 71-6-102(2) – (3)

The alleged victim must have an impaired functional status that prevents them from protecting themselves and must have no other person willing to assist them. An "impaired functional status" could include, for example, a mental health condition or a physical health condition that inhibits independent function, or frailty due to advanced age. *TCA* 71-6-102(2)

The allegation must indicate that the alleged victim has been abused, neglected, or financially exploited, or is self-neglecting, or is at risk of one or more of these forms of abuse.

The alleged financial exploitation, physical abuse, or neglect must be by a caregiver, either paid or unpaid. Additionally, for allegations concerning financial exploitation, the caregiver must be alleged to have used funds intended for the care or use of the adult, and the funds must have been paid to the adult or the caregiver by a governmental agency. *TCA* 71-6-102(5) and (8)

If sexual abuse is reported, the alleged perpetrator does not have to be a caregiver to set in motion an APS investigation. *TCA* 71-6-102(13)

APS screens out reports that do not meet its criteria for investigation and forwards them to other entities

After APS screens out reports that do not meet its criteria for investigation, the agency forwards them to other entities as appropriate, including other state agencies, which may investigate and take further action. For example, APS would likely screen out a report that involves stolen cash or property from an elderly person's home that does not involve a caregiver, unless the report included some possibility of another type of abuse that occurred alongside the theft. APS forwards all screened out reports,[N] as well as reports that are assigned for investigation within APS (i.e., those that meet its criteria), to law enforcement and the offices of the district attorneys general in the 31 judicial districts across the state.[44] (See Exhibit 2 for a list of agencies to which APS forwards reports, and see the box on the next page listing the reasons APS screens out reports of elder financial exploitation.)

[L] Under the statute defining the work of APS, "adult" is defined as a person 18 years or older who because of mental or physical dysfunctioning or advanced age is unable to manage their own resources, or protect themselves from neglect, hazardous, or abusive situations without assistance from others and who has no available, willing, and responsibly able person for assistance. ("Advanced age" is defined as 60 years of age or older.) The alleged victim must have an impaired functional status that prevents them from protecting themselves and must have no other person willing to assist them. An "impaired functional status" could include, for example, a mental health condition or a physical health condition that inhibits independent function, or frailty due to advanced age. *TCA* 71-6-102.

[M] Data supplied by APS to OREA.

[N] District attorneys and law enforcement receive all screened out reports from APS except those that involve self-neglect, which is not a crime. APS investigates cases of self-neglect.

Reasons APS may screen out a report of elder financial exploitation

APS, as noted previously, screens out reports of elder financial exploitation if they do not involve the misuse of government funds by a caretaker, as stated in law. The list of reasons below come from the form that APS uses to refer reports to other agencies. APS selects from this list to inform other agencies of the reasons that APS is not investigating a case:

- allegations already resolved
- allegations do not pose a current risk
- allegations involve patient to patient or resident to resident
- allegations occurred in a facility operated by either the Department of Mental Health and Substance Abuse Services or the Department of Intellectual and Developmental Disabilities*
- allegations occurred in the past and the alleged perpetrator no longer has access to the client or other vulnerable adults
- alleged victim is not in Tennessee
- caller only needs information and/or resources
- duplicate report at time of intake
- duplicate report – allegations previously investigated within 30 days
- law enforcement or legal issue only
- allegations do not meet criteria for assignment
- no identifying information/location
- no physical or mental impairment or frailty
- there are others willing and able to assist
- training/provider issue
- alleged victim is under 18

Notes: 1. * *TCA* 71-6-103(k)(2) provides that APS is not required to investigate reports made concerning facilities operated by the Department of Mental Health and Substance Abuse Services and the Department of Intellectual and Developmental Disabilities. These facilities undertake their own investigations in such cases. 2. This list applies to all types of elder abuse reports, not only those alleging elder financial exploitation.
Source: Tennessee Department of Human Services, Adult Protective Services.

In state fiscal year 2019, APS forwarded the largest number of reports to district attorneys, followed by local police, local sheriffs, and the Tennessee Bureau of Investigation (TBI). The number of reports to district attorneys increased significantly between 2016 and 2017, following the legislative directive to create Vulnerable Adult Protective Investigative Teams (VAPITs) in each judicial district. District attorneys asked APS to begin forwarding all screened out reports at that time. District attorneys and others invited by district attorneys to be part of the VAPIT meetings in each judicial district review referrals from APS to determine which cases need follow up and which may be appropriate for investigation and prosecution. (See "Section 6: Prosecuting elder financial exploitation cases in Tennessee" for more information about VAPITs and the prosecution of elder financial exploitation.)

Law enforcement is included in VAPIT meetings routinely, as well as members of local APS offices. (See Exhibit 2 for the number of elder financial exploitation reports APS has forwarded to other agencies. See Appendix D for a blank copy of the form APS uses to send referrals.)

Exhibit 2: Number of referrals from APS to other agencies related to financial exploitation of the elderly, age 60 and over, state fiscal years 2015 through 2019

Agencies	SFY 2015	SFY 2016	SFY 2017	SFY 2018	SFY 2019
Local Police	900	1,055	1,717	2,309	2,612
District Attorney	74	196	2,004	3,304	3,831
Local Sheriff	555	611	936	1,308	1,517
Tennessee Bureau of Investigation (TBI)	68	121	266	423	242
Department of Health	60	110	225	248	238
TennCare/Medicaid	16	34	101	184	238
Dept. of Mental Health and Substance Abuse Services	11	22	77	84	152
Dept. of Intellectual and Developmental Disabilities	13	10	23	42	24
Ombudsman for Long Term Care	21	45	90	171	196
CREVAA	NA	NA	NA	NA	863
Other	2	4	2	2	4

Note: Some allegations received by APS were referred to multiple agencies. The Collaborative Response to Elder and Vulnerable Adult Abuse (CREVAA) provides emergency services and supports to older and vulnerable adult victims of crime in all 95 counties in Tennessee. CREVAA was established in 2018 and APS was able to count referrals to the program beginning in SFY2019. For more information about CREVAA, see Tennessee's Collaborative Response to Elder and Vulnerable Adult Abuse (CREVAA) on page 22 or go to https://www.tn.gov/aging/our-programs/crevaa.html.
Source: Department of Human Services, Adult Protective Services.

APS investigates cases and takes actions based on its findings

APS prioritizes its investigative responses to reports that meet its criteria, ranging from response within 24 hours to response within seven business days, according to the immediate risk to the alleged victim. All response levels require APS to initiate face-to- face contact with the alleged victim. Financial exploitation cases are generally given a priority response that requires in person contact with the alleged victim within seven business days unless another type of abuse may have occurred that potentially places the alleged victim in more immediate danger.[45]

APS staff who investigate alleged reports of financial exploitation follow these guidelines:[46]

- face-to-face contact and interview with the alleged victim alone
- home visit and/or visit to current living arrangement, if applicable
- research prior APS records, if they exist, including a check of the Vulnerable Persons Registry if the alleged perpetrator is a paid caregiver
- contact others, including formal service providers, the person who made the report, and witnesses, for information about the allegations and to ascertain risk of harm
- notify individual who made the report (referent) of outcome of APS investigation
- complete safety assessment
- refer for services, if allegation is substantiated or threat of harm is determined

- verify type of health insurance: TennCare/Medicaid, etc.
- notify local animal shelter of animal cruelty, when applicable
- obtain medical/mental health records, or obtain information from medical/mental health professionals who have information about the victim
- obtain mental health evaluation, if needed
- obtain incident reports, personnel records, and check law enforcement records, if needed
- send form 1215 (see Appendix D for a copy of the form APS uses to refer reports to other agencies and programs) to law enforcement, district attorney, and, if applicable, licensing agency
- interview the alleged perpetrator
- obtain copies of financial information and identify the location of institutions where the victim's assets may be located – this may require the issuance of an administrative subpoena
- determine if the alleged victim has either an attorney-in-fact (i.e., a person with a power of attorney) or a conservator with authority over the victim's finances or other person in a fiduciary capacity, such as a trustee from whom the victim receives funds

Tennessee Abuse Registry
The Abuse Registry for the State of Tennessee is maintained by the Department of Health. The registry, which is available to the public online, contains names of persons who have abused, neglected, exploited, or misappropriated the property of vulnerable persons.

The names on the Abuse Registry are submitted for placement by Tennessee departments and agencies that oversee the protection and welfare of vulnerable persons, such as APS, the Department of Intellectual and Developmental Disabilities, and the Department of Mental Health and Substance Abuse Services. Law enforcement agencies may also submit names.

Under state law, no employee or volunteer whose name is listed on the Abuse Registry may be hired or otherwise permitted to provide services to vulnerable persons.

Source: *TCA* 68-11-1001, 1003, and 1004.

APS investigations result in cases being determined as either:[47,O]

- *substantiated*
  - with the alleged perpetrator indicated as responsible for the abuse (meaning, APS determined that the abuse alleged did occur and that a preponderance of the evidence indicates the alleged perpetrator is responsible for the abuse) or
  - with the alleged perpetrator unfounded as responsible for the abuse (meaning, APS determined that the abuse alleged did occur, but that a preponderance of the evidence does not indicate the alleged perpetrator is responsible)
- *unsubstantiated* – meaning that APS determined that the information and evidence gathered during the investigation does not support that abuse occurred or that the alleged victim is at risk or
- *valid threat of harm* – meaning the allegations were neither substantiated nor unsubstantiated, but APS believes that, without intervention, there is a substantial probability of harm to the alleged victim in the immediate or near future

Prior to the closing of a case, APS staff review whether a perpetrator has been indicated and whether it is appropriate to seek an injunction against the perpetrator, to prevent them from acting as a caregiver for any person. State law also authorizes APS to apply to a court for a temporary or permanent restraining order against a caregiver who has engaged in the abuse, neglect, or exploitation of an adult.[48] Finally, APS has the authority to place an indicated perpetrator on the Tennessee Department of Health's vulnerable persons registry, which would permanently prevent their employment as a caregiver anywhere in the state.

[O] Cases that are termed "valid threat of harm" are those for which the case was neither substantiated nor unsubstantiated, but APS determined that the alleged victim was in immediate danger. In these cases, APS offers services that are needed to prevent harm to the alleged victim. Cases may also be considered "invalid" (i.e., no substantiated allegations of abuse, neglect, or exploitation and the assessment does not show threat of harm or risk to the alleged victim) or "incomplete" (i.e., various reasons, including alleged victim has capacity but refuses services).

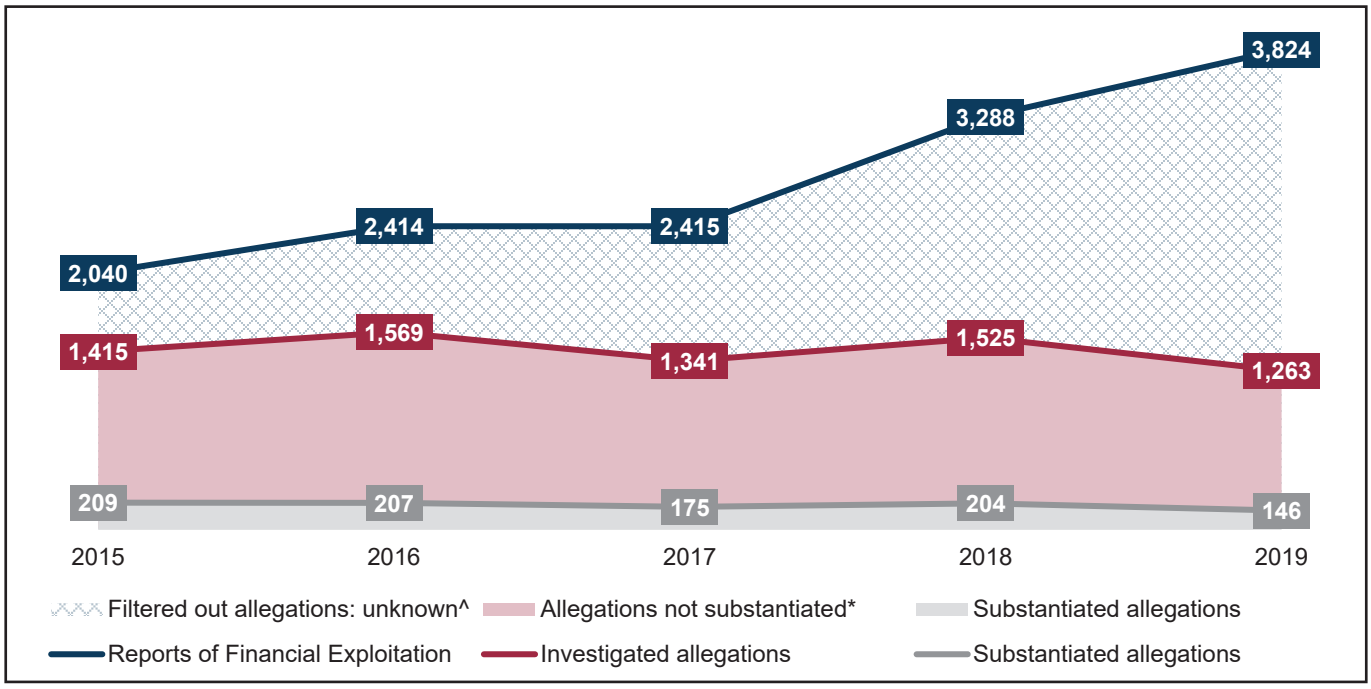
Reports of elder financial abuse received and investigated by APS since 2015

As shown in Exhibit 3, the number of reports of elder financial abuse received by APS increased from 2,040 in 2015 to 3,824 in 2019, representing an 87 percent increase.[p] The largest increase in reports was between 2017 and 2018, following the passage of two laws that equipped and encouraged financial institutions to report suspicious activity involving elderly or vulnerable adults to APS and law enforcement.

Each report received by APS contains at least one allegation of elder abuse but may contain multiple allegations. For example, one reporter may accuse multiple perpetrators of financially exploiting an elderly family member. This would be one report with multiple allegations, which would have to be substantiated individually. Currently, APS data does not track the total number of allegations received, only the number of reports. This is because allegations are only tracked once they are chosen for investigation. The number of allegations contained in reports that are screened out, therefore, is unknown.[49]

Although it is not possible to know the number of allegations screened out, one trend is notable: as the number of *reports* increased, the number of *allegations* investigated by APS did not increase. Between 2015 and 2019, the number of APS-investigated allegations ranged from 1,263 to 1,569, and in some years the number of investigations increased, while in others it decreased. Overall, though, there was no upward trend in APS-investigated allegations over this time period. This means that since 2015, APS has likely screened out an increasing number of allegations each year.

Exhibit 3: Number of reports concerning elder financial exploitation made to APS, and numbers of allegations investigated and substantiated by APS | 2015-2019



Note: ^Each report received by APS contains at least one allegation of elder abuse but may contain multiple allegations. Currently, APS data does not track the total number of allegations received, only the number of reports.
*In this chart, reports that are not substantiated include reports that APS deemed unsubstantiated and reports that APS found to involve a valid threat of harm. (See page 18 for more information about investigation outcomes.)
Source: OREA analysis of data provided by the Department of Human Services, Adult Protective Services.

[p] Allegations are individual claims of abuse. APS receives reports, which may contain several allegations. For example, a reporter may identify a caretaker who they believe is financially abusing multiple patients. This would be one report containing several allegations, one for each patient who the reporter believes is being abused.

Similarly, APS was able to substantiate a varying number of allegations between 2015 and 2019, but there was neither an upward nor downward trend. In general, as the number of reports received by APS increased, the number of allegations investigated and substantiated has not increased.

This may be due, in part, to the increased number of reports from financial institutions that do not explicitly meet APS's criteria for investigations (i.e., do not clearly mention government funds misused by a caretaker). Those who work at financial institutions are less likely than other types of reporters, such as family members, to know whether the potential exploiter is a caregiver and cannot definitively explain the relationship between the potential victim and perpetrator in the report made to APS. If the report does not state that the potential exploitation was committed by a caregiver, APS is more likely to screen it out.[50] These reports are instead forwarded by APS to district attorneys, law enforcement, and other relevant agencies for possible investigation. (See "Section 6: Prosecuting elder financial exploitation cases in Tennessee" for an explanation of how law enforcement and district attorneys review reports forwarded by APS.)

Definition of caretaker under Tennessee law

A caretaker (or caregiver) is an individual or institution who has assumed the duty to provide for the care of the adult by contract or agreement. A caretaker may be a parent, spouse, adult child, or other relative, either biological or by marriage, who:

- lives with or in the same building with or regularly visits the adult;
- knows or reasonably should know of the adult's mental or physical dysfunction or advanced age; and
- knows or reasonably should know that the adult is unable to adequately provide for the adult's own care.

A financial institution may be considered a caretaker only if it has entered into an agreement to act as a trustee of an adult's property or has been appointed by a court of competent jurisdiction to act as a trustee with regard to the property of an adult.

Source: *TCA* 71-6-102(5).

According to an APS official, financial institutions are also more likely than other types of reporters to report online or through fax. Reports received via these means are also more likely to be screened out than those received by phone. One reason for this is that intake workers are able to obtain more needed information through phone calls when they are speaking directly with the person making the report. They are trained to ask follow-up questions and have a better understanding of the definitions of "caretaker" and "governmental funds" for the purposes of APS screening. They are trained to interpret the information provided to them and make a screening decision. Reports submitted online or through fax are static and often do not provide the same level of detail that a phone conversation, with follow-up questions, can provide.[51] For example, a bank teller may not know the exact relationship between a potential victim and alleged perpetrator and would therefore not describe the perpetrator as a caregiver on an online form. On the phone, though, an intake worker could ask follow-up questions that could reveal, for example, that the teller knows the alleged perpetrator visits the victim regularly and is aware that the victim has dementia. This information could be used by an intake worker to make the determination that the alleged perpetrator may act as a caretaker, prompting further investigation, even if the teller did not know to make that assertion.

Intake workers are expected to follow up by phone on all reports submitted online and via fax, but they are sometimes unable to reach the original reporter, especially those at financial institutions that follow a hierarchical system of reporting. This means that tellers or other frontline staff who witness a potential incident of elder financial exploitation are not the persons directly reporting incidents to APS. Many banks have policies that prevent frontline bank employees, like bank tellers, from reporting potential abuse directly to APS, and instead require that initial reports be made to supervisors or other bank officials. In the case of large nationally chartered banks with branches in Tennessee, reports may go to headquarters located in another state. In these cases, supervisory personnel complete the report and submit it to APS without the name of the original reporter, instead providing the name of the main bank. APS then may have difficulty confirming information in the report. APS officials indicate that the number of these "non-person" reports have increased in recent years, adding to the higher rate of screen-outs.

In interviews with OREA, an APS official explained that, during peak times for reporting, APS intake workers are also not able to follow up on each online and faxed report. Especially during the summer, reports of abuse to APS increase and intake workers are at full capacity with phone calls. APS has not increased the number of intake workers since 2015, despite the increase in reports, especially from banks and other financial institutions. If these reporting and staffing trends continue, intake workers will have less capacity to follow up on online and faxed reports.

> "I think it [the creation of VAPITs] has shed light on the fact that APS is short staffed, and they seem overwhelmed with responding to the number of referrals they receive."
>
> Comment from a district attorney general

APS and law enforcement agencies may assist each other in the course of their separate investigations, but the overarching goals of the two are different.

While APS investigates cases with the primary goal of ensuring the safety of victims and connecting them to social services as needed, the goals of law enforcement investigations include determining whether criminal activity has occurred, charging and arresting those responsible, and providing evidence to support a conviction in court. APS is not a law enforcement agency and cannot make arrests or charge an alleged perpetrator with a crime. The agency's legal authority is limited. APS has the authority to have a perpetrator placed on the state's vulnerable persons abuse registry at the close of a case that was substantiated with an indicated perpetrator. It also has the authority, where necessary, to seek legal action from a court in order to take victims into custody for their safety (generally, this means placement in a nursing home facility), to have permanent or temporary orders of protection issued, and to issue an administrative subpoena to obtain financial records from financial institutions.

Comparing Adult Protective Services in Tennessee to similar services in other states

States' APS units differ widely and it is difficult to compare them in every operational aspect. Some states invest few resources in APS investigative functions and instead rely largely on law enforcement to investigate. Most states have criteria that restrict APS investigations in some way. For example, like Tennessee, most states limit the individuals they serve to those that are vulnerable and have no other assistance.

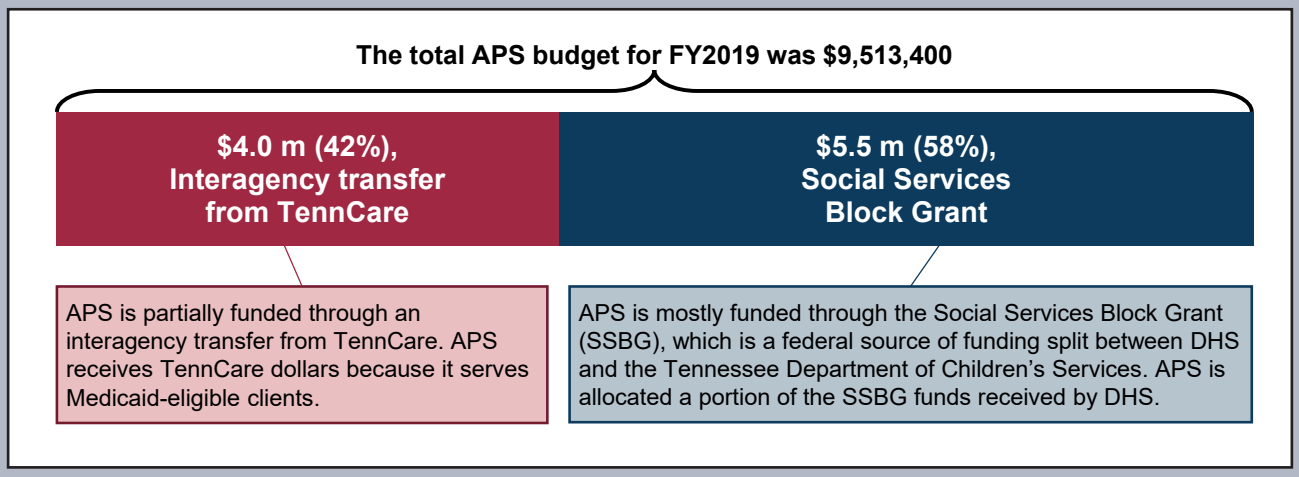
Tennessee appears to be distinct in one aspect of its approach to adult protective services. In Tennessee, APS is authorized to investigate allegations of elder financial exploitation only if they involve governmental funds and the alleged perpetrator is a caregiver. In a review of about half the states, including all Southeastern states, OREA found no other states that limit APS investigations of elder financial exploitation to allegations that involve a caregiver's misuse of governmental funds.

About Adult Protective Services in Tennessee

The Tennessee Adult Protection Act, originally passed in 1978, authorizes the Department of Human Services to provide protective services for vulnerable and elderly adults. Though the laws have been revised and expanded over the years, the essential mission of APS remains the same: to provide protective services to vulnerable and elderly adults who are unable to manage their own resources, carry out the activities of daily living, or protect themselves from neglect, or from hazardous or abusive situations, without assistance, and who have no available, willing, and responsibly able person to help them. The Adult Protective Services (APS) program in DHS accepts reports about all types of vulnerable and elderly adult abuse in Tennessee through a 24-hour, seven-day-a-week hotline.

