



An Overview of How Prosecutors Approach Vulnerable Adult Cases

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What is Vulnerable Adult Abuse?

- Definitions vary slightly, but it is generally considered to be:
 - The exploitation or abuse
 - Of a person who is considered a vulnerable adult in the eyes of the law
 - To the detriment of the victim or for the gain of the perpetrator.
- It's not just "Elder" abuse, it applies to vulnerable adults.



Where do Prosecutors start?

- Any charging decision in these cases begins with asking does the victim meet the statutory definition of a vulnerable adult. (From MCL 750.145m).
- Three alternatives
 - General Definition for people over age 18 that meet certain requirements.
 - An adult that is in a licensed adult foster care facility.
 - An adult that meets the APS definition of vulnerable.

Option 1 – age/disability/mental illness

- “An individual age 18 or over who, because of age, developmental disability, mental illness, or physical disability requires supervision or personal care or lacks the personal and social skills required to live independently” MCL 750.145m(u)(i).
- Show me, in this definition, where . . .
 - It only applies to people who have mental illness or limitations
 - It only applies where a person is totally disabled

It's not about cognitive decline . . .

- It helps to think in terms of because of a person's condition, be it mental, physical, or both, they are a person who needs assistance. Look to what that person's life is like.
- There is NO requirement that there be any cognitive decline.
 - *See People v Haynes*, 338 Mich App 392 (2021).
- Medical testimony is NOT required to establish this.
 - Can be established by the people that know the victim.

Option 2 - Adult Foster Care Facility Licensing Act

- This is a person that is placed in an adult foster care home or small group home pursuant to MCL 722.115.
 - That section is the portion of the child welfare act that authorizes the placement of children ages 17 and under in an adult foster care facility.
 - Meaning, if they are placed in the home under this authority, they qualify as a vulnerable adult.
- Relatively used the least among the three definitions we're talking about.

Option 3- Adult under the Social Welfare Act

- This is a vulnerable adult age 18 or older who is ***suspected*** of being or ***believed to be*** abused, neglected, or exploited. . .
 - ***Vulnerable*** means a condition in which the adult is unable to protect himself or herself from abuse, neglect, or exploitation because of a mental or physical impairment or because of advanced age.
 - ***Neglect*** means harm to the adult's health or welfare by the inability to respond to a harmful situation.
 - Includes things like failure to provide adequate food, clothing, shelter, or medical care.
 - ***Exploited*** means an action that involved the misuse of an adult's funds, property, or a person's dignity by another.
- Very important section for you to know because of what it allows you to do as law enforcement to assist Adult Protective Services.

SO, a vulnerable adult is

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- Taken together, the definition is somewhat inclusive as to who qualifies as a vulnerable adult, and can be established with many different pieces of evidence.
 - However, it is not without limitations:
 - For example, a person who makes bad financial decisions does not qualify.
 - See In re Townsend Conservatorship, 293 Mich App 182 (2011).

Determining the Correct Charges: Two Basic areas of charging in Michigan

- Physical
 - Acts of violence resulting in pain or injury.
 - This includes the psychological and emotion abuse, as well as neglect.
 - It is the action or inaction of the offender that results in or causes pain on the part of the victim.
- Financial
 - The misuse, misappropriation, or outright theft of the victim's finances, identity, assets, or anything of value.

Physical Abuse

- Vulnerable Adult Abuse
 - In Michigan, it is divided into degrees, 1 through 4.
 - Ranges from intention infliction of serious physical harm down to the neglectful imposition of harm.
- Charging one offense does not necessarily preclude the charging of other assaultive offenses.
 - Consider assaults, DVs, and other applicable assault offenses.
 - However, step back and consider how you are going to reconcile the two offenses.
- Vulnerable Adult Abuse 1st & 2nd Degrees are predicate offenses for a Felony Murder charge.

VA Abuse & DV Overlap

- Often in vulnerable adult cases, the perpetrator is a person with a close personal relationship with the victim, and we must be mindful of principles applicable in DV cases.
- Useful tools in DV cases:
 - Principles of Power & Control, victims may not initially want to prosecute.
 - There may be other acts that start long before the abuse and exploitation as the suspect began to “condition” the victim.