As of 2019, APS has 146 total staff positions. The division has three areas of operation: Intake, Field Operations, and Interagency Collaboration. Intake staff receive, record, and enter into the APS system each reported allegation of abuse, and make an initial determination of whether each report meets the agency's minimum criteria for investigation. Field Operations include APS investigators located throughout the state who follow designated procedures to ensure that alleged victims are safe and to determine the facts about the alleged abuse in each report assigned to them. Interagency Collaboration works to ensure coordination among APS and other agencies that are involved in working with the elderly and vulnerable population. The majority of positions are investigative specialists, at 98 positions or 67 percent of total positions, located in field offices across the state. Sixteen positions are intake positions (12 counselors, three supervisors, and one secretary) located in the state office in Nashville. APS has one state director and three program directors (one each for Intake, Field Operations, and Interagency Collaboration), four regional supervisors, and 17 team coordinators. Other positions are two program managers, two support staff, and three community service assistants.[52]

APS funding sources, FY2019



Source: OREA analysis of the APS budget.

The total APS budget for FY2019 was $9,513,400. APS gets no state funding.[Q] The agency is funded through an interagency transfer from TennCare[R] (about 42 percent of APS's budget comes from this) and through the federal Social Services Block Grant (about 58 percent of APS's budget comes from this), which is split between the Tennessee Department of Children's Services (DCS) and DHS. DCS receives about 67 percent of the SSBG funds and DHS gets about 33 percent, which is determined by the legislature. APS is allocated a portion of the SSBG split that DHS receives – DHS also allocates some of the SSBG funds to agencies (e.g., human resource agencies and nonprofit organizations) to provide homemaker services[S] and adult daycare programs.[53,T] *TCA* 71-6-111 states that the legislative intent is that adult protective services should be provided by the Department of Human Services, but the provision of such services is "subject to budgetary limitations and the availability of funds appropriated for the general provision of protective services to all persons entitled to services." The language is essentially the same as the original bill passed in 1978 to authorize adult protective services in Tennessee.

[Q] As noted, some APS funds come through TennCare, which requires a state match; thus, APS receives some indirect state funding.
[R] APS receives TennCare dollars because it serves Medicaid-eligible clients.
[S] Homemaker Services are limited to low-income elderly or disabled adults who are referred by APS due to allegations of abuse, neglect, or exploitation. Homemaker Services are limited in-home personal care services designed to allow participants to remain in their own residence and maintain independence. DHS Homemaker Program, https://www.tn.gov/humanservices/adults/css-homemaker-program.html (accessed Feb. 5, 2020).
[T] Adult day services are for those vulnerable adults who do not need the services of institutional care, such as nursing homes, but they still need services that will help them function independently. Adult day services help relieve isolation and loneliness for older adults, and help their caregivers (such as family members) take some time to rest and care for themselves. DHS Adult Day Services, https://www.tn.gov/humanservices/adults/aps-adult-day-care.html (accessed Feb. 5, 2020).

Tennessee's Collaborative Response to Elder and Vulnerable Adult Abuse (CREVAA)

APS also refers reports to CREVAA, the Collaborative Response to Elder and Vulnerable Adult Abuse program, established in 2018 by the Tennessee Commission on Aging and Disability, in conjunction with the Area Agencies on Aging and Disability, Human Resource Agencies, and others. The CREVAA program provides emergency services and supports to older and vulnerable adult victims of crime in all 95 counties in Tennessee. To be eligible for CREVAA's services, a person must be 60 years of age or older or a vulnerable adult 18-59 who is mentally or physically disabled and unable to carry out the activities of daily living or protect themselves from neglect or hazardous or abusive situations without assistance, and are alleged to be a victim of crime.[54] Through a Memorandum of Understanding between the two agencies, APS provides CREVAA with any reports of allegations that may involve a crime, as well as all screened out reports that appear to meet CREVAA criteria.

CREVAA serves elderly and vulnerable adults who are victims of crime, including financial exploitation, and helps connect victims to direct services. The program is funded through the Tennessee Office of Criminal Justice Programs[U] with Victims of Crime Act (VOCA) funds – in 2020, the program received $3,042,438. CREVAA employs 20 advocates across the state who are attached to the Area Agencies on Aging and who work directly with victims. In state fiscal year 2019, CREVAA served 1,853 clients. The program is limited to providing no more than $1,200 of direct cash assistance to individual victims, which may be used for temporary housing or clothing and personal care items, for example. Beyond direct cash assistance, CREVAA is able to connect victims with resources, such as medical attention, housing, Medicaid enrollment, obtaining a Designated Power of Attorney through TCAD's guardianship program, providing personal care and homemaker services, and help with filing for disability, among others.[55]

CREVAA also works with stakeholders, including Adult Protective Services, law enforcement, district attorneys, and other aging-related service providers. In a case that APS investigated and also sent to CREVAA for services, a female more than 80 years old was the victim of neglect and financial exploitation by her adult granddaughter. The victim had been moved several times in a six-month period and was living in unsafe conditions with no personal items. The granddaughter withdrew all the victim's money each month, which included SSI funds, to purchase drugs and also used or sold her grandmother's prescription medications. When CREVAA advocates visited her, the victim was found lying on a couch soaked in urine and was unable to sit up on her own – she weighed about 80 pounds and was malnourished and dehydrated.[56]

CREVAA encouraged her to allow them to call an ambulance and go to the hospital. She agreed and CREVAA advocates accompanied her there. CREVAA assisted with Medicaid enrollment for long-term care for the victim and worked with the nursing home. Required documentation for TennCare was obtained by law enforcement, APS, and CREVAA on the victim's behalf. CREVAA also worked with West Tennessee Legal Services to ensure that the victim had someone to help take care of her. Advocates further assisted her with obtaining a new bank account so her granddaughter did not have access to withdraw funds, and provided her with new clothing and personal care items. One of the state's Area Agencies on Aging is now her Designated Power of Attorney through TCAD's guardianship program. CREVAA reports that the victim has gained weight and the agency was able to help her get needed dental work. She is reported to be healthy and thriving in the nursing home where she enjoys playing Bingo. She calls CREVAA advocates her guardian angels.[57]

[U] The Office of Criminal Justice Programs is a division of the Tennessee Department of Finance and Administration. OCJP secures, distributes, and manages federal and state grant funds for Tennessee, including grants from the federal Victims of Crime Act (VOCA) Fund.

Section 6: Prosecuting elder financial exploitation cases in Tennessee

Some of the recent changes in state laws (described in Section 4) reflect a legislative intent to increase the prosecution of perpetrators of elder financial exploitation. This section discusses how cases of elder financial exploitation are prosecuted in Tennessee, and features state district attorneys' responses to questions from OREA about how well the new laws are working.

Tennessee is divided into 31 judicial districts. Each district has judges, district attorneys, and public defenders to administer the criminal justice system. Tennessee's district attorneys general are constitutional officers, with the primary duty to prosecute criminal cases in their respective judicial districts. As the chief law enforcement officials in their judicial districts, district attorneys are vested with broad powers. "They do not represent a party to a controversy, but rather represent the State of Tennessee. Unlike other attorneys, their obligation is not to a client, but rather that justice be done."[58] District attorneys general are state employees and their offices are funded by the state. Several offices also receive local support from the counties they serve.[59]

Summary of issues raised by district attorneys across the state

In 2019, OREA enlisted the aid of General Lisa Zavogiannis of the 31st Judicial District, who has been active in advocating for and helping develop legislation concerning elder financial exploitation in Tennessee. On behalf of OREA, General Zavogiannis obtained responses from 19 of the 31 districts to questions posed by OREA concerning the prosecution of elder financial exploitation cases. In their responses, several districts identified similar themes, and these are summarized below. Quotations from the district attorneys general who supplied information to OREA are also shown in shaded boxes throughout this section.

- *Coordination of investigations have improved because of VAPITs.* The creation of the Vulnerable Adult Protective Investigative Teams (VAPITs) in each judicial district, as required by Public Chapter 1006 in 2016, is helping to coordinate efforts to identify and investigate cases for prosecution. Members of VAPITs include district attorneys, local law enforcement, APS personnel, and any others that the district attorney determines necessary. VAPITs meet at least quarterly but may meet as often as needed to review reports that have been referred to them by APS. Since 2017, APS has forwarded all reports of elder financial exploitation it receives to district attorneys and those reports are then reviewed at VAPIT meetings. Several district attorneys say that VAPITs have allowed APS workers and law enforcement personnel, both of which are typically present at VAPIT meetings, to better coordinate criminal investigations between their agencies. One district noted that VAPITs have improved networking among these agencies by requiring that key players in the investigation and prosecution of cases involving exploitation of elders and vulnerable adults interact with each other frequently, saying that "VAPIT provides a ready-made network of support for the many officers struggling to deal with the onslaught of crimes against elders and vulnerable adults."

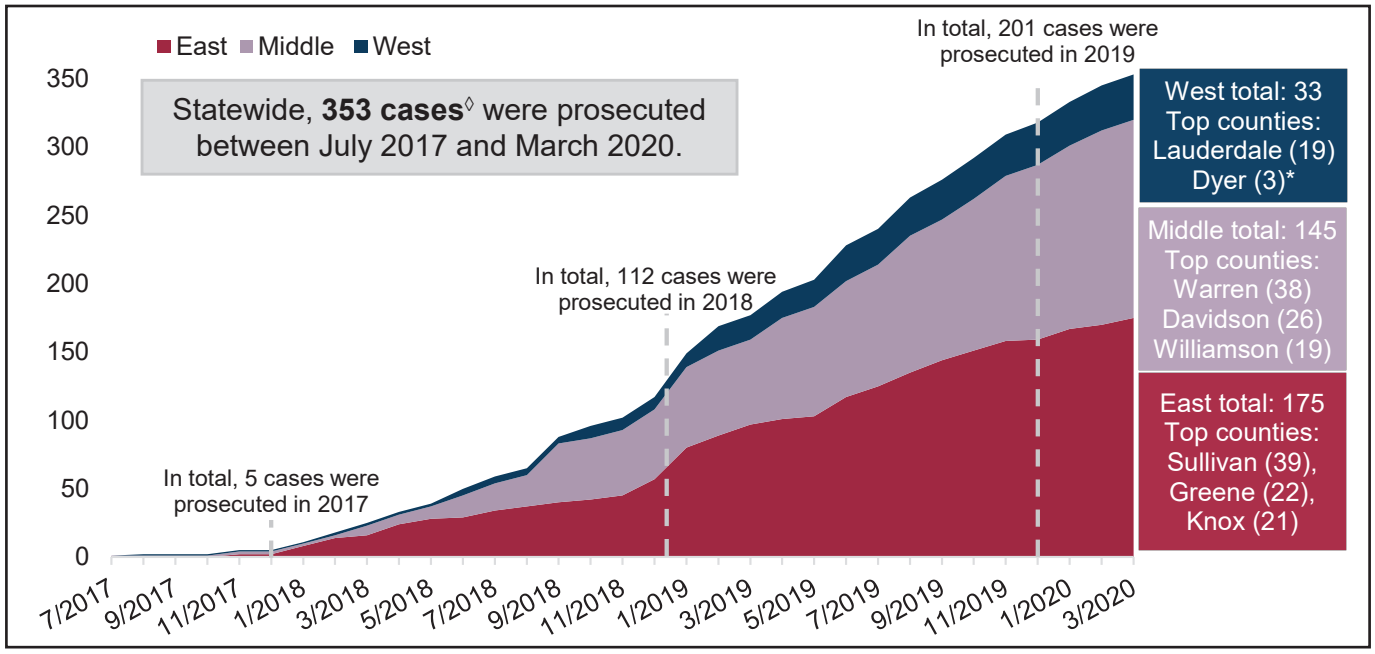
> "The most significant area of improvement that has resulted from the creation of VAPIT is in the detection and prosecution of financial exploitation cases. VAPIT provides a means for APS to share these types of cases with law enforcement and the district attorney, so that proper investigations and prosecutions can occur."

- *Tracking case data is difficult and not consistent across the state, but the number of prosecutions may be increasing.* The ability for judicial districts to track case data is inconsistent across the state, and the Administrative Office of the Courts, which collects data on criminal prosecutions from district attorneys, has no way to quantify the number of elder financial exploitation cases. This is because the offense of elder financial exploitation may be prosecuted under several charges (e.g., theft, fraudulent use of a credit or debit card, fraud) and there is currently no way to distinguish which of these cases involve

elder victims. Since 2017, prosecutors can also charge alleged perpetrators with financial exploitation of an elderly adult and the AOC collects the number of prosecutions under that charge.[V] The 2017 statute also applies to vulnerable adults, who are 18 or older.[W] Because AOC data does not track victims' ages, however, a count of financial exploitation committed against an elderly victim is indistinguishable from the same offense committed against a vulnerable victim who is not elderly.[X]

Anecdotally and by case data in some districts that were able to report, the number of prosecutions of elder financial exploitation appears to be increasing since 2017 as districts become more familiar with the new laws. The AOC data on prosecutions of financial exploitation of an elderly or vulnerable adult shows the same trend: since 2017 the number of cases under that statute has increased each year. (See Exhibit 4.) One district attorney general estimated that it would probably take about five years from when the new laws became effective to fully determine the extent to which they have resulted in increased prosecutions and convictions.

Exhibit 4: Cumulative number of cases prosecuted under the Elderly and Vulnerable Adult Protection Act statute in criminal court+



Notes: +These numbers reflect cases involving both elderly victims (age 70 and older) and vulnerable adults (age 18 and older) who meet the definition of "vulnerable" under Tennessee law. AOC data does not track prosecutions by victim age. ◊These numbers do not include cases prosecuted in general sessions courts because there is insufficient data from such courts. *Only two counties are shown for the West grand division because four counties prosecuted two cases each (Gibson, Madison, McNairy, and Weakley).
Source: OREA analysis of AOC data.

"A designated database for tracking financial exploitation cases and elder abuse cases would prove helpful. By dedicating a database for the entry of cases referred, reviewed, and prosecuted, it would allow these cases to be tracked, not only by status, but by the age of the case. A database could also allow for creation of a "docket" for VAPIT meetings to ensure that all cases that may result in criminal activity are not overlooked."

[V] "Elderly adult" is defined in *TCA* 39-15-501 (14) as 70 years or older.
[W] Under *TCA* 39-15-501 (14), "vulnerable adult" means a person 18 years of age or older who, because of intellectual disability or physical dysfunction, is unable to fully manage the person's own resources, carry out all or a portion of the activities of daily living, or fully protect against neglect, exploitation, or hazardous or abusive situations without assistance from others.
[X] Under the statute defining the work of APS (*TCA* 71-6-102), "adult" is defined as a person 18 years or older who because of mental or physical dysfunctioning or advanced age is unable to manage their own resources, or protect themselves from neglect, hazardous, or abusive situations without assistance from others and who has no available, willing, and responsibly able person for assistance. "Advanced age" is defined as 60 years of age or older in the statute. In contrast, the criminal statute (*TCA* 39-15-501) that authorizes prosecution for the offense of elder financial exploitation defines "elder" as a person 70 years of age or older.

- *District attorneys say their offices lack adequate resources for financial exploitation cases in particular,* which they describe as complex, challenging, and resource intensive. Many cited a lack of access to staff with expertise in tracking assets and forensic accounting, which can hinder investigations of financial wrongdoing. Some districts lack a sufficient number of criminal investigators on staff (or believe more will be needed as case numbers increase) and some must rely heavily or fully on local law enforcement for all investigations. Some said that law enforcement officers often lack the proper training to conduct thorough investigations in complex elder financial exploitation cases.

"Manpower is the biggest lacking resource, particularly with financial exploitation cases, which can be tedious and time consuming. Some also require specialized skill and training, and most law enforcement officers are not trained accountants."

- *Some district attorneys question Tennessee's laws concerning confidentiality for individuals who report elder abuse, saying withholding this information from law enforcement hinders investigations.* APS is required to provide the district attorney general with a complete and unredacted copy of its investigative files for a report once criminal prosecution has begun, but cannot, under the law, disclose to the district attorney general the identity of the individual who made the original allegation until after an indictment has been returned.[60] Some district attorneys note the inconsistency in Tennessee law between confidentiality requirements concerning the reporter of an allegation provided for child abuse cases compared to those for elder abuse cases.

  Under state law pertaining to child abuse investigations,[61] the Department of Children's Services (DCS) is allowed to identify the reporter (or referent) of child abuse to the district attorney general and law enforcement for the purpose of cooperating with a law enforcement investigation. In addition, DCS is required by statute to investigate all severe abuse cases collaboratively with law enforcement and the DA as members of a Child Protective Investigative Team (CPIT), which allows DCS to share the name of the reporter.[62]

  OREA found that several other states permit the release of the name of the reporter of abuse to law enforcement and district attorneys who are investigating incidents of elder abuse. These include Arkansas, Colorado, Georgia, Idaho, Louisiana, Nevada, and Oregon. Some states, such as Illinois, Indiana, and Nebraska, permit the release of the reporter's name to law enforcement or other investigating agencies only in response to a court order.

"The identity of the complainant [also called reporter or referent] is crucial information to the criminal investigator. . . A referent knows more than the brief facts in the referral. . . A referent provides facts that the referent thinks important but those facts may not provide a basis for prosecution. At the same time a brief interview of the referent by law enforcement may quickly yield proof of prosecutable facts because the officer knows what information to seek from the referent. . . [W]e have all seen investigations abandoned for lack of a clear investigatory lead for the investigator to follow."

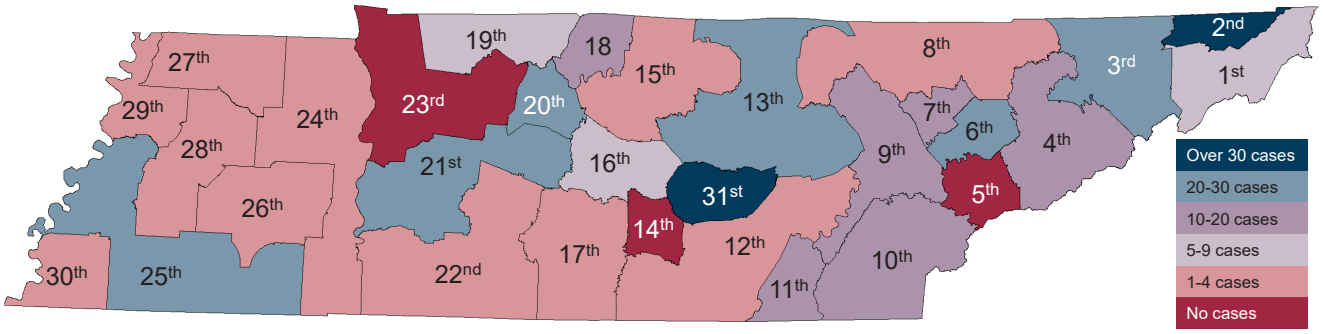
Prosecutions of elder financial abuse across Tennessee

Prosecutors are able to charge financial exploiters with a variety of criminal offenses, depending on the allegation. These include theft, robbery (i.e., theft by violence or putting the person in fear), extortion, fraudulent use of a credit or debit card, and passing worthless checks. Until 2017, there was no specific charge for financial exploitation of the elderly. Since July 2017, when the law creating the offense became effective, prosecutors have been able to charge a defendant with financial exploitation of an elderly or vulnerable adult. The charge is similar to theft but, in cases involving victims who are elderly or vulnerable, the penalty is one felony classification higher than theft charges in which the victim is not elderly or vulnerable. Between July 2017 and March 2020, over 35o cases have been prosecuted in Tennessee under this new statute.

There are notable differences across the state in the number of cases prosecuted as financial exploitation of an elder or vulnerable adult. East Tennessee had the most cases (175), followed by Middle Tennessee (145) and West Tennessee (33). When controlling for population size, however, Middle Tennessee and East Tennessee had similar rates of prosecutions (27.7 prosecutions per 100,000 elderly residents in Middle Tennessee compared to a rate of 28.8 in East Tennessee). In West Tennessee, the rate was notably lower at 10.1. (See Exhibit 5.)

In general, the urban centers of the state (Knox, Hamilton, Davidson, and Shelby Counties) had a rate above 20 – well above the statewide average. Shelby County was the exception, with a rate of 0.6. Because much of the population in West Tennessee live in Shelby County, its low rate resulted in a below-average rate for the western region as a whole.

Exhibit 5: Number of cases prosecuted under the Elderly and Vulnerable Adult Protection Act | by judicial district | July 2017 – March 2020



West total prosecutions	**33**	**Middle total prosecutions**	**145**	**East total prosecutions**	**175**
Prosecutions per 100,000	10.1	Prosecutions per 100,000	27.7	Prosecutions per 100,000	28.8

Source: OREA analysis of data from the Administrative Office of the Courts.

Two districts, one in Middle and one in East Tennessee, stood out with high numbers and rates of cases prosecuted as financial exploitation of an elder or vulnerable adult. District 2 (Sullivan County) in East Tennessee prosecuted 39 cases at a rate of 88.2 cases per 100,000 elderly residents, while District 31 (Van Burren and Warren counties) in Middle Tennessee prosecuted 40 cases at a rate of 354.9 cases per 100,000 elderly residents. These districts are led by district attorney generals who have been public advocates for the increased penalties outlined in the Elderly and Vulnerable Adult Financial Exploitation Prevention Act and have promoted reporting of potential elder abuse in their area. General Zavogiannis, 31st Judicial District, for example, testified before the General Assembly in support of the act, and is the district attorneys' representative on the 2019 Elder Abuse Task Force created by the General Assembly.

The variation across the state could be due to many factors, including variations in the number of reported abuse cases in the region, resources available to district attorneys' offices to investigate elder abuse cases, and the level of awareness of the new charges created by the Elderly and Vulnerable Adult Protection Act. One district attorney, in OREA's survey, explained that it takes time to fully see the impact of the laws. As of March 2020, about half of these prosecutions (48 percent) were still in process, indicating that more time is needed to gauge the new law's full impact.

Exhibit 6: The disposition of cases prosecuted as financial exploitation of an elder or vulnerable adult | July 2017 – April 2020

Case Dispositions	Count	Percent
Dismissal	70	20%
Guilty Plea-As Charged	85	24%
Guilty Plea-Lesser Charge	11	3%
Pre-Trial or Judicial Diversion	14	4%
Retired/Unapprehended Defendant	5	1%
N/A (cases still open)	168	48%
Grand Total	**353**	**100%**

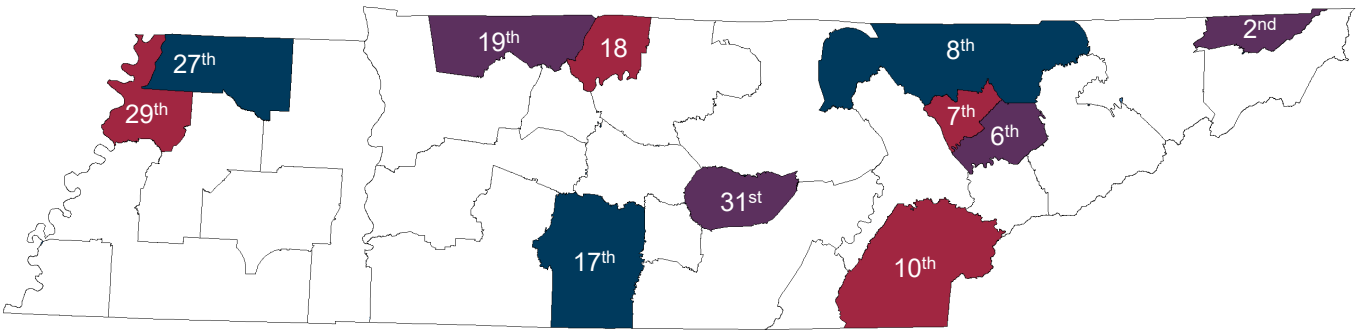
Source: OREA analysis of data from the Administrative Office of the Courts.

While looking at the number of cases prosecuted as financial exploitation of an elder or vulnerable adult is one way to determine which parts of the state are prosecuting elder financial exploitation at high rates, there are limitations. The data on these types of cases was provided by the AOC, which does not track information on cases in general sessions courts. These courts can hold preliminary hearings on felony charges, including financial exploitation of an elder or vulnerable adult. If a case ends during the preliminary hearing in general sessions court, it is not included in the data analyzed above. For example, if a defendant and prosecutor approve a plea agreement with a lesser misdemeanor charge, that matter could be handled in a general sessions court. In addition, prosecutors can charge alleged abusers under different statutes, such as theft. Such cases are not included in the data collected by AOC on cases of financial exploitation of an elderly adult.

To gain a fuller picture of prosecutions of elder abuse in Tennessee, OREA asked that the 31 judicial districts provide the number of prosecutions and convictions for elder financial exploitation for the previous five years. Of the 19 districts that responded to the request:

- 13 provided estimates or examples of victims' losses
- 13 provided estimates of the number of elder financial abuse cases that had been prosecuted
    - two provided this information for the last two years
    - 11 provided this information for the last five years
    - six provided estimates or were unable to supply any data due to the lack of an adequate data system
- 10 provided estimates of the numbers of convictions. OREA then analyzed the caseloads of district attorneys in the 11 districts that provided data about prosecutions involving elder financial abuse in the last five years (see Exhibit 7). This analysis highlighted additional data tracking flaws and revealed how varied the landscape of elder abuse prosecutions is in Tennessee.

Exhibit 7: Judicial districts that provided data about prosecutions involving elder financial abuse from 2015 to 2019



Note: (1) The districts shown in this map represent the 11 districts that provided – during the course of OREA's analysis (October 2019 – July 2020) – the number of elder financial abuse prosecutions for the last five years. Nine other districts responded to OREA's request for data during that timeframe but were unable to provide exact numbers due to data limitations. After the completion of OREA's analysis, the Tennessee District Attorneys General Conference requested additional information from district attorneys. In that additional information – provided to OREA in August 2020 – five additional districts provided the number of elder abuse prosecutions for the last five years, while five other districts provided responses to TNDAGC but could not provide exact numbers due to data limitations.
Source: Responses from 11 of the 19 judicial districts who responded to questions from OREA.

In these 11 districts, there were 411,378 elder adults in 2018 (the most recent year for which the census had population data). This represented about one-fourth (26.7 percent) of all such adults in Tennessee. The districts represent both urban and rural areas, and each of the state's Grand Divisions (East, Middle, and West). (See Exhibit 7).

In total, these 11 districts prosecuted 390 cases over the last five years. The majority of cases (289 or 74 percent) came from the 6th Judicial District's elder abuse task force. Of the districts analyzed, the 6th (which comprises Knox County) was the most populous and prosecuted elder abuse cases at the highest rate (284 cases per 100,000 elder residents).

Nearly $1 million in restitution awarded in Knox County

Of the 289 prosecutions reported by the 6th Judicial District (Knox County) from 2015 to 2019, the total amount of restitution ordered for all charges was $900,147.32.

The remaining nine districts prosecuted 101 cases, at a rate of 33 prosecutions per 100,000 elder residents. Apart from the 31st Judicial District, which prosecuted 17 cases at a rate of 171 cases per 100,000 residents, more rural districts had lower numbers and rates of prosecutions than more urban districts.

Based on the prosecutions and demographics of districts that provided data, OREA estimates that over the last five years there were between 3,100 and 3,200 prosecutions of elder financial abuse across the state.[Y]

[Y] OREA calculated this estimate using data from the 11 districts who provided data to OREA during the course of its investigation (October 2019 – July 2020) and the five additional districts that provided data to the Tennessee District Attorneys General Conference in August 2020.

Exhibit 8: Estimates of the number of elder financial abuse cases prosecuted from 2015 to 2019 | as reported by judicial districts

Districts	Counties	Prosecutions	Cases per 100,000 elder residents
19	Montgomery, Robertson	1	2.3
27	Obion, Weakley	2	12.0
10	Bradley, McMinn, Monroe, Polk	7	12.3
8	Campbell, Claiborne, Fentress, Scott, Union	6	17.1
17	Bedford, Lincoln, Marshall, Moore	5	17.3
29	Dyer, Lake	2	19.0
18	Sumner	15	36.1
2	Sullivan	23	50.1
7	Anderson	23	110.4
31	Van Buren, Warren	17	171.3
6	Knox	289	284.1

Source: Responses from 10 of the 31 judicial districts to questions posed by OREA.
Note: * The numbers reported for Knox County, 6th Judicial District, represent cases prosecuted by the district's Elder Abuse Unit only. Prosecutions do not include those prosecuted in general sessions court.

Some districts have created elder abuse units, which include prosecutors focused on elder and vulnerable adult abuse cases. The 6th Judicial District (Knox County) had a higher rate of prosecutions, and data from the 20th and 30th Judicial Districts show a similar trend, which may stem partly from the designation of elder abuse units. Such districts were also more likely to collect and track data specific to elder abuse than other districts.

One official explained why he believed the creation of elder abuse units across the state would be beneficial:

> "[D]istricts throughout the state could assign a prosecutor to solely handle these types of cases districtwide. The additional position of a criminal investigator would allow APS and an assigned prosecutor to have a crucial resource in conducting and assisting in investigations, tracking cases and convictions, and assisting with necessary tasks for hearings and trials that may not be available to many districts that are already understaffed."

U.S. Department of Justice efforts to prosecute elder financial exploitation cases coordinated with U.S. Attorneys' offices in Tennessee

The federal government also plays a role in cases involving elder financial exploitation, particularly where cases of fraud have occurred. These cases generally are not under the purview of the state's Adult Protective Services program, though they may involve assistance from state and local law enforcement authorities.

Over the last three years, the U.S. Department of Justice has enhanced its Elder Justice program, requiring that all U.S. Attorneys' offices, including the three in Tennessee, appoint an Elder Justice Coordinator to be responsible for leading their district's Elder Justice strategy. In 2018, 2019, and 2020, the USDOJ announced large coordinated sweeps of elder fraud cases, with actions taken in every federal district across the country, through the filing of criminal or civil cases or through consumer education efforts. Each case involved offenders allegedly engaging in financial schemes that targeted or largely affected seniors. In total, in all three years, these alleged financial schemes resulted in losses of millions of dollars. Two federal agencies, the FBI and the U.S. Postal Inspection Service, which is the law enforcement arm of the U.S. Postal Service, were credited with many of the ongoing elder fraud cases in the sweep. Actions were taken in all three U.S. Attorney divisions in Tennessee. Brief summaries of some of the cases follow:

Western District of Tennessee

In June 2019, Keith L. Dobbs, a disbarred Memphis attorney, was charged under two indictments with 67 federal felony violations. One indictment seeks the forfeiture of at least $406,533 in criminal proceeds. Dobbs misappropriated funds from 26 victims who received veteran's benefits and nine Social Security recipients, for whom he acted as fiduciary because they were unable to manage their benefits due to physical or mental disabilities. If convicted, he may be subject to imprisonment and additional fines. This case was investigated by the U.S. Department of Veterans Affairs Office of Inspector General and the U.S. Social Security Administration Office of Inspector General.

Stephen Douglas Fry, a financial advisor, stole and embezzled approximately $1.3 million from a client who had given him power of attorney to prepare tax returns and manage and invest monies following the death of her husband. Fry pled guilty in December 2019 to three counts that charged him with mail and wire fraud and interstate transportation of monies taken by fraud, according to a Western District of Tennessee press release. Fry may be subject to 60 years of imprisonment, fines of up to $1.5 million, and five years of supervised release.

Middle District of Tennessee

On January 6, 2020, the U.S. District Court for the Middle District of Tennessee entered a final consent judgment in a previously filed SEC enforcement action against Jay Costa Kelter, a former registered investment adviser and registered representative. The SEC's action, filed November 9, 2017, charged Kelter with defrauding three retired clients out of more than $1.85 million. As alleged, Kelter made material misrepresentations to these clients, including false guarantees concerning investor losses, and misappropriated $1.4 million of client funds for his own use. In a parallel criminal matter, Kelter pled guilty to one count of securities fraud and one count of wire fraud. He was sentenced to 29 months imprisonment and ordered to pay restitution of $1.467 million. Kelter also consented to an order permanently barring him from the securities industry.

Eastern District of Tennessee

Christina Erin Myers of Lenoir City was indicted by a federal grand jury on four counts of wire fraud and two counts of money laundering in October 2018. At that time, she pleaded not guilty in U.S. District Court in Knoxville. In November 2019, she entered a guilty plea to one count of wire fraud and one count of money laundering. Myers' indictment was a result of an investigation by the Lenoir City Police Department, the Internal Revenue Service-Criminal Investigation, and the Tennessee Highway Patrol, according to a release from the Department of Justice.

On January 28, 2020, Joshua Small and Joni Amber Johnson, were sentenced in U.S. District Court in Knoxville for their roles in a conspiracy to assault, kidnap, and rob elderly victims. Small received 30 years in federal prison with five years of supervised release. Johnson received 25 years in federal prison with five years of supervised release. Both Small and Johnson were also ordered to pay over $8,000 in restitution. From May 2018 to July 2018, Small and Johnson went on a spree of armed home invasions and kidnappings throughout West Virginia, Virginia, and East Tennessee. Small and Johnson targeted the homes of elderly victims, forcing entry into their residences, holding victims at gunpoint, and binding their hands and feet. Small and Johnson would then ransack the homes, stealing jewelry, valuables, heirlooms, and cash. The home invasions were noteworthy for the excessive amount of violence directed toward the victims.

Section 7: Financial institutions and financial exploitation of the elderly

Two recent state laws were crafted specifically to address the financial sector with regard to elder financial exploitation, as described in Section 4. The laws were developed after the Tennessee Commission on Aging and Disabilities surveyed and conferred with representatives of the state's financial institutions, and reported its findings to the General Assembly. This section focuses on financial institutions and the role they play in identifying and reporting elder financial exploitation, both at the state and federal level.

Individuals 50+ are susceptible to fraud and financial exploitation in part because they own 67 percent of U.S. bank deposits.

Source: AARP Public Policy Institute, Feb. 2016.

Banks, credit unions, and other financial institutions are fundamentally interested in ensuring that customers' accounts are safe, and thus play an important role in identifying potential elder financial exploitation. Over the last several years, targeted financial exploitation of elderly customers has become an increasing concern for the banking and financial industry. According to the American Bankers Association, 70 percent of all deposits are made by customers aged 50 and older. "Bankers see their older customers in branches more than any other age group, and seniors often perceive bankers as trusted advisors."[63]

In particular, frontline employees who deal with customers on a daily basis are often the first to detect suspicious activity related to customer accounts. Many examples describe what banking employees are the first to see: elderly customers accompanied by unfamiliar individuals who appear to have influence over a cash withdrawal the customer requests, or elderly customers appearing nervous and upset while making transactions that are not typical for them.

In 2016, the General Assembly passed Senate Joint Resolution 678, requiring the Tennessee Commission on Aging and Disabilities (TCAD) to "conduct a study of the financial exploitation of vulnerable adults relative to personal financial transactions within banks and other organizations." As directed by the resolution, TCAD held community meetings across the state for members of the financial industry to provide feedback related to elder financial exploitation. A total of 86 employees from 59 different financial institutions attended the seven meetings held in all three grand divisions of the state, with TCAD facilitating discussions.

In TCAD's 2016 survey of consumers in Tennessee, nearly 43 percent of respondents said they had either been a victim of or knew someone who was a victim of elder financial abuse.

TCAD also developed and conducted two surveys, one for consumers and one for financial institutions. TCAD posted the consumer survey on its website, sent it to contacts across the state, and partnered with AARP Tennessee to distribute the survey to its members. A total of 610 completed surveys representing 258 zip codes in 85 of the state's 95 counties were received. For the financial institutions survey, TCAD provided a link to an online instrument for the Tennessee Bankers Association and the Tennessee Credit Union League to distribute to members, and sent a link to all those who had attended the statewide meetings. A total of 58 surveys were completed. TCAD reported its findings to the General Assembly in November 2016.[64]

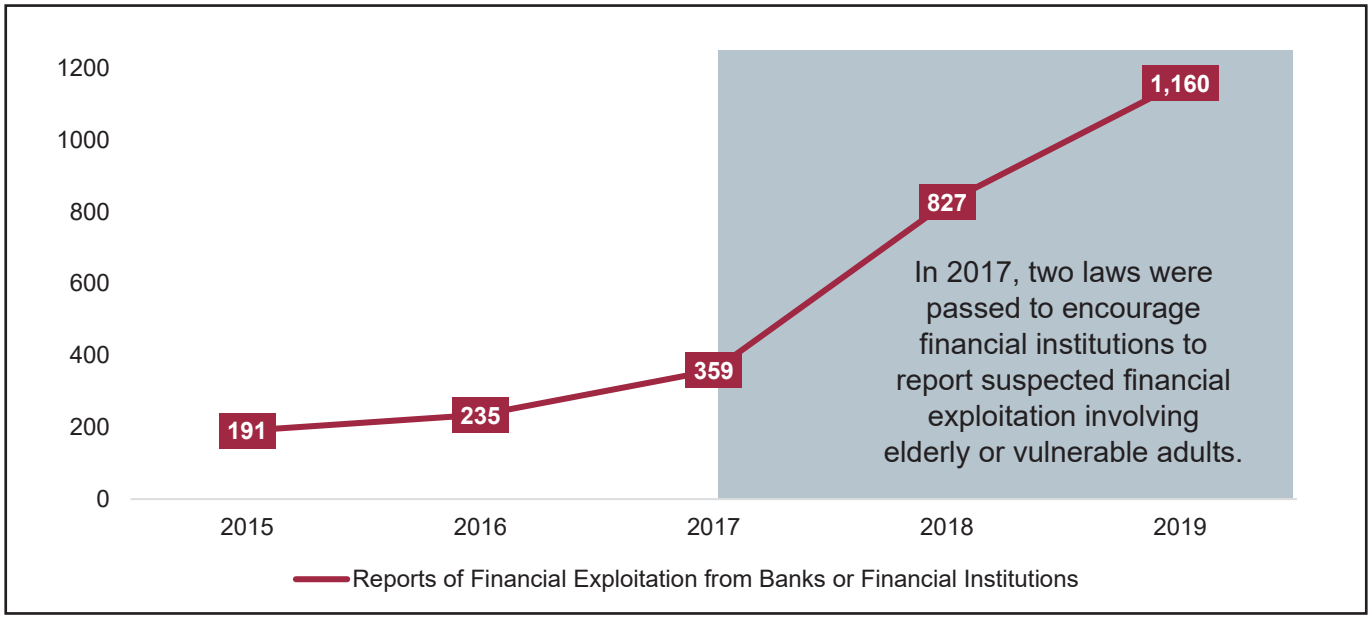
The knowledge that TCAD gleaned from discussions with and survey responses from financial industry members, as well as survey responses from consumers, families, and caregivers, informed legislation that subsequently passed concerning financial institutions and elder financial exploitation. The General Assembly passed two laws in 2017, giving financial institutions tools that were meant to encourage them to report suspicious activity involving elderly or vulnerable adults to APS and law enforcement, and to permit them to refuse or place temporary holds on transactions in customers' accounts when suspicious activity appeared to be

either occurring or imminent, with safe harbor to protect them from litigation in the event they delay, in good faith, a transaction that turns out to be legitimate. (See Section 4 about the legislature's efforts.) One law (PC 264, 2017) applies to banks, credit unions, and other types of financial institutions, and the other (PC 424, 2017) applies to broker/dealers, financial advisers and others dealing in securities. (See box on pages 34-35 titled "Department of Commerce and Insurance, Securities Division.")

Reporting by banks, credit unions, and other financial institutions increased, but some concerns remain

Reports to APS from banks, credit unions, and other financial institutions of possible suspicious activities involving elderly customers increased by 223 percent between 2017 (359 reports) and 2019 (1,160 reports), following TCAD's focused engagement with the financial industry and consumers and the passing of the 2017 legislation. (See Exhibit 9.) Even though financial institutions have significantly increased reporting, members of the current Elder Financial Exploitation Task Force formed by the legislature have noted that APS screens out many reports from financial institutions because they do not meet its criteria for investigations. (APS subsequently forwards all screened out reports to law enforcement and district attorneys.)

Exhibit 9: Reports to Adult Protective Services of suspected financial exploitation from banks, credit unions, and other financial institutions



Source: OREA analysis of APS data.

The task force has also discussed ongoing concerns raised by banks and credit unions over a lack of clarity about how to handle the reporting of certain incidents. Essentially, owing in part to the complexity of such incidents, some uncertainty remains among bank and credit union employees about the appropriate agency to contact (e.g., APS, law enforcement, or both) when suspicious activity is detected.

Two presentations made by financial institutions to the current Elder Financial Exploitation Task Force in August 2019 described incidents that have occurred in Tennessee concerning potential elder financial exploitation. Both financial institutions said that they regularly train and educate frontline staff as well as customers about potential scams and ways to secure their accounts. One said that it uses the ability to pause or deny transactions on a weekly basis due to potential fraud, abuse, or exploitation, but that many of the cases do not meet either APS criteria or the threshold that triggers reporting a Suspicious Activity Report (SAR) to the federal Financial Crime Enforcement Network (i.e., involves at least $5,000 in funds or other assets).[65] The other noted that law enforcement sometimes cannot complete an investigation until a crime has been

committed – some of these reports involve suspicious activity that does not yet constitute a crime. One bank employee also expressed concern to OREA that some law enforcement agencies and personnel have not received training in the appropriate handling of elder financial exploitation cases. She noted that in an incident when law enforcement was called to the bank she is employed by, the police officer who followed up with the customer involved did not maintain the confidentiality expected by the bank.

The "pause" laws are being used by financial institutions

No data is available to indicate how often Tennessee banks and credit unions have placed temporary account holds or refused transactions, as allowed under the law in cases of suspicious activity, but representatives of the Tennessee Bankers Association and the Tennessee Credit Union League say that the law is being used.[66] For one example, see box titled "Elder financial abuse scam halted in East Tennessee: notes from a redacted police report."

> "Many financial institutions are doing a much better job of looking out for elders and vulnerable adults than in years past. They have reported problems and sometimes go so far as to refuse to make transactions which appear suspicious. On several occasions these institutions have saved the victim from thousands of dollars in losses."
>
> Comment from a district attorney general

One of the laws the General Assembly passed in 2017 (PC 424) concerns the securities industry and allows transactions to be delayed when broker-dealers and other securities professionals are concerned about suspicious activities involving elderly and other clients' accounts. In 2019, 0ut of 23 incidents involving potential elder financial exploitation reported to the Division of Securities in the Department of Commerce and Insurance, financial institutions acted to delay or cancel transactions for 11 of the incidents, as permitted under PC 424 (2017). The total amount of the funds held was approximately $1.8 million. Most of the allegations were reported to the Division of Securities by investment and brokerage firms, as well as banks. Case summaries indicate that in addition to reporting to the Division of Securities, financial institutions also reported incidents to APS, local law enforcement, district attorneys, and the Federal Trade Commission.[67] See the box below for more information about its role in enforcing securities laws, registering broker-dealers and other advisers and agents. Also see information about PC 424 (2017) on page 12, which permits security firms, stockbrokers, and others in the securities industry to delay suspicious transactions.

Department of Commerce and Insurance, Securities Division

One of the laws the General Assembly passed in 2017 (PC 424) concerns the securities industry and allows transactions to be delayed when broker-dealers and other securities professionals are concerned about suspicious activities involving elderly and other clients' accounts. This is an explanation of how the Securities Division of the Tennessee Department of Commerce and Insurance carries out its responsibilities with regard to securities professionals in the state.

The Securities division helps protect Tennessee investors by maintaining the integrity of capital markets and enforcing securities laws. The division registers broker-dealers (security firms), registered representatives, agents (stockbrokers), and investment advisers to do business in the state. Additionally, it is responsible for investigating complaints involving securities violations and enforcing the 1980 Tennessee Securities Act.

The Securities Division's Financial Services Investigations Unit (FSIU) conducts investigations of insurance and securities complaints from consumers who feel they are victims of an unfair or deceptive business practice, have witnessed unlicensed activity, or see suspected misconduct or other violations of respective law and rules. For example, consumers might file a complaint with FSIU because they believe that an agent did not invest their money as agreed upon. FSIU can receive complaints through the mail, by phone, or in person.

Also, *TCA* 56-6-117 requires insurance companies to refer agent terminations to the Department of Commerce and Insurance so that FSIU can determine if the information provided warrants an investigation.

FSIU initially reviews complaints to determine whether they are within its jurisdiction. If complaints are within the statutory jurisdiction and meet specified criteria, FSIU assigns them to either an insurance or a securities investigator. Investigations include interviewing victims and witnesses; verifying licenses and criminal history; and obtaining documentation from the potential violator. Information gathered serves as support for litigation if deemed appropriate.

For complaints outside of its jurisdiction, FSIU does not investigate but rather refers those complaints to the appropriate entity.

Source: Tennessee Comptroller of the Treasury, State Audit, *Performance Audit of Department of Commerce and Insurance*, Dec. 2018.

Training for employees of financial institutions

In a 2016 report, the Consumer Financial Protection Bureau (CFPB) listed six recommendations for financial institutions in preventing and responding to elder financial exploitation, including the need for training:

> Training employees is critical in the effort to prevent, detect and respond to elder financial exploitation. Clear, efficient training protocols enhance financial institutions' capacity to detect elder financial exploitation. It is essential that training programs describe what actions to take when employees detect problems. Training should communicate the roles and responsibilities of management, frontline staff, and other employees to reduce ambiguity and promote efficient and timely action when staff suspect or observe elder financial exploitation.[68]

The laws Tennessee passed in 2017 do not require training concerning elder financial exploitation for employees of financial institutions, but conversations with representatives of the Tennessee Bankers Association and the Tennessee Credit Union League, as well as the Commissioner of the Tennessee Department of Financial Institutions, indicate that some related training is required for financial institutions under the federal Bank Secrecy Act. BSA training for frontline staff and tellers includes identifying suspicious activity and completing and transmitting required Suspicious Activity Reports (SARs) to the Federal Crime Enforcement Network (FinCEN).[69]

Although training under the Bank Secrecy Act is likely provided to some employees in most, if not all, financial institutions in Tennessee, there is no statewide standardized training or guide specifically for financial institutions concerning the state's system for adult protection and relevant laws. Some other states have developed such guides, along with training, including Maine, Missouri, Ohio, and Oregon, for example.[70] The Pennsylvania Department of Banking and Securities offers a free Senior $afe training program to financial professionals, with co-presenters from the Department of Aging.[71]

A representative from the financial industry in Tennessee told OREA all banks may not yet have a full understanding of how they can appropriately use the new laws passed in 2017. The representative indicated the need for uniform training or guidance for financial industry employees in Tennessee.[72] This idea has also been discussed at meetings of the current elder financial exploitation task force.

Notably, the national nonprofit organization AARP has developed a training initiative focused on elder financial exploitation that is available to financial institutions in all states at no cost. Fifteen Tennessee financial institutions, as well as 482 financial institutions in 10 other states,[73] participated in a pilot study of the BankSafe initiative in 2018. AARP developed BankSafe, an initiative to train tellers, financial institutions' call-center employees, and others to identify, report, and prevent exploitation.

According to AARP, in addition to helping frontline employees understand how to identify and properly report financial exploitation, the training emphasizes acting to prevent exploitation before money improperly leaves a customer's account. Among other techniques, the training uses interactive videos and real-life scenarios. A

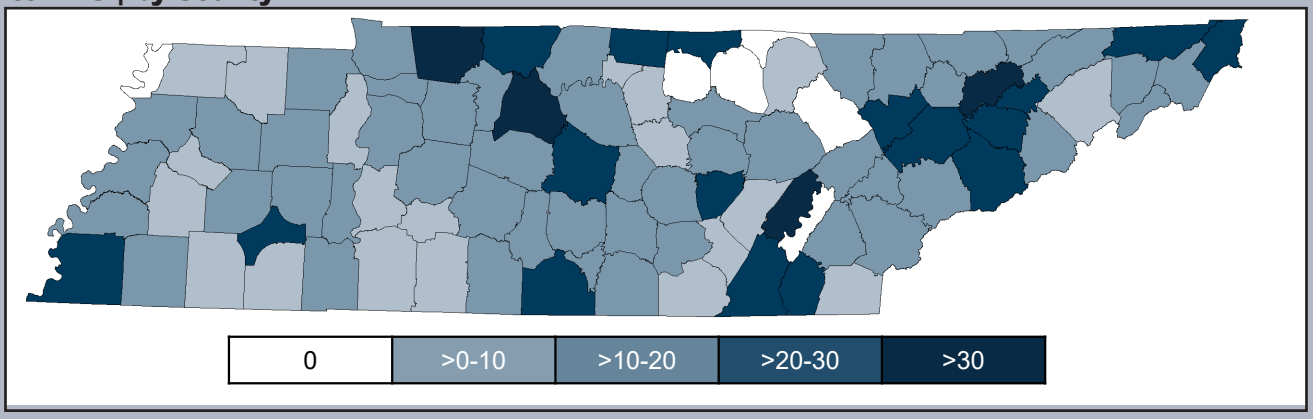
Virginia Tech research study of the pilot program, published in fall 2019, found that employees who completed the BankSafe training made more reports of suspicious activity and were able to intervene to keep a significantly higher amount of customer funds from being lost compared to a control group of employees who did not receive the training.[74] As of April 2020, 19 financial institutions in Tennessee – or about 7 percent of all banks and credit unions in the state – are using BankSafe training. Nationwide, 519 additional financial institutions are using the training, which is offered by AARP at no cost to financial institutions.[75]

The American Banker's Association also has an online training course on elder financial exploitation for frontline employees, free to ABA members. It instructs tellers and other employees how to identify possible elder financial exploitation, including internet and mail fraud schemes against elderly customers, why seniors are vulnerable to financial exploitation, and the role banks play in recognizing and reporting possible signs of elder financial exploitation.[76] Other options for financial institutions include an online course offered by the Independent Community Bankers' Association (ICBA)[77] and a video toolkit from the Senior Crime Prevention Foundation that trains banks to educate community groups on how to look for signs of elder financial abuse and how to prevent it.[78]

Reports by financial institutions to APS, by county

As the number of reports from financial institutions to APS rose, so did the variation in reporting across the state. Based on data provided by APS, OREA was able to determine which counties' financial institutions reported potential financial abuse to APS at the highest and lowest rates. Since 2014, there were six counties in which no reports for elderly financial exploitation were reported to APS by financial institutions: Jackson, Lake, Meigs, Morgan, Overton, and Pickett. For the other 89 counties, OREA calculated the number of reports filed per 10,000 residents over the age of 60. The rate per 10,000 residents ranged from 2.7 in Bledsoe County to 38.5 in Grainger County. This means for example, that in McNairy County, for every 10,000 residents over the age of 60, financial institutions in the county filed less than three reports, while in Grainger County they filed over 35.

Exhibit 10: Number of reports per 10,000 elderly residents sent by financial institutions to APS | by county



Source: OREA analysis of APS data.

A lower rate of reports to APS can be caused by several factors such as:

- lower incidence of elder financial abuse in the county
- fewer financial institutions per 10,000 residents over 60 in the county and/or
- a lack of information about or awareness of elderly financial abuse

The third reason could be addressed through targeted training and/or uniform guidance for financial institutions. Research conducted on AARP's BankSafe training showed that employees who completed it filed more reports and were able to intervene to protect customer funds at a higher rate. Based on this research, increased training and guidance directed to financial institutions would likely result in a higher rate of filings, especially in those counties whose filing rate was below the median, as shown in red tones in Exhibit 10. (See Appendix B for a list of each county and the number of reports filed with APS per 10,000 residents over 60.)

Reports from financial institutions about financial exploitation to federal authorities

The federal Bank Secrecy Act (BSA) requires financial institutions to report information to the federal government that law enforcement can use to investigate potential crimes, like money laundering and other financial crimes. Under the BSA, financial institutions are required to complete and submit suspicious activity reports (SARs) to the Financial Crimes Enforcement Network (FinCEN), a bureau of the U.S. Department of Treasury. The BSA requires such reporting and recordkeeping by banks and other financial institutions in order to provide and preserve a financial trail for investigators to follow as they track criminals and their assets.

FinCEN establishes policies and regulations to deter and detect money laundering in partnership with the financial community. FinCEN also provides intelligence and analytical support to law enforcement. The agency combines information reported under the BSA with other government and public information, and discloses the information to its established partners in the law enforcement community in the form of intelligence reports. These reports help them build investigations and plan new strategies to combat money laundering and other financial crimes.[79]

The Tennessee Bureau of Investigation has established an official relationship with FinCEN and is able to use the information the agency provides, including SARs that have been reported by financial institutions in Tennessee, to help law enforcement investigations at the state level and, in some cases, at the local level. Law enforcement agencies in larger urban areas in Tennessee, including Metro Nashville and Memphis, also have established official relationships with FinCEN, for the purpose of investigating financial crimes, including elder financial exploitation.[80]

Most data relative to the content of SARs is confidential and available only to FinCEN and those law enforcement agencies with which it has established relationships through data-sharing agreements. Some SAR data, aggregated and with no identifying information about the report itself, is available by state and county on FinCEN's website, including the number of SARs that have been filed in a given time period and for what purpose (e.g., elder financial exploitation). When financial institutions make SAR reports, they must specifically indicate that a report involves elder financial exploitation.[81]

Elder financial abuse scam halted in East Tennessee: Notes from a redacted police report

In October 2019, in a Tennessee town, a drive-through branch bank teller suspected that a bank customer was a victim of elder financial exploitation, and the bank's Bank Secrecy Act (BSA) compliance officer made a report to Adult Protective Services followed by a report to local law enforcement. The customer asked to have $30,000 withdrawn in cash from her account. Because the main branch was closed, the teller was unable to fulfill the request, which she explained to the customer. The teller said she then heard a man's voice on the customer's cell phone yelling at the customer because she was unable to obtain the cash. Subsequently, the bank placed a temporary hold on the customer's account, as authorized by state law at *TCA* 45-2-1203.

The following day the customer attempted again to withdraw, this time, $20,000 in cash from the branch bank but was unable to because of the account hold. The BSA compliance officer noted that the customer was upset and confused, and was unable to answer questions about why she needed such a large amount of cash.

Local law enforcement spoke with the customer and explained current scams that were targeting senior citizens. Police asked her to describe what had led her to ask for the large amount of cash. She said she had received an email she thought was from her bank, which said there had been fraudulent activity on her account and directed her to call a phone number listed on the email. She called and the person who answered told her he was a Social Security Agent and gave her a badge number. He told her she had nine warrants for her arrest because of fraudulent activities and that she would be arrested if she didn't comply with their demands. She was told she could either take care of the matter through the courts or by paying a substantial amount of money up front to prove she was serious about taking care of the issue. Fortunately, the customer's attempts to withdraw money were stopped by the bank and the suspect was never sent any money. The suspect had her keep her cell phone speaker on as she attempted to withdraw funds – after the withdrawal attempts failed, he told her someone would be at her house to arrest her and take her to jail within a day, which frightened the customer.

Law enforcement advised the customer to put a lock on all of her bank accounts, change her phone number or ignore phone calls from numbers she didn't recognize, have her computer checked, run and lock her credit so no one could open new accounts, and then followed up with her the next day. Law enforcement also contacted the FBI about the incident, but the FBI was unable to follow up since no funds had been lost.

Section 8: Coordinating efforts to address elder abuse

This section describes ongoing efforts to coordinate the various state and local agencies to address elder financial exploitation in Tennessee, a complex and necessary undertaking given the many agencies involved.

Multiple organizations, on both the state and local levels, are involved in various aspects of elder abuse cases that are reported in Tennessee, making coordination efforts challenging.[Z] This section describes some of the efforts toward improving coordination and collaboration but is not comprehensive.

> "No single entity can address elder abuse by itself."
>
> The U.S. Department of Justice and the U.S. Department of Health and Human Services, *The Elder Justice Roadmap: A Stakeholder Initiative to Respond to an Emerging Health, Justice, Financial and Social Crisis.*

Some systems of coordination have been long established in the state, such as the state's nine Area Agencies on Aging and Disability (AAADs) located across the state, while others are fairly recent initiatives. The AAADs plan and provide programs and services for Tennesseans age 60 and over, or age 18 and over with a disability, and connect elders and other vulnerable adults with services and supports in the geographic areas they serve. The AAADs provide a single point of entry for federal and state programs meant to assist elders with a variety of services. The agencies receive state and federal funds allocated through the Tennessee Commission on Aging and Disability.[82,AA]

Recent efforts, both at the state and local levels, to improve the coordination of services involving elders include:

- the formation of a Statewide Coordinated Community Response team led by APS
- the convening of several locally based groups across the state with the aim to better coordinate services for elders
- the creation of the Coordinated Response to Elder and Vulnerable Adult Abuse (CREVAA) program
- the creation of several Family Justice Centers throughout the state
- the establishment and regular convening of VAPITs in each judicial district
- memoranda of understanding between APS and other agencies
- the creation of an app for law enforcement, directed by TCAD and currently in development

Statewide Coordinated Community Response to Protect Older and Vulnerable Adults led by APS

At the state level, since November 2016, APS has spearheaded an initiative to coordinate state agencies with varying responsibilities concerning the well-being of elder adults. The effort involves about 20 state and nonprofit agencies in the Statewide Coordinated Community Response (CCR) team, aimed at improving coordination among those who work to prevent, identify, and address the abuse of elderly and vulnerable persons.[83,AB]

The Statewide CCR meets quarterly and holds monthly phone calls with team members to discuss continuing efforts. The CCR has four current areas of focus: (1) financial exploitation of elderly and vulnerable persons; (2) investigations, prosecution, and abuse registry placements; (3) services to older and vulnerable adults through improving coordination and communication; and (4) unlicensed facilities. Team members are assigned to each focus group from agencies that participate in the CCR. At the quarterly meetings, each team presents the list

[Z] Federal agencies, such as the U.S. Postal Service, the U.S. Department of Justice, and the FBI within the USDOJ may also be involved with law enforcement investigations. This report focuses mainly on the state and local agencies that investigate cases of elder financial exploitation.

[AA] The Tennessee Commission on Aging and Disability is the designated State Unit on Aging, and thus receives an annual allotment under Title III of the Older Americans Act for the Administration for Community Living under the U.S. Department of Health and Human Services. TCAD allocates OAA funds to the AAADs to support a coordinated system of services for elderly Tennesseans.

[AB] In September 2016, APS in Tennessee received a two-year federal grant award from the Administration for Community Living. The grant had two aims: to help APS begin to provide aggregate-level data to the voluntary national database, the National Adult Maltreatment Reporting System, and to help APS coordinate and improve collaboration among about 20 state and nonprofit agencies to improve the investigation, response, and service delivery of protective services to vulnerable adults. The two-year grant ended in 2018 but the CCR team remains active and meets regularly with the same goal of improving coordination.

of problems it is trying to address, describes specifically what it aims to accomplish, and presents goals and objectives, along with an action plan detailing the measures that will be used to judge accomplishments.

The team assigned to focus on financial exploitation includes an assistant district attorney and staff from several state agencies: APS, the Department of Mental Health and Substance Abuse Services, the Department of Financial Institutions, the Department of Health, the Department of Commerce and Insurance, and the Commission on Aging and Disability. Objectives discussed in one observed meeting for the financial exploitation team (goals and objectives shift over time as progress is made) included creating clear definitions of parameters for notifying agencies outside of APS about reports of allegations involving elder financial exploitation and identifying what financial exploitation training is currently available and developing a distribution strategy.

The team assigned to address services to older and vulnerable adults through improving coordination and communication among relevant organizations includes staff from APS, TCAD, and the Office of Criminal Justice Programs, Commerce and Insurance, and Health, among other state agencies. The team's goal is to streamline communication among agencies to close gaps, reduce duplication, minimize silos, and provide the best service to vulnerable and older adults. One of its objectives is to create a CCR toolkit that all local groups can use to improve coordination.

Examples of multiple agencies working together on investigations

Investigations concerning elder financial exploitation may involve multiple agencies acting collectively. For example, an investigation in late 2018 set in motion by the District Attorney General of the 13th Judicial District, based on a referral from APS, included investigators from the Tennessee Bureau of Investigation's Medicaid Fraud Control Unit (now Division), local law enforcement, the Social Security Administration, and the Department of Mental Health and Substance Abuse Services, among others.[U] The investigation found that an operator of a group home in Putnam County had financially exploited several of the residents over a three-year period, using their financial assets and diverting controlled substance medication prescribed for residents for her personal use. The investigation resulted in a grand jury indictment of the operator on multiple counts in September 2018, including one count to commit conspiracy of financial exploitation of an elderly or vulnerable adult and 11 counts of financial exploitation of elderly or vulnerable adults.[119] In December 2019, the operator pleaded guilty to 13 of 28 charges, 10 of which involved financial exploitation of an elderly/vulnerable adult.[120]

In another case involving multiple agencies, a bookkeeper at a Department of Intellectual and Developmental Disabilities (DIDD) contracted agency diverted over $50,000 of government funds to herself instead of paying rent for multiple residents, some of whom were elderly. DIDD, APS, and TBI investigated. TBI is building a criminal case to charge the bookkeeper who fled the state. APS was able to get a process server to locate her and serve her with the state's intent to place her on the vulnerable persons abuse registry. The bookkeeper did not appeal and has since been placed on the abuse registry.

Multiple local groups across the state aimed at improving coordination

Across the state, multiple local groups have organized to improve coordination efforts to address elder abuse. One example in Shelby County is the Coordinated Response to Elder Abuse (CREA), which consists of more than 20 organizations ranging from government and community-based agencies to nonprofits. CREA's services are intended for individuals over the age of 60 who may be abused and who are seeking services in response to elder abuse. All referrals for services, which include advocacy, healthcare, housing, and legal, are made by law enforcement, victim advocates, and elder care coordinators. Through CREA, legal professionals can work with probate court, the district attorney's office, and law enforcement when needed. They can address power of attorney, orders of protection, conservatorship, and concerns with financial institutions.[86]

Family Justice Centers established across the state

CREA is part of the Family Safety Center in Shelby County – similar centers, referred to as Family Justice Centers, have been or are in the process of being established in 12 other counties: Anderson, Claiborne, Davidson, Hamilton, Haywood, Knox, Madison, Overton, Putnam, Scott, Sullivan, and Washington. Development of the centers is the result of Tennessee's Statewide Family Justice Center Initiative, with federal grant funding awarded through the Department of Finance and Administration's Office of Criminal Justice Programs.

The Family Justice Center model places a multi-disciplinary team of professionals in one location who work together to provide coordinated services to victims of family violence, including elderly victims. A center may contain many partner agencies, but key partners include police officers, prosecutors, civil legal service providers, and community-based advocates. "The core concept is to provide one place where victims can go to talk to an advocate, plan for their safety, interview with a police officer, meet with a prosecutor, receive medical assistance, receive information related to shelter, and receive help with transportation."[87] Both the Anderson County (set to open in July 2020) and the Shelby County (opened in 2012) centers have an explicit focus on elder abuse, and provide coordinated services related to other aspects of domestic violence as well.

Vulnerable Adult Protective Investigative Teams meet regularly in each judicial district

In 2016, the General Assembly passed Public Chapter 1006, requiring that the district attorney in each of Tennessee's 31 judicial districts create a Vulnerable Adult Protective Investigative Team (VAPIT), to coordinate the investigation of suspected cases of abuse, neglect, or exploitation of elderly or vulnerable persons. Suspected cases of elder abuse from local law enforcement or other sources (e.g., TBI or social services) are discussed at VAPIT meetings, but generally the cases reviewed by VAPITs are referred by APS. Members of VAPITs include district attorneys, local law enforcement, APS personnel, and any others that the district attorney determines necessary. VAPITs meet at least quarterly, but may meet as often as needed. Several district attorneys say that VAPITs have allowed APS workers and law enforcement personnel, both of which are typically present at VAPIT meetings, to better coordinate criminal investigations between their agencies. (See also pages 13, 16, and 24.)

Public Chapter 1006 also required an annual report be completed by all 31 district attorneys general by December 1 of each year that summarizes the work of the VAPITs for the previous calendar year. The law provides no specific criteria for the reports and the Tennessee District Attorneys General Conference (DAGC) chose to create criteria to help guide and coordinate efforts across the state. The district attorneys were asked by the DAGC to provide the number of VAPIT meetings they competed, and the number of referrals reviewed at the meetings. While this information does provide evidence that VAPITs are meeting regularly, it does not provide enough detail to determine the types of cases (e.g., physical abuse cases vs. financial exploitation cases) reviewed, how many referrals led to an investigation or prosecution, and whether the vulnerable adults in question were elderly.

Exhibit 11: Excerpt from the summary of the VAPIT reports written by the Tennessee District Attorneys General Conference

RE: Annual Report of Vulnerable Adult Protective Teams (VAPIT) pursuant to TCA 71-6-125

As required, each elected District Attorney General has filed with this office an annual report summarizing the work of the VAPIT for the previous calendar year, which are attached. In summary, in the State of Tennessee for the calendar year through October 2018, the reports indicate as follows:

TOTAL NUMBER OF MEETINGS: 364

TOTAL NUMBER OF REFERRALS REVIEWED: 12,048

APS has entered into MOUs with other agencies to better coordinate efforts

In 2018, APS entered into a Memorandum of Understanding (MOU) with the Tennessee Commission on Aging and Disabilities (TCAD). The MOU also addresses the Collaborative Response to Elder and Vulnerable Adult Abuse (CREVAA) program, administratively attached to TCAD. Under the agreement, APS makes referrals to CREVAA when it receives a report of an elderly or vulnerable adult who is also a victim of crime, a required criteria for CREVAA to provide assistance, and refers all reports that are screened out because they do not meet APS criteria to law enforcement and district attorneys. (See box about CREVAA on page 23.)

In 2019, APS entered into an MOU with the TBI Medicaid Fraud Division (formerly Unit) specifying a joint protocol between the two agencies for joint investigations. The two collaborate in joint investigations in some cases that involve abuse, neglect, and/or exploitation of adults in Medicaid-funded facilities. The MOU emphasizes that in such investigations APS is responsible for the safety of the vulnerable adult and TBI is responsible for the prosecution of the perpetrator. The MOU details the circumstances under which APS will notify TBI, when it will instead notify local law enforcement, and when TBI will notify APS of potential reports it may not have previously received. The agreement enumerates how the two agencies jointly conduct specific activities, such as interviewing the alleged victim and the alleged perpetrator.

Previous attempts to create a database for elder abuse cases

The Tennessee District Attorneys General Conference worked with APS in 2017 and 2018 to create a database exclusively for elder abuse cases. The database was almost completed, but ultimately was not implemented due to funding issues. The estimated cost of the database was $63,000, according to APS, with an annual estimated cost of $14,000 for technology staff support and resources. (See page 51 for more information about this project.)

Tennessee's Medicaid Fraud Control Division's role in combating elder financial exploitation

Tennessee's Medicaid Fraud Control Division's lack of authority to investigate Medicaid fraud and abuse in private residences is another limitation in determining the total prevalence and cost of elder financial exploitation in Tennessee, which is discussed in Section 9.

The purpose of Tennessee's Medicaid Fraud Control Division is to investigate Medicaid fraud and abuse, and to prosecute those cases under state law. The division is mostly funded through federal reimbursements, which cover 75 percent of allowable costs, while the remaining 25 percent is state funded. Costs eligible for the federal reimbursements include only those incurred while investigating fraud or abuse in care facilities receiving TennCare funding or in "board and care" facilities (e.g., group homes in which assistance with daily living is provided). This excludes, for example, fraud or abuse that occurred in private residences.

In 2018, 38 Attorneys General from across the country, including Tennessee's Attorney General, signed a letter urging the U.S. Congress to pass legislation that would expand the scope of Medicaid Fraud Control Divisions/Units nationwide to include abuse and neglect of Medicaid beneficiaries in noninstitutional settings. The letter explained that "since the current statute was enacted decades ago, substantial growth has occurred in home and community-based services, office-based services, transportation services, and other settings." It further explained that because care is given in these types of settings, there is opportunity for fraud and abuse, which is currently happening unchecked by Medicaid fraud investigators. The U.S. Office of Inspector General (OIG) also expressed support for expanding the scope. A bill has been introduced in the U.S. Congress that would fulfill the Attorneys Generals' request. The bill was referred to the Subcommittee on Health in January of 2019, and as of spring 2020, it had not been heard.

Although expanding the scope could potentially increase the number of cases investigated, which would incur more costs, the amount of money recovered through fraud investigations by Tennessee's Medicaid Fraud Control Division exceeds the amount of funding received by the division. This means that money returned to TennCare and the federal government due to successful investigation and prosecution of fraud cases is more than the amount of funding spent on the division.

TCAD is overseeing the development of an app for first responders

Through a grant from the federal Administration for Community Living in the U.S. Department of Health and Human Services, TCAD is overseeing the development of an app for first responders designed to help them understand more about identifying elder abuse and the state's laws related to abuse, neglect, and exploitation. The app will include the applicable laws, contact information for relevant agencies, along with information about what each agency does and who to call. It will contain a list of questions that can help first responders determine whether they need to call APS, along with a quick link to call APS through the app. It will also allow alerts to be pushed out. The app is modeled after a similar app in use in Georgia – the GANE (Georgia Abuse, Neglect and Exploitation) app.[AC] TCAD was able to contract with the same developer used by Georgia to build Tennessee's app.[88]

TCAD has conducted two limited roll outs of the app to various groups to test functionality and get feedback for improvements, and plans a final roll out, originally scheduled for late 2020 but now extended because of the pandemic, before the app's official release. The first roll out was to a small number of TCAD staff to detect bugs. The second was to all agency members of the statewide Coordinated Community Response (CCR) group. The final roll out will be coordinated with TBI and the Department of Health's medical community contacts, as well as the Sheriff's Association. Following the final roll out, the app will be released to law enforcement agencies across the state whose personnel will be able to access all available functions. Members of the public also will be able to access some information through the app.[89]

Training on elder abuse for law enforcement officers

According to a survey provided to OREA by the Tennessee Law Enforcement Training Academy (TLETA), all 12 of the academies that train law enforcement officers include the topic of elder abuse in basic training provided for first-year officers, as well as in the annual follow-up training required for officers to receive a pay supplement. TLETA also responds to specific requests for training from local law enforcement agencies. The Director of TLETA said that the academy has had more requests for elder abuse training in the last few years as awareness appears to have increased.

[AC] For information on the Georgia app, see Georgia Abuse, Neglect, and Exploitation App, https://aging.georgia.gov/sites/aging.georgia.gov/files/GANE%20App%20overview.pdf (accessed June 18, 2020). Kristal Dixon, "App Raises Awareness of Abuse of Elderly, Disabled Adults," Patch Cartersville Local News, Sept. 12, 2015, https://patch.com/georgia/cartersville/app-raises-awareness-abuse-elderly-disabled-adults-0 (accessed June 18, 2020).

Section 9: Estimating the cost and prevalence of elder financial exploitation in Tennessee

This section discusses difficulties inherent in estimating the prevalence and cost of elder financial exploitation in Tennessee.

Prevalence of elder financial exploitation in Tennessee

OREA was unable to estimate the prevalence and cost of elder financial abuse in Tennessee due to several factors. As is the case nationwide, any estimation would likely be an undercount due to underreporting. Other reasons OREA was unable to complete a full estimate include the lack of a statewide system to track cases and the limited investigative scope of state agencies (e.g., APS and TBI Medicaid Fraud Control Division).

A statewide system is necessary for accurate estimates in order to include information from each agency that is responsible for receiving reports and completing investigations of elder financial exploitation. For example, local law enforcement agencies (e.g., local police departments and sheriffs' offices) across Tennessee can investigate elder financial exploitation if they receive reports of theft committed against residents over the age of 60. To determine how many reports and investigations of this type happened in Tennessee would require each local law enforcement agency to compile and report data, if it is available.

Without a statewide system, it is not possible to track cases when they are shared between state and local agencies. When asked to provide data about financial exploitation in Tennessee, several local and state agencies provided OREA with numbers about their caseloads. (See Exhibit 12.) OREA also accessed publicly available information, such as annual VAPIT reports, about elder financial exploitation. Many of these cases were shared between agencies, however, so the number of unique cases could not be identified. For example, a single case may be under investigation by three organizations (e.g., APS, TBI, and a district attorney's office). Since it is not currently possible to connect a case across multiple organizations, this single case might be counted as three separate cases rather than one.

Other states have not linked data from multiple sources when developing their estimates of statewide prevalence and cost, and have included only cases that have been substantiated by their Adult Protective Services offices. This is possible because these offices have a wider mandate in law than does APS in Tennessee, and their cases represent a more comprehensive picture of elder abuse across the state. Estimating statewide prevalence and cost in Tennessee based only on cases that have been substantiated by APS would be problematic, however, because of the limited scope of APS elder financial exploitation investigations in the state. APS criteria for investigating reports of financial exploitation in Tennessee is limited to the misuse of government funds by a caretaker. An estimate of prevalence and cost using only cases substantiated by APS would not include cases that involved personal funds or those perpetrated by individuals who are not a caretaker, which would lead to an underestimate of both prevalence and costs.

Although OREA was not able to estimate the number of elder financial exploitation cases in Tennessee, available data shows that reports of elder financial exploitation are increasing across the state. APS received 87 percent more reports in 2019 than in 2015, while financial institutions filed 6 times more reports to APS about potential elder financial exploitation in 2019 than filed in 2015. As explained on page 19, this increase in reports, however, has not led to an increase in investigations by APS.

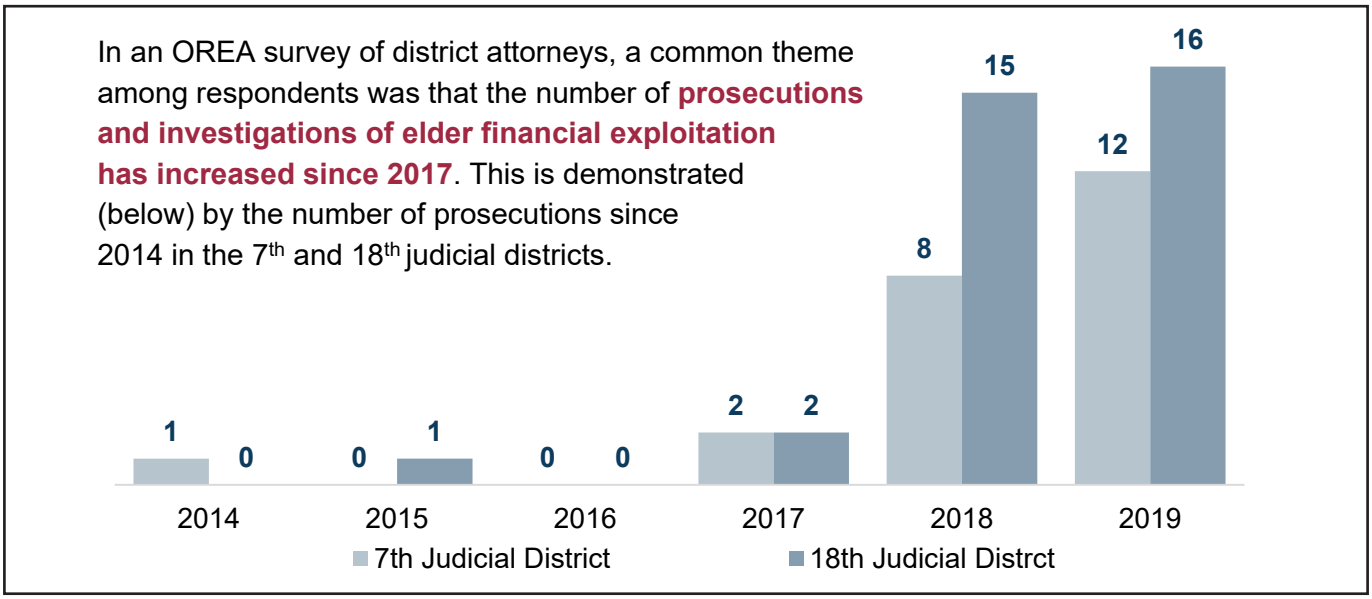
Exhibit 12: Data available to OREA from state and local agencies

	Reports	Investigations	Outcomes of investigations	Financial losses
APS	Yes	Yes	Yes	No
TBI Medicaid Fraud Control Division	Yes	No	No	No
Long-Term Care Ombudsman	Yes	Yes	No	No
Department of Commerce and Insurance	Yes	Yes	Yes	Yes
Financial Institutions (tracked by FinCEN*)	Yes	N/A	N/A^	No
	Investigations	**Prosecutions**	**Outcomes of prosecutions**	**Financial losses**
Local District Attorneys	No	13 of 31 judicial districts	10 of 31 judicial districts	2 of 31 judicial districts~
Administrative Office of the Courts	No	Only some offenses*	Only some offenses	No

Note: * Financial institutions report SARs to FinCEN, which is a federal agency. * The Administrative Office of the Courts can track prosecutions and prosecution outcomes by *TCA* code. This allows tracking of all cases under the Elderly and Vulnerable Adult Protection Act. Victims' ages are not tracked, though, so the data cannot differentiate between cases in which the victim is a younger vulnerable adult, and those in which the victim is an elderly person. In addition, prosecutors can choose not to charge exploiters under the Elderly and Vulnerable Adult Protection Act, and instead charge them with theft or a related offense. These cases have the same data limitations about age, and theft cases involving an elderly victim cannot be identified. ~ While 13 judicial districts provided some information about victims' losses only two were able to provide it for all cases they prosecuted.

Reports screened out by APS are sent to local law enforcement and district attorneys. As the number of referrals made by APS has increased, so has the number of investigations and prosecutions of elder financial exploitation on the local level. In an OREA survey of district attorneys, respondents often attributed this increase to the passage of the Elderly and Vulnerable Adult Protection Act and the creation of VAPITs.

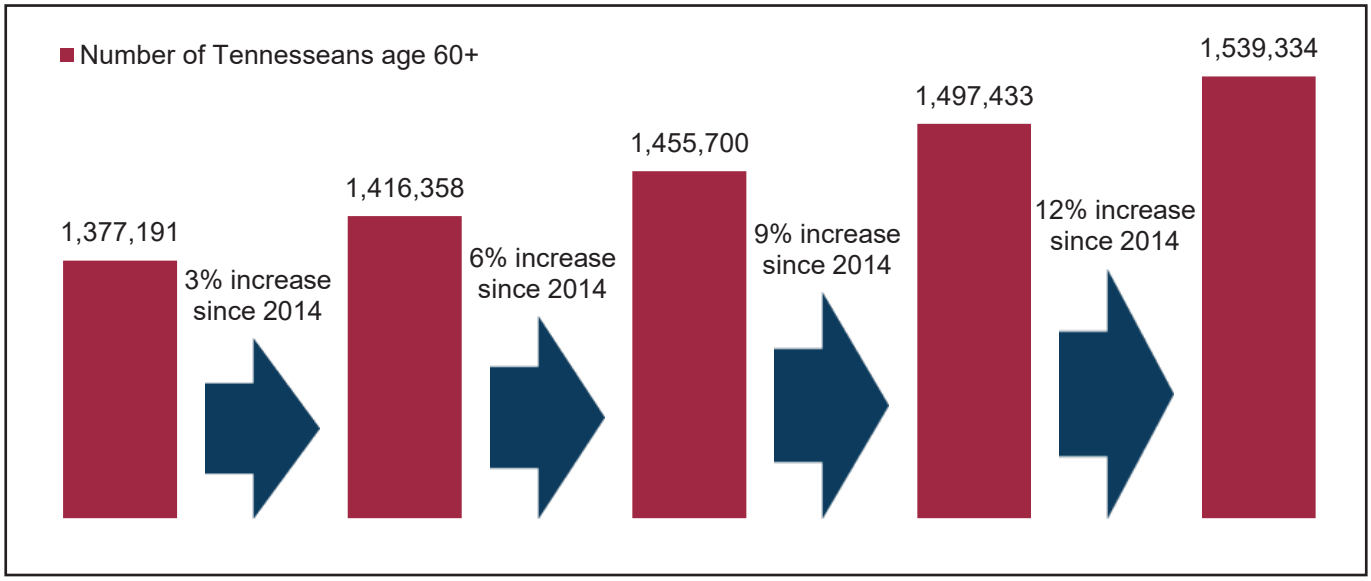
Exhibit 13: Number of elder financial exploitation cases prosecuted by the 7th Judicial District and the general session court of the 18th Judicial District



Note: The 7th and 18th Judicial Districts are shown here because they provided OREA year-by-year data for all five years. Their trends are used in this exhibit as examples to show a theme that emerged in district attorneys' responses to OREA: the number of prosecutions has been increasing since the creation of VAPITs and the passage of the Elderly and Vulnerable Adult Protection Act in 2017.
Source: Responses from two of the 31 judicial districts to questions posed by OREA.

Increases in reporting, investigations by local law enforcement, and prosecutions by district attorneys suggest that the prevalence of elder financial exploitation in the state is increasing, stakeholders are becoming more aware of the problem, or both. Through interviews with state and local agencies, OREA found evidence that awareness of the problem has increased, especially since 2017. In addition, population data shows that the number of elderly adults in Tennessee increased by 12 percent between 2014 and 2018. This means that the potential for financial exploitation of the elderly is growing and is projected to continue growing over the next decade.

Exhibit 14: The number of Tennesseans age 60 or older | 2014 – 2018



Cost of elder financial exploitation in Tennessee

Estimating the cost of elder financial exploitation in Tennessee is more difficult to determine than the prevalence of such cases. For federal, state, and local agencies who provided OREA with caseload data, only one was able to consistently estimate the financial loss to victims: the Department of Commerce and Insurance. APS, TBI, and district attorneys all provided OREA with example cases that sometimes provided the losses to victims of elder financial abuse, but determining the cost of all cases would require investigators from those agencies to comb through case notes and estimate the losses to victims or the state.

Although no total cost to Tennesseans was established, available data on losses to victims ranged from $0 (e.g., the victim was scammed, but the bank effectively blocked the transaction) to $2 million or more. Exhibit 15 shows the range of cases and losses to victims.

Exhibit 15: Elder financial exploitation cases in Tennessee with varying losses to victims | by agency

Agency involved	Losses to victims	Case description
APS	<$1,000	A caretaker stole two checks worth $850 from an elderly man. The caretaker was arrested and CREVAA helped the man with groceries, bills, or other expenses for which he would have used the $850 dollars he lost.
2nd Judicial District	$16,000	The son of a terminal cancer patient used his parent's credit cards. The son spent $16,000 and was eventually convicted of theft and exploitation of an elderly adult. He was the sole caretaker and was granted a diversion – meaning he was ordered to repay the costs and was put on probation, instead of being sentenced as would normally be done.
Department of Commerce and Insurance	$2,000,000	Elderly woman suffered a stroke and one of her children gained access to her account. The woman had not signed off on this, however, and therefore the bank is trying to retrieve the funds back into the account. Commerce and Insurance plans to investigate the Investment Advisor who approved the transfer.

Source: (1) Case studies provided to OREA by APS. (2) Response from the 2nd Judicial District to questions posed by OREA. (3) Case descriptions provided to OREA by the Tennessee Department of Commerce and Insurance.

Conclusions

Those who work with elderly and vulnerable adults have expressed concerns about the criteria under which APS determines whether to investigate cases of elder financial exploitation, describing it as too narrow.

APS criteria for investigating a report of financial exploitation is based on state law, which defines financial exploitation as "the improper use by a caretaker of funds that have been paid by a governmental agency to an adult or to the caretaker for the use or care of the adult." The law governing Tennessee's provision of adult protective services has contained this definition since it was first passed by the General Assembly in 1978.[90] According to APS, it receives a large number of reports of suspected financial exploitation that do not meet this criteria, and it refers these to law enforcement and the state's district attorneys general.

In state fiscal year 2019, out of 3,821 reports of suspected elder financial exploitation, APS screened out 756 reports that did not involve government funds and 1,565 reports that did not involve a caregiver or because the alleged victim did not qualify as vulnerable.[AD] In the previous year, of 3,288 reports of elder financial exploitation, the agency screened out 172 reports that did not involve government funds and 1,423 reports that did not meet the caregiver or vulnerability criteria.[91]

Several stakeholders, including legislators, have expressed concern about statutory provisions that limit APS's ability to investigate reports of financial exploitation. In a 2016 report to the General Assembly, the Tennessee Commission on Aging and Disability discussed the narrow definition of elder financial exploitation in the law that limits APS authority, and the Executive Director of TCAD described it more recently as a gap that remains in Tennessee's system for addressing the issue.[92] Some district attorneys told OREA that they believe the mandate given to APS should be expanded to include non-governmental funds.

In 2017, as required by the General Assembly, DHS analyzed the impact of expanding the definition of financial exploitation to include non-governmental funds and reported its findings to the General Assembly.[93] In the report, APS acknowledged that it was open to the idea of expanding the definition of financial exploitation to include non-governmental funds by a caretaker. Expanding the criteria under which APS operates would increase the number of investigations the agency must conduct. DHS estimated that 25 new positions (to include investigators, auditors, and attorneys) would be needed for the increased number of investigations. The report further clarified that, under the scenario envisioned by DHS, non-governmental funds would include funds only and would not include investigations involving theft of property, such as houses, cars, and clothing. Such reports would continue to be screened out and referred to law enforcement, district attorneys, and appropriate licensing agencies, if applicable. DHS estimated the total additional expenditures for the staffing increase at just under $2 million annually. (A 2020 estimate from DHS placed the total cost at $2.2 million.) The report indicated that if revisions were made to the caretaker definition in the law, additional expenditures would be required.[94] To date, no legislative action has been taken to expand the capacity of APS.

[AD] Under the statute defining the work of APS, "adult" is defined as a person 18 years or older who because of mental or physical dysfunctioning or advanced age is unable to manage their own resources, or protect themselves from neglect, hazardous, or abusive situations without assistance from others and who has no available, willing, and responsibly able person for assistance. ("Advanced age" is defined as 60 years of age or older.) The alleged victim must have an impaired functional status that prevents them from protecting themselves and must have no other person willing to assist them. An "impaired functional status" could include, for example, a mental health condition or a physical health condition that inhibits independent function, or frailty due to advanced age.

OREA was unable to estimate the prevalence and cost of elder financial abuse in Tennessee due to current data limitations.

There is no statewide system to track elder financial abuse cases in Tennessee. Without a statewide system, it is not possible to track cases when they are shared between state and local agencies. When asked to provide data about financial exploitation in Tennessee, several local and state agencies provided OREA with numbers about their caseloads. OREA also accessed publicly available information, such as annual VAPIT reports, about elder financial exploitation. Many of the cases reviewed by OREA were shared between agencies, however, so the number of unique cases could not be identified. For example, a single case may be under investigation by three organizations (e.g., APS, TBI, and a district attorney's office). Since it is not currently possible to connect a case across multiple organizations, this single case might be counted as three separate cases rather than one.

For state, and local agencies who provided OREA with caseload data, only one was able to consistently estimate the financial loss to victims: the Tennessee Department of Commerce and Insurance. APS, TBI, and district attorneys all provided OREA with example cases that sometimes provided the amount of financial losses to victims of elder financial abuse, but determining the cost of all cases would require investigators from those agencies to comb through case notes and estimate the losses to victims or the state.

Other states have not linked data from multiple sources when developing their estimates of statewide prevalence and cost and have only included cases that have been substantiated by their Adult Protective Services offices. Estimating statewide prevalence and cost in Tennessee based only on cases that have been substantiated by APS would be problematic, however, because of the limited scope of APS investigations in the state. APS criteria for investigating reports of financial exploitation in Tennessee is limited to the misuse of government funds by a caretaker. An estimate of prevalence and cost using only cases substantiated by APS would not include cases that involved personal funds or those perpetrated by individuals who are not a caretaker, which would lead to an underestimate of both prevalence and costs.

Tennessee's approach to protect elderly adults from financial exploitation is made up of a patchwork of state and local entities. Their effectiveness in tackling this growing issue, however, is unknown due to data limitations, as described above.

Sizeable increases in elder financial exploitation reports to APS over the last few years suggest that elder abuse is increasing in Tennessee or that reporters have become more aware or both. At the same time, the number of investigations by APS has not increased, suggesting that other entities (e.g., local police, TBI, district attorneys) are increasingly responsible for combatting elder financial abuse.

The number of reports to APS for all abuse categories increased significantly from 2015 to 2019 (by 52 percent), reports of financial exploitation increased by 87 percent over the same period, but total assigned investigations (i.e., reports that APS determines, based on its criteria, should be investigated by APS) have remained relatively stable since 2015.

This is likely because APS criteria for financial exploitation, defined by state law, effectively limits the number of assigned investigations, keeping them to an amount that current resources (i.e., staffing levels) are able to address. As noted earlier in this report, financial institutions in particular have increased their reporting of suspected financial exploitation to APS: between 2015 and 2019, the number of reports from financial institutions rose from 191 to 1,160. Many of those reports, however, are screened out by APS because they do not meet APS criteria (i.e., they do not involve a caregivers' misuse of governmental funds), whether due to a lack of information provided by the reporter, or due to the nature of the alleged incident.

After APS screens out reports that do not meet its criteria for investigation, the agency forwards them to other entities as appropriate, including other state agencies, which may investigate and take further action. Between 2015 and 2019, the number of reports forwarded to other entities increased, especially the number forwarded to district attorneys, local police, and local sheriffs. For example, district attorneys received 50 times more reports from APS in 2019 than they did in 2015, while the number sent to local police nearly doubled. As explained above, it is not possible to track cases when they are shared between state and local agencies, making it difficult to assess whether the current system to protect elderly adults is able to handle this growing problem.

District attorneys report that prosecutions under the new laws are slowly increasing, but they also point to the need for a data system that would allow tracking of cases across the state.

OREA requested the number of prosecutions and convictions from each of the 31 judicial districts for cases involving elder financial exploitation over five years (2015 through 2019). A total of 19 judicial districts responded, but few were able to provide complete answers regarding the number of elder financial abuse prosecutions.[AE]

The ability for judicial districts to track case data is inconsistent across the state, and there is no statewide system for districts to input case data that would allow trend analysis of elder financial exploitation cases or other types of elder abuse cases. Anecdotally and according to case data in some districts that were able to report, the number of prosecutions of elder financial exploitation appears to be slowly increasing as districts become more familiar with the new laws. One district attorney general estimated that it would probably take about five years from when the new laws became effective to determine their full effect on the number of prosecutions and convictions.

> "There is simply no system in place that enables us to consistently and reliably gather important [court] data on almost any subject, including elder abuse."
>
> Jerry Estes, Former Executive Director of the Tennessee District Attorney General's Conference

Data is not maintained by judicial districts in a systematic way to allow easy access to the number of prosecutions and convictions for cases of elder financial exploitation. The state's 31 judicial districts do not have access to a data system that would allow uniform and continuous input of data for cases of all types, including elder financial exploitation. Districts have each formed their own separate systems for keeping up with cases. In a 2019 OREA survey of judicial districts, several cited a need for a statewide database that would allow judicial districts to track cases and outcomes.

Although APS is able to track the cases it investigates under its criteria from beginning to resolution, for cases that are forwarded from APS to other agencies, there is no such means of tracking across agencies. Because there is no systematic way to track an incident from the time it is reported to APS to its resolution by other agencies, such as law enforcement, it is difficult to determine how well the system works to identify, investigate, and prosecute all incidents of elder financial exploitation.

> "Change takes time. Naturally, it takes a while for law enforcement to become familiar with a new statute and we still find that police officers will typically charge "theft" rather than "financial exploitation" unless they're one of the officers more familiar with elder and vulnerable adult cases. The trend is that charges of exploitation will increase as the law enforcement community becomes more familiar with the statutes."
>
> Comment from a District Attorney General

[AE] Although the administrative office of the courts (AOC) acts as a central repository for data on prosecutions, it does not collect prosecutions by victims' ages. This makes it impossible to determine which prosecutions of financial crimes involve elderly victims. Currently, individual judicial districts must, therefore, choose whether to track elder financial abuse.

The Tennessee District Attorneys General Conference told OREA that it worked with APS during 2017 and 2018 to create a database exclusively for elder abuse cases. The effort to develop a database involved conference leadership, district attorneys, assistant district attorneys, APS leadership, and IT representatives from the conference and APS. During 2017 and 2018, several meetings were held to design the setup for the database and identify which fields were needed; to determine the best database infrastructure for the project; to determine how information could be safely and efficiently shared between judicial districts; and to identify common questions the data would be used to answer and how the program could be used to generate appropriate reports. The database was almost completed, but ultimately was not implemented due to funding issues. The estimated cost of the database was $63,000, according to APS, with an annual estimated cost of $14,000 for technology staff support and resources.[95]

District attorneys indicate a need for access to additional investigators and staff with accounting expertise, and more training for prosecutors and law enforcement officers.

District attorneys say that financial exploitation cases are particularly complex, challenging, and resource intensive. Many cited a lack of access to staff with expertise in tracking assets and forensic accounting, which can hinder investigations of financial wrongdoing. Some districts lack a sufficient number of criminal investigators on staff (or believe more will be needed as case numbers increase) and some must rely heavily or fully on local law enforcement for all investigations. Some said that law enforcement officers often lack the proper training to conduct thorough investigations in complex elder financial exploitation cases.

In 2016, the Elder Abuse Committee of the Tennessee District Attorneys General Conference held a three-day training that brought together district attorneys general, assistant district attorneys general, criminal investigators, victim witness coordinators, law enforcement, APS investigators, and Tennessee Commission on Aging and Disability staff to share best practices from across the state. The training consisted of panel discussions and case studies from various state agencies.[96] In the information submitted to OREA from 19 of the state's 31 judicial districts, district attorneys indicated the need for additional training for law enforcement, district attorneys, and others concerning the investigation and prosecution of elder financial exploitation and all types of elder abuse cases. One district attorney noted that training district attorneys and law enforcement together is especially beneficial.

Policy options for consideration

The General Assembly may wish to expand the criteria under which Adult Protective Services conducts elder financial exploitation investigations by authorizing APS to investigate cases involving non-governmental funds and all types of alleged perpetrators.

While researching this report, OREA heard this suggestion offered most frequently and consistently by stakeholders from a wide variety of agencies. In Tennessee, under state law, APS is authorized to investigate allegations of elder financial exploitation only if they involve governmental funds and the alleged perpetrator is a caregiver. The law governing Tennessee's provision of adult protective services has contained this criteria since it was first passed by the General Assembly in 1978. In a review of about half the states, including all Southeastern states, OREA found no other states that limit APS investigations of elder financial exploitation to allegations that involve a caregiver's misuse of governmental funds

Several stakeholders, including legislators, have expressed concern about statutory provisions that limit APS's ability to investigate reports of financial exploitation. In a 2016 report to the General Assembly, the Tennessee Commission on Aging and Disability discussed the narrow definition of elder financial exploitation in the law that limits APS authority, and TCAD staff have described it more recently as a gap that remains in Tennessee's system for addressing the issue.[97] Some district attorneys told OREA that they believe the mandate given to APS should be expanded to include non-governmental funds.

In 2017, as requested by the General Assembly, DHS analyzed the impact of expanding the definition of financial exploitation to include non-governmental funds and reported its findings to the General Assembly.[98] In the report, APS acknowledged that it was open to the idea of expanding the definition of financial exploitation to include non-governmental funds by a caretaker. Expanding the criteria under which APS operates would increase the number of investigations the agency must conduct, and thereby require additional positions.

DHS estimated that 25 new positions (to include investigators, auditors, and attorneys) would be needed for the increased number of investigations if the statutory change was made to add financial exploitation of non-governmental funds to the APS scope. The report further clarified that, under the scenario envisioned by DHS, non-governmental funds would include funds only and would not include investigations involving theft of property, such as houses, cars, and clothing. Such reports would continue to be screened out and referred to law enforcement, district attorneys, and appropriate licensing agencies, if applicable. DHS estimated the total additional expenditures for the staffing increase at about $2.2 million annually. The report indicated that if revisions were made to the caretaker definition in the law, additional expenditures would be required. To date, no legislative action has been taken to expand the capacity of APS.[AF]

[AF] APS staff also note that because APS relies on other agencies to provide services for victims, if its capacity to investigate expands, other agencies would also need additional capacity to provide services.

The General Assembly may wish to create additional staff positions at Adult Protective Services to increase its intake capacity, even if the criteria under which it conducts elder financial exploitation investigations is not expanded.

Officials from APS and district attorneys both suggested that APS's ability to manage the increase in allegations of elder financial abuse is hindered by its lack of staff. Between 2015 and 2019, the number of reports made to APS of elder financial exploitation has increased. This is due, in large part, to increased reporting by financial institutions, which are more likely to report allegations online or via fax. Intake workers are expected to follow up by phone on all reports submitted through these means, but during peak times for reporting – according to an APS official – intake workers at APS are not able to follow up on each online and faxed report. Especially during the summer, reports of abuse to APS increase and intake workers are at full capacity with reports made through phone calls. APS has not increased the number of intake workers since 2015, despite the increase in online and faxed reports. Due to these reporting and staffing trends, intake workers do not currently have the capacity to follow up on all online and faxed reports.

Adult Protective Services may wish to publish an annual report that summarizes its work for the previous state fiscal year.

This would serve to provide stakeholders and the public with documented information about elder and vulnerable adult abuse of all types, and to provide a record of how APS has handled cases. The report could also include the number of cases and types referred to other agencies and an explanation of how APS determines which cases to screen out and where to refer them so that other community actors can review them and respond accordingly. Sample summaries of cases could be provided as well, with no identifying information about the victims or locations, similar to the summary provided in Appendix A of this report. Some states publish annual reports, with varying content, about adult protective services agencies:

- Arizona publishes yearly summaries showing, by type of abuse, the number of allegations APS received, the number substantiated and unsubstantiated, and the number of open investigations at the time of the report. It provides demographics of clients (i.e., victims), including age, race, income, gender, residence type, as well as the relationship to the client of the reporter of the abuse and the perpetrator. The report summarizes the data statewide as well as by each county. The state also publishes an annual report, describing the work of APS.[99]
- Illinois publishes both an annual report and annual one-page demographics summaries[100] with graphs that show the number of reports received over a period of years, the number of reports received by type of abuse for the current year, the percent of reports by age ranges, the source of abuse reports, the relationship of the abuser to the victim by abuse type, and other statewide indicators.
- Kentucky produces an annual Elder Abuse Report, which documents statistics and other information from several agencies, including Adult Protective Services. For APS, the report shows the number of reports received by elder abuse category and the number of reports that were substantiated in that year, as well as the percent increase or decrease from the previous year. It shows the number of individuals currently placed on the state's Caregiver Misconduct Registry and the number and percent increase from the previous year. The report documents the number of reports received in each category of abuse paired with the number that were substantiated.[101]
- Pennsylvania's annual Older Adults Protective Services Annual Report, among other demographics provided, contrasts the percentage of reports in each elder abuse category with the percentage of reports substantiated. The report explains how the adult protective services system in the state is organized and how reports move from intake to resolution.[102]

The General Assembly may wish to urge the federal government to allow state Medicaid Fraud Control Units to investigate Medicaid fraud that occurs outside of institutional settings, including private homes.

The purpose of Tennessee's Medicaid Fraud Control Division (formerly Unit) is to investigate Medicaid fraud and abuse, and to prosecute those cases under state law. The division is mostly funded through federal reimbursements, which cover 75 percent of allowable costs, while the remaining 25 percent is state funded.[103] Costs eligible for the federal reimbursements include only those incurred while investigating fraud or abuse in care facilities receiving TennCare funding or in "board and care" facilities (e.g., group homes in which assistance with daily living is provided). This excludes, for example, fraud or abuse that occurs in private residences.[104]

Tennessee's Attorney General has twice signed letters, along with 37 other state attorney generals, first to the Secretary of the U.S. Department of Health and Human Services[105] and then to members of Congress[106] who had introduced legislation that would allow Medicaid Fraud Control Units (MFCUs) to claim federal reimbursements for investigating Medicaid fraud that occurs outside of institutional settings. In a follow-up letter, the HHS inspector general stated that the department "believes the law should be changed to expand MFCUs' use of [federal funds] to include the detection, investigation, and prosecution of abuse and neglect of Medicaid beneficiaries in non-institutional settings," noting that the change requires statutory amendment and could not be achieved through regulation.[107] A bill to accomplish the expansion was introduced in the House in January 2019 and referred to the Subcommittee on Health in late January, but no congressional action has occurred to date.[108]

In a 2017 federal audit of Tennessee's Medicaid Fraud Control Unit, the Inspector General of HHS concluded that, although the unit reported strong civil and criminal outcomes and a high amount of civil and criminal recoveries, 11 of its cases were ineligible for federal matching funds because the investigations were of incidents not conducted in a Medicaid-funded facility or board and care facility. These 11 investigations involved alleged abuse or neglect occurring in private residences. Ten of the 11 cases involved alleged misappropriation of funds, such as a personal care aide's use of a client's debit card in an unauthorized manner. One case involved neglect of a TennCare beneficiary. The audit recommended that Tennessee repay the federal funds spent on these cases.[109] Officials in the division indicate the funds used for the investigations were returned to HHS – but also that several of these cases resulted in successful convictions.[110]

The General Assembly may wish to revise the state's law concerning the confidentiality of those who report incidents of adult abuse to more closely resemble the law concerning reporters of child abuse incidents.

For elder abuse cases, APS is required to provide the district attorney general with a complete and unredacted copy of its investigative files for a report once criminal prosecution has begun, but cannot, under the law, disclose to the district attorney general the identity of the individual who made the original allegation until after an indictment has been returned.[111] Some district attorneys note the inconsistency in Tennessee law between confidentiality requirements concerning the reporter of an allegation provided for child abuse cases compared to those for elder abuse cases.

Under state law pertaining to child abuse investigations, the Department of Children's Services (DCS) is allowed to identify the reporter (or referent) of child abuse to the district attorney general and law enforcement for the purpose of cooperating with a law enforcement investigation.[112] In addition, DCS is required by statute to investigate all severe abuse cases collaboratively with law enforcement and the DA as members of a Child

Protective Investigative Team (CPIT), which allows DCS to share the name of the reporter.[113]

Some of the state's district attorneys general argue that having the name of the reporter of an allegation of elder abuse at the beginning of an investigation would give them a starting point for investigation. APS and other stakeholders suggest that unintended consequences could result from such a change, including a chilling effect if those who wish to report abuse fear that their identities will not be kept confidential. APS also contends that district attorneys essentially have access to this information already. When APS refers reports to district attorneys, the narrative generally includes a list of potential witnesses. Often this list contains the name of the reporter but does not identify the individual as such.[114]

A related bill was proposed during the 111th General Assembly in 2020. Proposed House Bill 1990/ Senate Bill 2894 would require APS to provide law enforcement (district attorneys are not mentioned) with the identity of the reporter of a case of suspected abuse, neglect, or exploitation of an adult "so that law enforcement may follow up with the person to determine if the report was investigated and resolved." As of the adjournment of June 2020 special legislative session, the House passed the bill but action is deferred in the Senate until December 1, 2020.

Adult Protective Services could create a guidebook for financial institutions to follow in making elder financial exploitation reports to APS.

The guide could be developed in association with others, such as the Tennessee Bankers Association, the Tennessee Credit Union League, and the Tennessee Department of Financial Institutions. Several other states have published guidance reports aimed at helping financial institutions understand how and where to report cases of elder financial exploitation.

States that have published guidance to assist financial institutions' response to elder financial exploitation include Arizona, Ohio, Oregon, Maine, Missouri, and Massachusetts. In general, state guides include descriptions of financial exploitation (sometimes including case studies of actual incidents), state and federal laws regarding reporting, common characteristics of victims and perpetrators, warning signs of financial exploitation, examples of appropriate interventions, and how and where to report.

In particular, Oregon and Massachusetts have developed clear guidance documents, which can also be used for training. Oregon's manual, called a training kit, is accompanied by online video enactments of real events experienced by members of the Oregon Bankers Association, including attempted incidents of fraud involving power of attorney, intimidation, and checking accounts. The manual also includes an optional form created by the Oregon APS at the request of bankers "as a means of expediting the report process."[115]

One goal of Massachusetts in its Bank Reporting Project, first launched in 1996, is "to minimize the time financial institution personnel spend on these cases while still ensuring that critical information reaches Protective Services or law enforcement in a timely manner." The project is voluntary for banks and was updated most recently in 2017 to reflect modern banking practices involving technology. After receiving materials and training from the project, financial institutions are responsible for training their employees on identifying possible financial exploitation and other types of abuse. In addition, financial institutions provide training on following the simple protocol for reporting suspicious circumstances to Adult Protective Services and/or law enforcement.[116]

Representatives of the banking industry in Tennessee have encouraged the development of a guidance document in discussions before the current Elder Financial Exploitation Task Force. In that forum, managers

from banks and credit unions have discussed real situations involving potential elder financial exploitation incidents they have confronted that, for various reasons, lack simple solutions. In developing a guide, APS and financial institution representatives would need to work together to address some of these complex situations and barriers to reporting, such as the ones described below:

- Reports that lack enough information for APS to determine whether they meet the agency's criteria for investigation. Financial institutions often report to APS via the online form rather than calling the abuse hotline. The form asks the reporter to indicate the mental or physical capacity of the alleged victim, and whether the alleged perpetrator is a caregiver for the alleged victim. Banking representatives say they often do not know whether individuals who might accompany elderly customers are caregivers, and that bank employees are not trained in determining mental or physical capacity.[117]
- Reports that are not submitted by the person who witnessed the incident. APS indicates that some financial institutions – often branches of financial institutions with headquarters located in another state – have a hierarchical approach to reporting. This means that tellers or other frontline staff who witness a potential incident of elder financial exploitation are not the persons directly reporting incidents to APS. Instead, personnel at headquarters complete the report and submit it to APS with the name of the main bank but without the name of the original reporter. APS then may have difficulty confirming some information in the report.[118]

The General Assembly may wish to fund additional staff positions in the offices of district attorneys general to increase their capacity to investigate and prosecute elder financial exploitation cases.

District attorneys indicate that cases involving elder financial exploitation are generally more time consuming than other types of cases, and require more attention to victims who are often vulnerable or lack cognitive capacity. Of the 19 judicial districts that responded to a request for information, 14 indicated the need for additional resources in the form of staff. Eight judicial districts indicated a need for staff with accounting expertise to improve investigations of cases that involve financial exploitation. Six described a need for more staff who are knowledgeable in investigating and prosecuting financial exploitation cases.

In 2018, the General Assembly passed Public Chapter 974, creating a task force to review the composition of Tennessee's judicial districts. In December 2019, the Tennessee Task Force on the Composition of Judicial Districts published its final report in response to the legislative directive. Among its conclusions, the task force noted that:

> There is a current and pressing need for additional resources for District Attorneys General and District Public Defenders. This need will only increase as the State continues its rapid growth.[119]

The task force also urged the future completion of a weighted caseload study to include general sessions data:

> There presently is no repository of statistical data that can reasonably be counted upon to predict the future needs for assistants and staff for these offices [i.e., district attorneys general and district public defenders]. This project is ongoing but has not been completed. Without General Sessions caseload data, it is impossible to conduct an accurate caseload study. Law currently in effect requires that the Comptroller of the Treasury maintain and update a weighted caseload study for District Attorneys General and District Public Defenders. The Comptroller's office has been unable to perform this task because of insufficient data from the General Sessions Courts and juvenile courts as well as outdated case weights. The Task Force strongly recommends to the General Assembly that future funding decisions regarding resources for both the District Attorneys General and District Public Defenders be based upon

a weighted case load study, along with other relevant factors such as expected population growth.[120]

The General Assembly may wish to fund and mandate improvements to data collection of elder abuse cases in the state. There are a number of improvements that could be made, from a statewide system for all stakeholders, to improvements for individual agencies. The data improvement options are listed below:

(1) Create a statewide system in which each case that has been referred out of or into APS can be tracked across agencies.

One key reason that OREA was unable to estimate the prevalence or cost of elder financial exploitation in Tennessee was the lack of a statewide system to track cases.

A statewide system is necessary for accurate estimates because several agencies on the state and local level play a role in investigating elder abuse and holding perpetrators accountable. Currently, each agency is responsible for their own data collection, and the type of data collected from each varies, hindering the collection and comparison of data across agencies. In addition, it is not currently possible to track cases when they are shared between state and local agencies, preventing a unique count of cases (i.e., data on the number of cases provided by one agency may include cases investigated by other agencies, but the extent to which such cases overlap is unknown).

A centralized system would allow for consistent tracking and reporting across the state, and across varying types of agencies. The system could track demographic information about alleged perpetrators and victims, including the age of victims, alongside details about the alleged abuse. Currently, APS receives and shares cases from several state agencies.[AG] Those agencies could be granted access to update files if they investigate allegations, prosecute cases, or provide services to a victim. APS or another designated agency could regulate what type of access is allowed by each agency, depending on their function.

Although this report focuses on elder financial exploitation, such a system could be developed that would provide information for all types of elder abuse cases. In considering this option, the General Assembly could look to the Tennessee District Attorneys General Conference and Adult Protective Services in DHS for the work the two agencies previously undertook to develop such a system.

(2) If a statewide system is not created, data tracking could be improved in the following ways.

a. **District attorneys could be required to report the age of victims for each prosecution to the Administrative Office of the Courts (AOC), which could be required to maintain this data.** The AOC is already responsible for collecting and compiling data from all judicial districts in the state. Currently, there is no way to identify or quantify the number of elder financial exploitation cases using AOC data. Elder financial abuse can be prosecuted under several charges, including theft, check fraud, identify theft, or financial exploitation of an elderly or vulnerable adult. The AOC tracks the number of prosecutions under each of those charges, but does not track them by the victim's age. Theft committed against an elderly victim – who may be, for example, 65 years of age but not 70, the lowest age under which the Elder Financial Exploitation Act may be used – therefore,

[AG] Agencies to which APS receives and sends allegation of abuse include Adult Daycare Licensing, CREVAA, Dept. of Health, Dept. of Human Services--Office of Inspector General, Dept. of Intellectual and Developmental Disabilities, Dept. of Mental Health and Substance Abuse Services, District Attorneys, Local Police, Local Sheriffs, Ombudsman for Long Term Care, TennCare/Medicaid, Tennessee Bureau of Investigation (TBI).

is indistinguishable from theft committed against a younger victim, and financial exploitation of an elderly victim is indistinguishable from financial exploitation of a younger vulnerable adult.

b. **Judicial districts could be required to provide more detailed information in the annual reports about VAPITs.** Public Chapter 1006 (2016) requires an annual report be completed by all 31 district attorneys general by December 1 of each year that summarizes the work of the VAPITs for the previous calendar year. The law provides no specific criteria for the reports, which provide only the number of VAPIT meetings competed and the number of referrals reviewed each year. This information does not provide enough detail to determine the types of cases (e.g., physical abuse cases vs. financial exploitation cases) reviewed, how many referrals led to an investigation or prosecution, and whether the vulnerable adults in question were elderly.

   Future VAPIT reports could detail the number of cases reviewed broken down by the type of case, the age of the victim (i.e., elderly or vulnerable adult), and the decision made by the VAPIT on how to proceed with the referral. The Tennessee District Attorneys General Conference could work with VAPITs to determine the best way to package and organize that information. Appendix E provides an example of a form that could be used or adjusted by the Tennessee District Attorneys General Conference for that purpose.

   Currently, the Tennessee District Attorneys General Conference collects and compiles VAPIT reports from across the state and sends them to the chairs of the Judiciary Committee of the state Senate and the Criminal Justice Committee of the state House of Representatives. If additional information were added to the VAPIT reports, as explain above, the Tennessee District Attorneys General Conference could make these reports publicly available online, either on its website or elsewhere.

Organizations represented on the Elder Abuse Task Force could use the geographical analysis presented in this report to focus training and awareness raising efforts in counties with lower reporting or prosecution rates.

Organizations representing financial institutions could focus training and awareness raising efforts in the counties in which a low number of elder financial exploitation reports were filed with APS by financial institutions. (See Exhibit 10.) In six counties, no reports of elderly financial exploitation were reported by financial institutions: Jackson, Lake, Meigs, Morgan, Overton, and Pickett. For the remaining 89 counties, the rate of reports filed ranged from 2.73 per 10,000 elder residents in Bledsoe County to 38.47 in Grainger County. This variation can be used to create priority areas where raising awareness and training can be targeted.

Similarly, organizations representing law enforcement and district attorneys general could focus training and raising awareness efforts in districts in which a low number of cases were prosecuted as financial exploitation of an elder or vulnerable adult. When controlling for population size, Middle and East Tennessee had higher prosecution rates (27.7 and 28.8 prosecutions per 10,000 elderly residents, respectively) than West Tennessee (10.1 prosecutions per 10,000 elderly residents). In general, the urban centers of the state (e.g., Knox, Hamilton, and Davidson) had a rate above 20 – well above the statewide average – while Shelby County was a notable exception, with a rate of 0.6. This type of geographical information could be used to help target training on the new laws regarding financial exploitation of elderly or vulnerable adults. (See Exhibits 4 and 5.)

Endnotes

[1] Types of elder abuse from GAO-11-208, 2011, p. 4, https://www.gao.gov/new.items/d11208.pdf (accessed Nov. 15, 2020). National Committee for the Prevention of Elder Abuse, Center for Gerontology at Virginia Polytechnic Institute and State University, and the MetLife Mature Market Institute, *The MetLife Study of Financial Abuse: Crimes of Occasion, Desperation, and Predation Against America's Elders,* June 2011, p. 17, https://ltcombudsman.org/uploads/files/issues/mmi-elder-financial-abuse.pdf (accessed Oct. 3, 2019).

[2] Public Chapter 135, 2019. Senate Joint Resolution 678, 2016. Tennessee Commission on Aging and Disability, *Senate Joint Resolution 678: Study on Financial Exploitation of Vulnerable Adults in Tennessee,* Nov. 1, 2016, https://www.tn.gov/content/dam/tn/aging/documents/SJR_678.pdf (accessed Oct. 14, 2019).

[3] Public Chapter 135, 2019.

[4] Kelly Dedel Johnson, *Financial Crimes Against the Elderly,* Problem-Oriented Guides for Police, Problem-Specific Guides Series, No. 20, U.S. Department of Justice, Office of Community Oriented Policing Services, 2003, p. 3, https://cops.usdoj.gov/ric/Publications/cops-w0768-pub.pdf (accessed Nov. 15, 2019). Thomas L. Hafemeister, "Chapter 13: Financial Abuse of the Elderly in Domestic Settings," *Elder Mistreatment: Abuse, Neglect, and Exploitation in an Aging America,* National Research Council, Panel to Review Risk and Prevalence of Elder Abuse and Neglect, 2003, pp. 388-389.

[5] Treasury Inspector General for Tax Administration, J. Russell George Urges Taxpayers to Remain Vigilant Against Scammers, Press Release, March 17, 2016, https://www.treasury.gov/tigta/press/press_tigta-2016-07.htm (accessed June 8, 2020).

[6] The Office of the Minnesota Attorney General, Jamaican Lottery Scam, not dated, https://www.ag.state.mn.us/Brochures/pubJamaicanLotteryScam.pdf (accessed June 8, 2020).

[7] The Office of the Minnesota Attorney General, Computer Scams, not dated, https://www.ag.state.mn.us/Brochures/pubComputerScams.pdf (accessed June 8, 2020).]

[8] Nicole Bogart, CTV News, "FBI busts scammers who allegedly tried to steal over US$40M in dating scheme," Aug. 24, 2019, https://www.ctvnews.ca/world/fbi-busts-scammers-who-allegedly-tried-to-steal-over-us-40m-in-dating-scheme-1.4563678 (accessed June 8, 2020).

[9] Stephen Deane, *Elder Financial Exploitation: Why it is a concern, what regulators are doing about it, and looking ahead,* U.S. Securities and Exchange Commission, Office of the Investor Advocate, June 2018, p. 1, https://www.sec.gov/files/elder-financial-exploitation.pdf (accessed Oct. 24, 2019).

[10] Marguerite DeLiema and Kendon J. Conrad, "Financial Exploitation of Older Adults," *Elder Abuse: Research, Practice and Policy,* Switzerland: Springer International, 2017, p. 143, eligible for download at https://www.researchgate.net/publication/313963491_Financial_Exploitation_of_Older_Adults (accessed Oct. 24, 2019). Janey C. Peterson, et al., "Financial Exploitation of Older Adults: A Population-Based Prevalence Study," *Journal of General Internal Medicine,* Vol. 29, No. 12, July 25, 2014, pp. 1615-1623, https://link.springer.com/content/pdf/10.1007%2Fs11606-014-2946-2.pdf (accessed Oct. 25, 2019).

[11] National Adult Protective Services Association, Elder Financial Exploitation, https://www.napsa-now.org/get-informed/exploitation-resources/ (accessed Nov. 17, 2019).

[12] *TCA* 71-6-102(8).

[13] Public Chapter 899, 1978.

[14] Public Chapter 466, 2017; Public Chapter 474, 2019; *TCA* 39-15-501(7).

[15] *TCA* 45-2-1202 (4).

[16] *TCA* 48-1-102 (10).

[17] Stephen Deane, *Elder Financial Exploitation: Why it is a concern, what regulators are doing about it, and looking ahead,* U.S. Securities and Exchange Commission, Office of the Investor Advocate, June 2018, pp. 1-15, https://www.sec.gov/files/elder-financial-exploitation.pdf (accessed Oct. 24, 2019).

[18] Stephen Deane, *Elder Financial Exploitation: Why it is a concern, what regulators are doing about it, and looking ahead,* U.S. Securities and Exchange Commission, Office of the Investor Advocate, June 2018, pp. i and 9, https://www.sec.gov/files/elder-financial-exploitation.pdf (accessed Oct. 24, 2019). Maria Greene and Andrew Capehart, NAMRS: What It Is and Why You Should Care, U.S.C. Center on Elder Mistreatment, Dec. 3, 2018, https://eldermistreatment.usc.edu/namrs-what-it-is-and-why-you-should-care/ (accessed Sept. 15, 2019).

[19] Kelly Dedel Johnson, *Financial Crimes Against the Elderly*, Problem-Oriented Guides for Police, Problem-Specific Guides Series, No. 20, U.S. Department of Justice, Office of Community Oriented Policing Services, 2003, p. 4, https://cops.usdoj.gov/ric/Publications/cops-w0768-pub.pdf (accessed Nov. 15, 2019).

[20] Thomas L. Hafemeister, "Financial Abuse of the Elderly in Domestic Settings," Chapter 13 in *Elder Mistreatment: Abuse, Neglect, and Exploitation in an Aging America,* National Research Council, 2003, p. 389. Stephen Deane, *Elder Financial Exploitation: Why it is a concern, what regulators are doing about it, and looking ahead,* U.S. Securities and Exchange Commission, Office of the Investor Advocate, June 2018, pp. 1-15, https://www.sec.gov/files/elder-financial-exploitation.pdf (accessed Oct. 24, 2019).

[21] Stephen Deane, *Elder Financial Exploitation: Why it is a concern, what regulators are doing about it, and looking ahead,* U.S. Securities and Exchange Commission, Office of the Investor Advocate, June 2018, p. 8, https://www.sec.gov/files/elder-financial-exploitation.pdf (accessed Oct. 24, 2019).

[22] Bryan J. Kemp and Laura A. Mosqueda, "Elder Financial Abuse: An Evaluation Framework and Supporting Evidence," *Journal of American Geriatrics Society,* Vol. 53, No. 7, July 2005, pp. 1123-1127, http://www.centeronelderabuse.org/docs/EldFinAbuse_KempMosqueda2005.pdf (accessed Oct. 4, 2019).

[23] Loraine A. West, Samantha Cole, Daniel Goodkind, and Wan He, *65+ in the United States: 2010,* U.S. Census Bureau, June 2014, https://www.census.gov/content/dam/Census/library/publications/2014/demo/p23-212.pdf (accessed Oct. 25, 2019).

[24] Tennessee Comptroller of the Treasury, *Senior Long-Term Care in Tennessee: Trends and Options,* Office of Research and Education Accountability, April 2017, p. 3, https://comptroller.tn.gov/content/dam/cot/orea/documents/orea-reports-2017/2017_OREA_SeniorLongTermCare.pdf (accessed June 9, 2020).

[25] Maryalene LaPonsie, "Why Seniors Have the Greatest Financial Security," *U.S. News and World Report,* Feb. 26. 2016, https://money.usnews.com/money/personal-finance/articles/2016-02-26/why-seniors-have-the-greatest-financial-security (accessed Oct. 14, 2019). Dayana Yochim, What's your net worth, and how do you compare to others?, MarketWatch, Jan. 23, 2020, https://www.marketwatch.com/story/whats-your-net-worth-and-how-do-you-compare-to-others-2018-09-24 (accessed June 9, 2020).

[26] World Health Organization, *World Report on Ageing and Health,* 2015, pp. 43-51, https://apps.who.int/iris/bitstream/handle/10665/186463/9789240694811_eng.pdf;jsessionid=1FF16BC482E01FE165CC53D362F2FC84?sequence=1 (accessed Oct. 14, 2019).

[27] Association of Certified Fraud Examiners, "Elderly Fraud Scams: How They're Being Targeted and How to Prevent It," *The Fraud Examiner,* https://www.acfe.com/fraud-examiner.aspx?id=4294997223#:~:text=Unfortunately%2C%20elderly%20individuals%20are%20the,to%2Ddoor%20or%20through%20advertisements (accessed June 25, 2020). Federal Bureau of Investigation, Common Scams and Crimes: Elder Fraud, https://www.fbi.gov/scams-and-safety/common-scams-and-crimes/elder-fraud (accessed June 25, 2020).

[28] U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, *Cognitive Impairment: A Call for Action Now!,* Feb. 2011, https://www.cdc.gov/aging/pdf/cognitive_impairment/cogimp_poilicy_final.pdf (accessed Oct. 23, 2019). David Burnes, Charles R. Henderson Jr., Christine Sheppard, Rebecca Zhao, Karl Pillemer, and Mark S. Lachs, "Prevalence of Financial Fraud and Scams Among Older Adults in the United States: A Systematic Review and Meta-Analysis," *American Journal of Public Health,* Vol.

107, No 8, August 2017, pp. e13-e21.

[29] Stacey Wood and Peter A. Lichtenberg, "Financial Capacity and Financial Exploitation of Older Adults: Research Findings, Policy Recommendations and Clinical Implications," *Clinical Gerontologist,* Vol. 40, No. 1, 2017, pp. 3-13.

[30] William F. Benson and Nancy Aldrich, "Rural Older Adults Hit Hard by Opioid Epidemic," *Aging Today,* American Society on Aging, Sept./Oct. 2017, https://www.asaging.org/blog/rural-older-adults-hit-hard-opioid-epidemic (accessed Oct. 23, 2019). Pamela B. Teaster, Karen A. Roberto, Robert Blancato, Brian W. Lindberg, and Meredith Whitmire, Opioids and Elder Abuse: A Disquieting Connection, USC Center on Elder Mistreatment, March 4, 2019, https://eldermistreatment.usc.edu/opioids-and-elder-abuse-a-disquieting-connection/ (accessed Oct. 23, 2019). Kathryn Sapp, *Interview with Experts - How the Opioid Epidemic is Impacting APS,* Adult Protective Services Technical Assistance Resource Center, not dated, https://apstarc.acl.gov/getattachment/Education/Briefs/InterviewWithExpertsOpiods.pdf.aspx?lang=en-US (accessed Oct. 21, 2019).

[31] Pamela B. Teaster, Karen A. Roberto, Robert Blancato, Brian W. Lindberg, and Meredith Whitmire, *Opioids and Elder Abuse: A Disquieting Connection,* USC Center on Elder Mistreatment, March 4, 2019, https://eldermistreatment.usc.edu/opioids-and-elder-abuse-a-disquieting-connection/ (accessed Oct. 23, 2019).

[32] Marie-Therese Connolly, Bonnie Brandl, and Risa Breckman, *The Elder Justice Roadmap,* U.S. Department of Justice, p. 23, https://www.justice.gov/file/852856/download (accessed Nov. 19, 2019).

[33] *The MetLife Study of Elder Financial Abuse Crimes of Occasion, Desperation, and Predation Against America's Elders,* June 2011, https://ltcombudsman.org/uploads/files/issues/mmi-elder-financial-abuse.pdf (accessed Nov. 19, 2019). *The True Link Report on Elder Financial Abuse,* Jan. 2015, http://documents.truelinkfinancial.com/True-Link-Report-On-Elder-Financial-Abuse-012815.pdf (accessed Nov. 19, 2019).

[34] Yufan Huang and Alan Lawitz, *The New York State Cost of Financial Exploitation Study,* New York State Office of Children and Family Services, June 15, 2016, p. 12, https://ocfs.ny.gov/main/reports/Cost%20of%20Financial%20Exploitation%20Study%20FINAL%20May%202016.pdf (accessed Nov. 19, 2019).

[35] Public Chapter 135, 2019.

[36] Data supplied by the Administrative Office of the Courts (AOC) to OREA.

[37] *TCA* 68-11-1004.

[38] *TCA* 39-15-509 and 71-6-103.

[39] *TCA* 71-6-101 (b)(1).

[40] *TCA* 39-15-509(b).

[41] Tennessee Department of Human Services, *Adult Protective Services Policy Manual*, Effective Nov. 1, 2015, p. 9, https://www.tn.gov/content/dam/tn/human-services/documents/APS_Policy_Manual_11.1.15.pdf (accessed June 10, 2020).

[42] *TCA* 71-6-102(5) and (8).

[43] Public Chapter 899, 1978.

[44] Program Director, Adult Protective Services, Department of Human Services, email attachment, Nov. 26, 2019.

[45] Tennessee Department of Human Services, *Adult Protective Services Manual*, Effective Nov. 1, 2015, pp. 13 and 20, https://www.tn.gov/content/dam/tn/human-services/documents/APS_Policy_Manual_11.1.15.pdf (accessed June 11, 2020).

[46] Tennessee Department of Human Services, Collateral Document, Topic: Guidelines for Completing Investigations, effective date July 15, 2018, supersedes Chapter 9, APS Policy Manual, Nov. 1, 2015, pp. 32-34.

[47] Tennessee Department of Human Services, *Adult Protective Services Manual*, Effective Nov. 1, 2015, pp. 47-48, https://www.tn.gov/content/dam/tn/human-services/documents/APS_Policy_Manual_11.1.15.pdf (accessed June 11, 2020).

[48] Tennessee Department of Human Services, *Adult Protective Services Procedure Manual*, January 11, 2016, p. 167, https://www.teamtn.gov/content/dam/teamtn/human-services/policy/manuals/APS%20Procedure%20Manual.pdf (accessed June 11, 2020). *TCA* 71-6-104.

[49] APS Program Manager, Department of Human Services, email, May 26, 2020.

[50] APS Program Director, Department of Human Services, interview, April 20, 2020.

[51] Ibid.

[52] Department of Human Services, Adult Protective Services, Field and Intake Staff Directory, updated Nov. 25, 2019.

[53] APS Program Director, Department of Human Services, interview, July 3, 2019. Tennessee Department of Human Services, *Financial Exploitation Involving Non-Government Funds: Adult Protective Services Report to the General Assembly,* Jan. 2017, p. 8. Tennessee SSBG Intended Use Plan, Social Services Block Grant, Pre-Expenditure Report, Fiscal Year 2019, p.7, https://www.tn.gov/content/dam/tn/human-services/documents/FY19_DRAFT_SSBG_Intended_%20Use_%20of_%20Funds_Plan.pdf (accessed June 12, 2020).

[54] Collaborative Response to Elder and Vulnerable Adult Abuse (CREVAA), https://www.tn.gov/aging/our-programs/crevaa.html (accessed June 12, 2020).

[55] CREVAA Program Director, Tennessee Commission on Aging and Disability, interview, Sept. 9, 2020.

[56] CREVAA Program Director, Tennessee Commission on Aging and Disability, email and attachment, Dec. 13, 2019.

[57] Ibid.

[58] Advisory Task Force on the Composition of Judicial Districts, Created by Public Chapter 974 (2018), Final Report, Dec. 2019, http://www.tncourts.gov/sites/default/files/docs/task_force_final_report.pdf (accessed June 15, 2020).

[59] Ibid.

[60] *TCA* 39-15-509(f) and *TCA* 71-6-118(c) (2)(C).

[61] *TCA* 37-1-409(f).

[62] Deputy Commissioner, Office of Child Safety, Department of Children's Services, email, Feb. 28, 2020. Department of Children's Services, Administrative Policies and Procedures: 14.6, Child Protective Investigation Team.

[63] American Bankers Association, *Protecting Seniors: A Bank Resource Guide for Partnering with Law Enforcement and Adult Protective Services,* 2018, p. 5, available for download at https://www.aba.com/news-research/references-guides/protecting-seniors (accessed Feb. 7, 2020).

[64] Tennessee Commission on Aging and Disability, *Senate Joint Resolution 678: Study on Financial Exploitation of Vulnerable Adults in Tennessee,* Nov. 1, 2016, pp. 7-10, https://www.tn.gov/content/dam/tn/aging/documents/SJR_678.pdf (accessed Oct. 14, 2019).

[65] 31 CFR 1020.320, Reports by banks of suspicious transactions, https://www.law.cornell.edu/cfr/text/31/1020.320 (accessed March 16, 2020).

[66] Executive Vice President and General Counsel, Tennessee Bankers Association, interview, Aug. 16, 2019. Chief Innovation Officer, Tennessee Credit Union League, interview, Aug. 6, 2019.

[67] Assistant Commissioner, Securities Division, Tennessee Department of Commerce and Insurance, email and attachment, Feb. 12, 2020.

[68] Consumer Financial Protection Bureau, *Recommendations and report for*

financial institutions on preventing and responding to elder financial exploitation, March 2016, p. 13, https://files.consumerfinance.gov/f/201603_cfpb_recommendations-and-report-for-financial-institutions-on-preventing-and-responding-to-elder-financial-exploitation.pdf (accessed Feb. 19, 2020).

[69] Federal Deposit Insurance Corporation, Bank Secrecy Act, Anti-Money Laundering, and Office of Foreign Assets Control, DSC Risk Management Manual of Examination Policies, Section 8.1, https://www.fdic.gov/regulations/safety/manual/section8-1.pdf (accessed June 17, 2020), pp. 1, 31, 33.

[70] Maine: *The Maine Reporting Project for Financial Institutions: Fighting Financial Exploitation*, 2014; Missouri: *A Resource Manual for Banks and Credit Unions*, Aug. 2005, https://health.mo.gov/seniors/mosafe/pdf/MOSAFEResourceManual.pdf; Ohio: *Understanding Elder Abuse: A Guide for Financial Services Professionals*, Rev. 2018, https://dsas.cuyahogacounty.us/pdf_dsas/en-US/UnderstandingElderAbuse.pdf; Oregon: *Preventing Elder Financial Exploitation: How Financial Institutions Can Help*, 2018, https://www.oregonbankers.com/preventing-elder-financial-exploitation-toolkit.html (all accessed Feb. 19, 2020).

[71] Pennsylvania Department of Banking and Securities, *Elder Financial Abuse Prevention Toolkit*, https://www.dobs.pa.gov/Documents/Publications/Brochures/Elder%20Financial%20Abuse%20Prevention%20Toolkit.pdf, p. 12 (accessed Feb. 21, 2020).

[72] Chief Innovation Officer, Tennessee Credit Union League, interview, Aug. 6, 2019.

[73] Arizona, California, Colorado, Florida, Georgia, Minnesota, Ohio, Oregon, Tennessee, Vermont, and Utah participated in AARP's BankSafe six-month pilot program, which was completed in December 2018.

[74] AARP Public Policy Institute, *The Impact of Training Financial Professionals to Prevent Financial Exploitation*, Research Report, Oct. 2019, https://www.aarp.org/content/dam/aarp/ppi/banksafe/pdf/2019/full-report-banksafe-training-impacts.pdf (accessed June 17, 2020).

[75] State Director, AARP, email, April 3, 2020.

[76] American Bankers Association, Elder Financial Exploitation: An ABA Frontline Compliance Training Course, https://www.aba.com/training-events/online-training/elder-financial-exploitation (accessed June 17, 2020).

[77] Lindsay LaNore, Independent Community Bankers of America, *Ending the Financial Exploitation of Older Americans,* May 30, 2019, https://www.icba.org/news/blog-details/main-street-matters---education/2019/05/30/ending-the-financial-exploitation-of-older-americans (accessed June 17, 2020).

[78] Senior Housing Crime Prevention Foundation, Preventing Elder Financial Abuse: Video Toolkit, https://shcpfoundation.org/cra-partners/ (accessed June 17, 2020).

[79] Financial Crimes Enforcement Network, Frequently Asked Questions, "How has FinCEN addressed the problem?" https://www.fincen.gov/frequently-asked-questions (accessed June 17, 2020).

[80] FinCEN Coordinator, Tennessee Bureau of Investigation, interview, Oct. 14, 2019.

[81] Leslie McNally, J.D., "Compliance and Reporting of Financial Exploitation of Older Adults," *ABA Bank Compliance,* May 3, 2019 (accessed June 18, 2020).

[82] Tennessee Commission on Aging and Disability, *Tennessee State Plan on Aging, October 1, 2017 – September 30, 2021,* https://www.tn.gov/content/dam/tn/aging/documents/TN_State_Plan_on_Aging_2017-2021.pdf (accessed June 25, 2020).

[83] Tennessee Department of Human Services, *A Framework for Policies and Procedures for Tennessee Adult Protective Services to Protect Older and Vulnerable Adults*, Sept. 2018, https://www.tn.gov/content/dam/tn/human-services/documents/Coordinated%20Community%20Response%20Report%202018.pdf (accessed June 26, 2020).

[84] TBI Newsroom, Multi-Agency Investigation Results in Charges Against Former Senior Home Care Operator, Sept. 20, 2018, https://tbinewsroom.com/2018/09/20/multi-agency-investigation-results-in-charges-against-former-senior-home-care-operator/ (accessed Dec. 12, 2019).

[85] Ben Wheeler, "Peterson pleads guilty to multiple elder abuse charges," *Herald-Citizen*, Dec. 10, 2019, http://herald-citizen.com/stories/peterson-pleads-guilty-to-multiple-elder-abuse-charges,39087 (accessed Feb. 21, 2020).

[86] Shelby County, Family Safety Center, Coordinated Response to Elder Abuse (CREA), https://familysafetycenter.org/how-we-help/crea/about-crea/.

[87] Tennessee Department of Finance and Administration, Office of Criminal Justice Programs, Family Justice Centers, https://www.tn.gov/finance/office-of-criminal-justice-programs/ocjp/fa-ocjp-best-practices/fa-ocjp-fjc.html (accessed June 25, 2020).

[88] Tennessee Commission on Aging and Disability, General Counsel, telephone interview, Jan. 30, 2020.

[89] Ibid.

[90] Public Chapter 899, 1978.

[91] Data supplied by APS to OREA.

[92] Tennessee Commission on Aging and Disability, *Senate Joint Resolution 678: Study on Financial Exploitation of Vulnerable Adults in Tennessee*, Final Report, Nov. 1, 2016, p. 7. Executive Director, Tennessee Commission on Aging and Disability, interview, June 14, 2019.

[93] Tennessee Department of Human Services, *Financial Exploitation Involving Non-Governmental Funds: Adult Protective Services Report to the General Assembly,* Jan. 2017.

[94] Tennessee Department of Human Services, *Financial Exploitation Involving Non-Governmental Funds: Adult Protective Services Report to the General Assembly,* Jan. 2017.

[95] Tennessee District Attorney General Conference, email and attachment, August 6, 2020.

[96] *The Newport Plain Talk,* "Tennessee District Attorneys General focus on fight against elder abuse," Dec. 25, 2016, http://www.newportplaintalk.com/news/article_44b243de-4750-53b6-8902-290e8037d435.html (accessed March 2, 2020).

[97] Tennessee Commission on Aging and Disability, *Senate Joint Resolution 678: Study on Financial Exploitation of Vulnerable Adults in Tennessee*, Final Report, Nov. 1, 2016, p. 17. Executive Director, Tennessee Commission on Aging and Disability, interview, June 14, 2019.

[98] Tennessee Department of Human Services, *Financial Exploitation Involving Non-Governmental Funds: Adult Protective Services Report to the General Assembly,* Jan. 2017.

[99] Arizona Department of Economic Security, Division of Aging and Adult Services, *Adult Protectives Services, Annual Report*, July 1, 2017 – June 30, 2018, available for download at https://des.az.gov/services/basic-needs/adult-protective-services (accessed June 26, 2020).

[100] Illinois Department of Aging, *Adult Protective Services of Illinois, Annual Report 2019*, https://www2.illinois.gov/aging/Resources/NewsAndPublications/Publications/Documents/FY19_APS_Report.pdf (accessed June 26, 2020). Other Adult Protective Services publications available at https://www2.illinois.gov/aging/Resources/NewsAndPublications/Publications/Pages/ElderRights.aspx#elderabuse.

[101] Kentucky Cabinet for Health and Family Services, *Kentucky Elder Abuse Report, 2019*, https://chfs.ky.gov/agencies/dcbs/dpp/apb/Documents/Elderabusereport.pdf (accessed June 26, 2020). Additional reports available at https://chfs.ky.gov/agencies/dcbs/dpp/apb/Pages/elderabuse.aspx.

[102] Pennsylvania Department of Aging, Protective Services Office, *Older Adults Protective Services Annual Report*, Fiscal Year 2017-2018, https://www.aging.pa.gov/publications/annual-reports/Documents/PS%20Annual%20Report%2017-18.pdf (accessed June 26, 2020).

[103] U.S. Department of Health and Human Services, Officer of Inspector General, *Tennessee Medicaid Fraud Control Unit: 2017 Onsite Inspection*, June 2018, https://oig.hhs.gov/oei/reports/oei-12-17-00230.asp (accessed June 19, 2020).

[104] Ibid.

[105] National Association of Attorneys General, letter to The Honorable Tom Price, Secretary, U.S. Department of Health and Human Services, May 10, 2017, https://www.naag.org/assets/redesign/files/sign-on-letter/Medicaid%20Expanded%20Duties%20final%20NAAG%20sign%20on.pdf (accessed June 26, 2020).

[106] National Association of Attorneys General, letter to The Honorable Tim Walberg and The Honorable Peter Welch, members of the U.S. House of Representatives, March 28, 2018, https://www.naag.org/assets/redesign/files/sign-on-letter/Final%20NAAG%20letter%20to%20Expand%20MFCU.pdf (accessed June 28, 2020).

[107] Ibid.

[108] H.R. 233 – Medicaid Patient Abuse Prevention Act, 116th Congress, https://www.congress.gov/bill/116th-congress/house-bill/233 (accessed June 28, 2010).

[109] U.S. Department of Health and Human Services, Office of Inspector General, *Tennessee Medicaid Fraud Control Unit: 2017 Onsite Inspection*, June 2018, https://oig.hhs.gov/oei/reports/oei-12-17-00230.pdf (accessed June 28, 2020).

[110] Assistant Director and Auditor, Medicaid Fraud Control Division (formerly Unit), Tennessee Bureau of Investigation, interview, March 5, 2020.

[111] *TCA* 39-15-509(f) and *TCA* 71-6-118(2)(C).

[112] *TCA* 37-1-409(f).

[113] Deputy Commissioner, Office of Child Safety, Department of Children's Services, email, Feb. 28, 2020. Department of Children's Services, Administrative Policies and Procedures: 14.6, Child Protective Investigation Team.

[114] APS Program Director, Department of Human Services, interview, April 20, 2020.

[115] Oregon Bankers Association, *Preventing Elder Financial Exploitation: How Financial Institutions Can Help,* https://www.oregonbankers.com/preventing-elder-financial-exploitation-toolkit.html (accessed April 29, 2020).

[116] Massachusetts Bankers Association, Bank Reporting Project, download *Preventing Elder Financial Exploitation Training Manual,* pp. 4-5, https://www.massbankers.org/MBRD/MB_TechnologyFraud/Bank_Reporting_Project.aspx (accessed April 29, 2020).

[117] APS Program Director, Department of Human Services, interview, April 20, 2020.

[118] APS Program Director, Department of Human Services, interview, April 20, 2020.

[119] Advisory Task Force on the Composition of Judicial Districts, Created by Public Chapter 974 (2018), Dec. 2019, pp. 22-23, http://www.tncourts.gov/sites/default/files/docs/task_force_final_report.pdf (accessed April 30, 2020).

[120] Ibid.

Appendix A: Case summaries compiled by Adult Protective Services, Department of Human Services, January 2020

OREA requested that Adult Protective Services (APS) provide examples of actual cases that involve elder financial exploitation. APS categorized the cases according to outcomes. The summaries below illustrate the complexity of cases involving financial exploitation and the need for APS to coordinate with other agencies as well. (Note that APS refers to victims as clients in these summaries.)

APS receives many reports regarding cases of financial exploitation, whether reported initially or determined during an investigation. Per statute, APS can investigate only situations of financial exploitation that involve the misuse of government funds by a caregiver, which can include Social Security, Supplemental Security Income, veterans' pension, teachers' pension, Supplemental Nutrition Assistance Program (SNAP), or Temporary Assistance for Needy Families (TANF) benefits. In state fiscal year 2019, financial exploitation was alleged in 23.21 percent of all reports to APS of abuse, neglect, or exploitation (A/N/E) of vulnerable adults age 60 and over.

Financial exploitation substantiated, but victim refuses to press charges: APS notifies law enforcement and the district attorney general's office for all cases. Additional services are indicated.

- A son lives with his elderly mother/client and is emotionally, physically, and financially exploiting her. His mother refuses to press charges because her grandchildren live with them, who she cares for, and she is afraid she will not be able to have contact with them if she presses charges. Services involved/provided: APS referred the case to the Collaborative Response to Elder and Vulnerable Adult Abuse (CREVAA) and Homemaker Services to monitor the situation.

- A male client has a much younger girlfriend who is also a caregiver. She uses his ATM card without permission for her own personal benefit by buying herself a car, paying tuition for her kids, etc. The client does not want to press charges because he relies on her for caregiving and companionship, and doesn't want this to stop. Services involved/provided: APS referred the case to CREVAA and Homemaker Services to monitor the situation.

- A daughter takes her mother/client to several different doctors to get prescriptions that the daughter then sells. The mother does not want to press charges because she doesn't want her daughter to get into trouble. Services involved/provided: APS notified insurance to flag her case.

- A father/client has substantial income from the Veterans Administration, Social Security, and his pension. The client had Homemaker Services in the home and stated he needed more food (all he was eating was canned food) and wanted cable but that he couldn't afford it. The client admitted that his daughter was taking his money but that he was okay with it. He removed her access to his account. Services involved/provided: APS referred this to CREVAA and requested that the Veteran's Administration (VA) and Social Security appoint a representative payee.

- An older mother/client stated that her daughter has been stealing from her for over 15 years and even stole her identity to receive the client's IRS refund checks. She said her daughter steals her mail and had attempted to become her power of attorney. The client's son got involved to help out and check on her daily. The client did not want her daughter to get in trouble because her situation improved. Services involved/provided: APS found that family involvement improved the situation.

Perpetrator arrested and/or convicted

- An elderly woman/client has a boyfriend who is 60 years younger than she is and they live with each other. They both state they are in love with each other and the boyfriend is her caregiver. The boyfriend strangled the client in a domestic violence situation and he was arrested. During the investigation, it was determined that she had quick-deeded her house to him and that he was misusing her money for his own benefit. He was convicted and is serving time in jail. Services involved/provided: APS notes that if CREVAA had existed when this case arose, it could have helped with emergency housing and caregiver services.

- An older woman/client lived with her son who was her primary caregiver. He came home drunk, and hit and bit her. Law enforcement arrested him and referred the case to APS. When APS investigated, the client's sister was contacted who came to help her. The client's sister found out the son was taking her pension and Social Security, and had bought himself a truck and spent money on his girlfriend. Because he misused her funds, her house was foreclosed on. The client's sister helped get her into a nursing home, which became her representative payee. Services involved/provided: APS notes that if CREVAA had existed at the time, it could have provided assistance. The hospital and nursing home were pivotal in getting the client protection.

- Several older individuals/clients were living in a care home that was misusing their money. The facility was shut down and two staff members were arrested. Services involved/provided: The licensing agency helped with getting the clients placed in other facilities.

- An elderly male/client had two checks stolen by his caretaker for $850. The caretaker was arrested. Services involved/provided: APS referred the case to CREVAA to help with the money that was stolen to make sure the client had groceries, bills paid, etc.

Financial exploitation verified by APS and referral made to law enforcement, but no arrest/prosecution

- A man approaches recent widows who don't have much knowledge about their finances since their husbands had taken care of that. The man falsely says he is an attorney, and becomes their power of attorney. In two situations, in two different counties, he sells each widow's house, places them in assisted living facilities, and does not pay the bill. These situations are referred to APS because the nursing home is going to evict the older women. One woman found someone to be a conservator/public guardian and is able to pay for the facility. Law enforcement and TBI have been contacted about both situations but have difficulty responding because the perpetrator continually crosses county lines. Services involved/provided: APS is in the process of filing for conservatorship for the client and is working with TBI, law enforcement, and the DA to have the alleged perpetrator arrested.

- An elderly woman with cognitive issues is referred for self-neglect. She was placed in a nursing home and APS sought custody for conservator to make medical and financial decisions. In the process of going to court, the temporary conservator discovered that someone – possibly a family member – took her Social Security debit card and spent over $3,000, leaving a bill at the nursing home. Because it is not known who took the money, there was no arrest made or charges filed. Services involved/provided: APS is in the process of filing for conservatorship for the client. Also referred to CREVAA to help with money so the victim will not be evicted.

- A man works with a hospital for "referrals" of clients who are homeless, are being discharged, and need a place to live. This man has several people living in his house who require medical care, and who are in substandard living conditions. They pay this man "rent," but he is not licensed and moves clients from place to place when authorities are notified. Law enforcement is very familiar with this individual and is unsure how to respond. Services involved/provided: VAPIT reviewed this case. The Department of Mental Health and Substance Abuse Services (DMHSAS) was involved and placed the individuals in another home.

- An older male/client is financially abused by a family friend to whom he gave his ATM card. The friend misused $6,000 and because of that, the client has no money for food or medications. Law enforcement will not charge the person because the older male was fully aware of the transactions. Services involved/provided: CREVAA referral to assist with medications and food.

Financial exploitation could not be verified by APS

- An allegation of financial exploitation was made by an elderly mother/client diagnosed with dementia who lives alone. Her daughter visits every day to make sure her mother's house is clean and she has food. The client appeared very well cared for but her dementia symptoms had increased and she had become more paranoid. The client was focused on money, her bank accounts, and bank statements and was convinced that her daughter, with whom she previously had a good relationship, was taking her money. The client would hide money and forget where she had put it. The daughter denied taking her mother's money and had receipts for everything she paid for. This dynamic prevented the daughter from providing the same level of care because she was being accused by her mother. Her mother said mean things to the daughter and was angry with her. There were other family members who were able to assist the client. Services involved/provided: The elderly mother was referred to her doctor and the daughter was referred to a dementia support group.

- An elderly male/client's son and daughter went to probate court and obtained conservatorship of him and his finances because he was spending his money recklessly. The client was placed in an assisted living facility but was not happy there. The client told a family member that his children took all his money and weren't providing the care that he wanted. The client believed his kids were taking all his money for their benefit, which did not turn out to be true. Services involved/provided: The son and daughter were referred to a support group.

Guardian appointed or in process – conservator/new payee

- An elderly woman/client was financially abused by an employee of the housing complex where she lived. The employee was terminated, and the client received a conservator to reduce the risk of future financial exploitation. Services involved/provided: APS sought and applied for the public guardianship program through the court.

- An elderly mother and developmentally delayed son, both clients, were living in a home with no heat, water, or food. The daughter/sister also lived with them and would use their money for drugs. APS was able to place the mother into a nursing home, which became her representative payee, and have the son moved into a supported living environment, which became his representative payee. Services involved/provided: Placement into a nursing home for the mother and into Employment and Community First (ECF) CHOICES for the son to get him into supported living placement through the Department of Intellectual and Developmental Disabilities (DIDD).

- An elderly male/client reported that his son was mishandling his money and because of this, his house was being foreclosed on and he did not have money for food. He also stated the son was renting out rooms in the client's house and not giving the client any of the money. A conservator was appointed to help the client with his finances. Services involved/provided: APS sought and applied for the public guardianship program through the court and also referred the case to CREVAA.

- An elderly female/client was being exploited by a family member who was the client's representative payee. The family member constantly withdrew the client's money. The client did not have a bed and was low on food. The client changed her representative payee to assist her. Services involved/provided: APS worked with Social Security to get the payee changed and referred the case to CREVAA for services.

Restitution/reimbursement made or in process

- A paid caregiver wrote checks from an account that Social Security was deposited into and stole $400 from an elderly client. When the paid caregiver got caught, he left the state. The agency that employed him paid the client back the $400. Services involved/provided: APS contacted Social Security and the agency assisted to pay the client back. APS attorneys became involved to place perpetrator on the Abuse Registry.

- A male caregiver was given a debit card for a client with a traumatic brain injury to purchase groceries; however, the caregiver withdrew money from the ATM, which he was not authorized to do. APS and the police were contacted and had video evidence. The agency that employed the caregiver reimbursed the client. The paid caregiver was also placed on the abuse registry. Services involved/provided: The agency assisted to pay the client back. APS attorneys became involved to place perpetrator on the Abuse Registry.

- A developmentally delayed male/client was residing in a supported living home. A caregiver was given checks to buy things for the client but spent the money on herself. She was fired, arrested, and placed on the Abuse Registry. The agency reimbursed the client for the money that she stole. As part of the plea bargain, the caregiver was placed on the Abuse Registry and was required to repay the agency. Services involved/provided: The agency assisted to pay the client back. APS attorneys became involved to place perpetrator on the Abuse Registry.

Abuse Registry

- A paid caregiver provided homemaker services, including grocery shopping, to an older woman/client. The caregiver had permission to use the client's debit card for groceries but withdrew an extra $50 in cash each time without the client's knowledge or permission. The client's account included funds from Social Security. The caregiver admitted to the police and APS that she had done this and expressed regret. At the due process committee meeting, the paid caregiver was placed on the Abuse Registry. Services involved/provided: APS contacted the bank and APS attorneys were involved to place perpetrator on the Abuse Registry.

- An elderly female/client was living at home with paid in-home supports, including a paid personal aide. The aide used the client's debit card for more than just the client's groceries. The paid caregiver also bought items from Amazon and other online stores for her own benefit. This was discovered when the client's account became overdrawn. The police were contacted, the paid caregiver was fired, and the bank reimbursed the client for the misused monies the paid caregiver spent. APS also placed the paid caregiver on the abuse registry.

- A bookkeeper at a Department of Intellectual and Developmental Disabilities (DIDD) contracted agency diverted over $50,000 of government funds to herself instead of paying rent for multiple residents, some of whom were elderly. DIDD, APS, and TBI investigated. TBI is building a criminal case to charge the bookkeeper, who fled the state. APS was able to get a process server to track her down to serve her with intent to place her on the abuse registry. She did not appeal and has since been placed on the abuse registry.

- A local bank performed a review of an elderly man's banking account and noticed irregular signatures on some checks. APS investigated and found that his paid caregiver had stolen and forged checks out of his account where his Social Security benefits were being deposited. The paid caregiver was terminated, and APS placed her on the abuse registry.

Appendix B: The number of reports filed by financial institutions to APS per 10,000 residents over the age of 60, by county

County	Rate	County	Rate	County	Rate
Grainger	38.47	Union	16.53	Coffee	10.72
Montgomery	34.79	Marshall	16.51	Carter	10.57
Rhea	32.98	Loudon	16.50	Hickman	10.22
Davidson	32.60	Giles	16.35	Campbell	10.18
Anderson	29.78	McMinn	16.33	Scott	10.05
Sevier	29.61	Franklin	16.11	Benton	9.99
Hamilton	26.32	Madison	16.04	Trousdale	9.92
Hamblen	25.95	Hancock	15.71	Weakley	9.87
Bradley	23.54	Blount	15.43	Lawrence	9.71
Knox	23.39	Hawkins	15.37	Marion	9.16
Van Buren	22.91	Wilson	15.29	Lewis	8.99
Shelby	22.69	Cannon	14.92	Haywood	8.78
Macon	21.20	Maury	14.84	Obion	8.60
Jefferson	21.07	Unicoi	14.71	Polk	8.46
Johnson	20.97	Carroll	14.66	Crockett	8.39
Sullivan	20.84	Henderson	14.54	DeKalb	8.26
Clay	20.70	Stewart	14.15	Hardeman	8.14
Robertson	20.68	Dyer	13.65	Wayne	7.22
Lincoln	20.31	Gibson	13.43	Greene	7.19
Chester	20.24	Warren	13.40	Smith	6.55
Rutherford	20.23	Henry	13.29	McNairy	5.62
Washington	19.98	Fayette	13.22	Sequatchie	4.87
Sumner	19.98	Monroe	12.67	Perry	4.44
Decatur	19.91	White	12.44	Fentress	3.77
Roane	19.41	Lauderdale	12.42	Bledsoe	2.73
Cocke	18.95	Cheatham	11.77	Jackson	0.00
Hardin	18.28	Tipton	11.43	Lake	0.00
Humphreys	18.13	Bedford	11.42	Meigs	0.00
Houston	18.01	Moore	11.01	Morgan	0.00
Putnam	17.84	Dickson	10.97	Overton	0.00
Claiborne	17.70	Cumberland	10.94	Pickett	0.00
Williamson	16.63	Grundy	10.83		

Appendix C: Intake form, Adult Protective Services

Tennessee Department of Human Services

Adult Protective Services Intake

Intake Date	Time of Referral	Intake Counselor	Referral County

Previous Case ☐ yes ☐ no	Case Status ☐ open ☐ closed	Date Closed	Case ID

☐ Screen Out	Screen Out Date	By Whom	Screen Out Reason

☐ Intake Assigned	Assigned Date	Assigned Counselor

ASSIGNMENT STATUS:	TYPE OF REFERRAL: ☐ Physical Abuse ☐ Sexual Abuse ☐ Emotional Abuse ☐ Neglect ☐ Self-Neglect ☐ Financial Exploitation

Name of Alleged Victim	DOB	AGE	SSN	SEX	RACE
				☐ M ☐ F	☐ Caucasian ☐ Hispanic ☐ African American ☐ Asian ☐ American Indian ☐ Unknown

Alleged Victim Location: ☐ HOME ☐ NURSING HOME ☐ GROUP HOME ☐HOSPITAL ☐ OTHER	
Specify name of nursing home, group home, hospital or other:	
Alleged Victim's Residential Address:	City, State, Zip
Directions to home:	Telephone Number:

CONTACT INFORMATION:

(Relatives, Pharmacy, neighbors, Emergency Contacts, Agencies Providing Services, POA's, Significant Others)

NAME	RELATIONSHIP	ADDRESS/PHONE	IN HOME
			☐
			☐
			☐
			☐
			☐
			☐
			☐
			☐
			☐
			☐

REFERRENT SOUCE:

NAME/RELATIONSHIP:

ADDRESS/PHONE:
☐ In Home

Alleged Victim:	Income: $ Insurance:	Income Sources:
PHYSICIAN INFORMATION:		
ALLEGED ICTIM IS UNABLE TO PROTECT HIS/HER OWN INTERESTS DUE TO: ☐ PHYSICAL IMPAIRMENT ☐ MENTAL IMPAIRMENT ☐ AGE/ELDERLY ☐ NO IMPAIRMENT EXISTS		
MEDICAL INFORMATION: PHYSICAL AND MENTAL HEALTH CONDITIONS: ☐ ALLEGED VICTIM NEEDS TOTAL CARE ☐ALLEGED VICTIM NEEDS LIMITED CARE		MEDICATIONS (IF KNOWN)
ADL'S or things Alleged Victim cannot do:		
THREAT OF HARM: ALLEGATIONS REGARDING ABUSE, NEGLECT, EXPLOITATION OR SELF-NEGLECT: (WHAT, WHEN, WHERE, HOW, NEEDS OF CLIENT WHICH ARE UNMET, HOW LONG SITUATION HAS EXISTED, ETC.)		
ALLEGED PERPETRATOR(S) NAME/RELATIONSHIP: ADDRESS/PHONE: ☐ In Home		

ADDITIONAL INFORMATION:

Include information for both Alleged Victim I and Alleged Victim II regarding witnesses to Abuse/Neglect, reporter's expectations of DHS, dangers to APS staff, physical description of client if needed,etc.:

Appendix D: Adult Protective Services, form used to refer reports of alleged abuse to other agencies

	Tennessee Department of Human Services **APS Report of Alleged Abuse, Neglect, or Exploitation of an Adult (1215)**

Agencies Notified:

District Attorney	
Agency Name:	Delivery Method: Choose One
Prior Contact Name:	Phone:
Address:	
Email 1:	Email 2:
Email 3:	

Law Enforcement	
Agency Name:	Delivery Method: Choose One
Prior Contact Name:	Phone:
Address:	
Email 1:	Email 2:
Email 3:	

Choose One	Specify other:
Agency Name:	Delivery Method: Choose One
Prior Contact Name:	Phone:
Address:	
Email 1:	Email 2:
Email 3:	

Choose One	Specify other:
Agency Name:	Delivery Method: Choose One
Prior Contact Name:	Phone:

Address:	
Email 1:	Email 2:
Email 3:	

Choose One	Specify other:
Agency Name:	Delivery Method: Choose One
Prior Contact Name:	Phone:
Address:	
Email 1:	Email 2:
Email 3:	

Choose One	Specify other:
Agency Name:	Delivery Method: Choose One
Prior Contact Name:	Phone:
Address:	
Email 1:	Email 2:
Email 3:	

Choose One	Specify other:
Agency Name:	Delivery Method: Choose One
Prior Contact Name:	Phone:
Address:	
Email 1:	Email 2:
Email 3:	

Choose One	Specify other:
Agency Name:	Delivery Method: Choose One
Prior Contact Name:	Phone:
Address:	
Email 1:	Email 2:
Email 3:	

Choose One	Specify other:

Agency Name:	Delivery Method: Choose One
Prior Contact Name:	Phone:
Address:	
Email 1:	Email 2:
Email 3:	

The Department of Human Services has received a report of abuse, neglect or exploitation of an adult which is being reported to you in accordance with the Tennessee Adult Protection Act (Tennessee Code Annotated 71-6-103) which states; upon receipt of the report the department shall take the following action:

1. Notify the appropriate law enforcement agency in all cases in which the report involves abuse, neglect or exploitation of the adult by another person or persons.
2. Notify the appropriate licensing authority if the report concerns an adult who is a resident of, or at the time of alleged harm is receiving services from, a facility that is required by law to be licensed or the person alleged to have caused or permitted the harm is licensed under title 63. The commissioner of health, upon becoming aware through personal knowledge, receipt of a report or otherwise, of confirmed exploitation, abuse, or neglect of a nursing home resident, shall report such instances to the Tennessee Bureau of Investigation for a determination by the bureau as to whether the circumstances reported constitute abuse of the medical program or other criminal violation.

   Tenn. Code Ann. § 71-6-118, et seq. requires that all information in this document be kept confidential. Release of this information to unauthorized persons is a crime and is a Class B Misdemeanor. This document contains confidential information and is intended only for the use of the specific individual(s) to whom it is addressed. If you are not an intended recipient of this document, you are hereby notified that any unauthorized use, dissemination or copying of this document or the information contained in it or attached to it is strictly prohibited and may subject you to jail time and/or a criminal fine.

Victim Information

The following report was received by DHS on:		
Alleged Victim:		
Address:		
Current Location:	Zip:	County: Choose One
In a facility: ☐ Yes ☐ No		
Facility Address:	Zip:	County: Choose One

Phone:	Date of Birth:	Age:	Sex: ☐ M ☐ F

Report Narrative:

Allegation(s):

Incident Date	Perpetrator First Name	Perpetrator Last Name	Allegation	Location	Facility/Provider
			Choose One	Choose One	
			Choose One	Choose One	
			Choose One	Choose One	

Alleged Perpetrator Information:

Alleged Perpetrator Name:	
Relationship to Adult:	
Address:	
Current Location:	
In home of alleged victim? ☐ Yes ☐ No	In facility where alleged victim resides or receives services? ☐ Yes ☐ No
Has access to alleged victim through employment? ☐ Yes ☐ No	

Alleged Perpetrator Name:
Relationship to Adult:
Address:
Current Location:

In home of alleged victim? ☐ Yes ☐ No	In facility where alleged victim resides or receives services? ☐ Yes ☐ No
Has access to alleged victim through employment? ☐ Yes ☐ No	

Alleged Perpetrator Name:	
Relationship to Adult:	
Address:	
Current Location:	
In home of alleged victim? ☐ Yes ☐ No	In facility where alleged victim resides or receives services? ☐ Yes ☐ No
Has access to alleged victim through employment? ☐ Yes ☐ No	

Investigative Specialist Information:

Due to the emergent nature of this report information was given to you by phone: Y ☐ N ☐	Date:
Law Enforcement Intervention: ☐ Requested ☐ At Your Discretion	
APS Investigation: Choose One	
APS will not be investigating at this time due to: Choose One	
Assigned Investigative Specialist:	Phone number:

Comments:

Submitted Information:

Report Submitted by:	Date:
County: Choose One	

Approved by:	Date:
Phone number:	

Appendix E: Potential VAPIT report template that details the type of cases, the age of the victim, and the decision made by the VAIPT on how to proceed with the referral

Total number of meetings: ____#____
Total number of referrals reviewed: ____#____

Referrals about vulnerable adults (ages 18-59)

Decision on how to proceed	**Neglect**	**Financial abuse**	**Sexual abuse**	**Physical abuse**
Sent for investigation to the District attorney's office	____#____	____#____	____#____	____#____
Sent for investigation to the local police/sheriff's office	____#____	____#____	____#____	____#____
Referred to CREEVA	____#____	____#____	____#____	____#____
Screened out	____#____	____#____	____#____	____#____
Other option 1	____#____	____#____	____#____	____#____
Other option 2 (etc.)	____#____	____#____	____#____	____#____
Total	**____#____**	**____#____**	**____#____**	**____#____**

Referrals about elder adults (ages 60+)

Decision on how to proceed	**Neglect**	**Financial abuse**	**Sexual abuse**	**Physical abuse**
Sent for investigation to the District attorney's office	____#____	____#____	____#____	____#____
Sent for investigation to the local police/ sheriff's office	____#____	____#____	____#____	____#____
Referred to CREEVA	____#____	____#____	____#____	____#____
Screened out	____#____	____#____	____#____	____#____
Other option 1	____#____	____#____	____#____	____#____
Other option 2 (etc.)	____#____	____#____	____#____	____#____
Total	**____#____**	**____#____**	**____#____**	**____#____**

Appendix F: Report methodology

To conduct research for this report, OREA analysts:

- reviewed related Tennessee and federal laws
- interviewed:
    - state administrators and local staff of Adult Protective Services in the Department of Human Services
    - district attorneys and assistant district attorneys in select judicial districts
    - staff of the Tennessee Commission on Aging and Disability, including staff of the Collaborative Response to Elder and Vulnerable Adult Abuse program
    - staff of the Tennessee Bankers Association and the Tennessee Credit Union League, as well as staff of select banks and credit unions
    - Assistant Commissioner of the Division of Securities in the Department of Commerce and Insurance
    - local law enforcement personnel
    - Commissioner of the Tennessee Department of Financial Institutions and other staff
    - Assistant Commissioner of Securities at the Tennessee Department of Commerce and Insurance
    - American Association of Retired Persons staff
    - Assistant Director of the Medicaid Fraud Control Division, Tennessee Bureau of Investigations
- reviewed Tennessee policies and procedures of the Adult Protective Services division in the Department of Human Services and the Tennessee Commission on Aging and Disability
- reviewed data requested from Adult Protective Services
- reviewed information provided by several of Tennessee's 31 judicial districts
- reviewed summary data from the U.S. Department of Treasury's Financial Crimes Enforcement Network (FinCEN) for Tennessee (obtained by the Department of Financial Institutions on behalf of OREA)
- reviewed the annual reports for 2017 and 2018· provided to the chairs of the Senate Judiciary Committee and House Criminal Committee by all Vulnerable Adult Protective Investigative Teams (VAPITs) operated in each judicial district
- reviewed reports about elder financial exploitation conducted in other states (see bibliography)
- reviewed relevant academic studies
- reviewed reports and information from national organizations, including the National Center on Elder Abuse, the National Research Council, the Consumer Financial Protection Bureau, the Financial Crimes Enforcement Network, the U.S. Securities and Exchange Commission, the MetLife Mature Market Institute, the U.S. Department of Justice, the Centers for Disease Control and Prevention, the American Association of Retired Persons, and others
- reviewed media releases from Tennessee and other states
- attended meetings of:
    - the Southeastern Association of Area Agencies on Aging (SE4A) Regional Conference on elder justice issues
    - the Elder Financial Abuse Task Force created by Public Chapter 135 in 2019
    - the Department of Human Service's State Coordinated Community Response (CCR) to Protect Vulnerable Adults
    - the Elder Justice Task Force, United States Attorney's Office, Middle District of Tennessee

Office of Research and Education Accountability

Russell Moore | *Director*
425 Fifth Avenue North
Nashville, Tennessee 37243
615.401.7866
www.comptroller.tn.gov/OREA/