Financial Exploitation offenses

- Embezzlement & Theft based offenses.
- Financial Transaction Device offenses
- Uttering & Publishing &/or Forgery

Embezzlement from a Vulnerable Adult

- In 2004, MCL 750.174a created a separate category of Embezzlement specifically committed against vulnerable adults.
- Key Differences
 1. Incorporates the definition of vulnerable adult from MCL 750.145m.
 2. Includes the phrase “or unjust enrichment,” which allows for prosecution where the money is taken perhaps with permission but far beyond what would be considered fair.
- Follow the money:
 - In 99% of financial exploitation cases, there will be trail of breadcrumbs that lead you to the perpetrator.

Related Offenses

- Witness Interference and/or Intimidation
- Interfering with Adult Protective Services
- Assault and/or Neglect
- Income Tax Evasion
- Identity Theft



Basic Evidence that Police Collect in these cases

- Witness Statements
 - From the victim, but also family, friends, and others that know the person.
 - Suspect(s)
 - Anyone else with information
- Financial Records (look for the patterns)
 - Banks
 - Investment accounts and/or trusts
 - Anywhere the money is kept
- Medical Records
 - Both primary care and any specialists
 - Care facilities if applicable



Financial Exploitation & Power of Attorney

- Beware the Power of Attorney
 - The mere fact that there is a power of attorney does NOT end the inquiry.
 - It can actually be your greatest indicator that something is wrong.
 - Governed by MCL 750.5501 et. seq.
 - A good power of attorney creates a responsibility, not an entitlement.
- Never assume what it says or that it even exists, always ask to see it and carefully examine it.
 - When was it put into place?
 - Were there any witnesses?
 - Who drafted it or from where was it obtained?

What about Identity Theft?

- What is it?
 - Using of personal identifying information without permission to obtain credit, goods, services, money, property, records, information, or even employment, or using it to commit some other unlawful act.
- What is “personal identifying information?”
 - “a name, number, or other information that is used for the purpose of identifying a specific person or providing access to a person’s financial accounts.”
 - Can include:
 - Name
 - Address
 - Date of Birth
 - PINs & Passwords
 - Any piece of information that is used to set you apart as you.

Some Red Flags

- Sudden changes in spending patterns or the victim's financial condition.
- An individual has taken an unusual interest in victim's finances.
 - Can be family/friends, or perhaps a new person in their life that has seemed to place themselves in a position of authority or trust.
 - This will include things like being added to accounts and/or changes in where the statements are routed.
- A person is uncertain as to where their money is going.
- Recent changes in account settings (for example, online access recently activated).
- Look for indicators of duress, abuse, or coercion.
 - Also look for whether person with them is hurried to get the transaction complete.

Some Ways to Protect Yourself

- Guard your information
 - Be cautious in giving out any information that is used to identify you.
- Monitor your financial accounts, use the tools available to you.
 - Online Access.
 - Fraud Alerts.
 - Transaction Limits.
- Isolate spending if you can for online shopping.
 - Variety of services out there, from PayPal to Venmo, or even a dedicated credit card with a low limit.
 - Use something that offers you protection and that you can easily cancel if necessary.
- Credit Reports
 - Credit monitoring services
 - Entitled to three free requests per year as well.
- Change your passwords

What Can be Done?

- Be alert! If you see something, say something. Start with your own loved ones, neighbors, and community.
- REPORT things that you believe are suspicious.
 - Michigan Adult Protective Services: 855-444-3911.
- Know the laws that are there to protect the victims.
 - Financial Exploitation Prevention Act
- Get Involved
 - Community Engagement, Education, and Prevention.

What Can be Done?

- Be aware of what is out there . .
 - Current scams
- Financial Tools & Education
- Education Resources
 - AARP Podcast Series: The Perfect Scam.
 - USDOJ/FBI Elder Justice Report
- Trust, but verify. If it sounds too good to be true

Resources

- Adult Protective Services
- Area Agency on Aging
- AARP Podcast Series: The Perfect Scam
- USDOJ/FBI Annual report
- IC3 Annual Report
- Law Enforcement Contacts
 - Local Police Agency
 - County Sheriff's Office
 - State Police
- Online Resources
 - Michigan Attorney General's Elder Abuse Task Force:
<https://www.michigan.gov/ag/initiatives/elder-abuse/elder-abuse-task-force>
 - PAAM Elder Justice Project
<https://www.michiganprosecutor.org/programs/elder-justice-at-risk-adults>
 - U.S. Department of Justice Elder Justice Initiative:
<https://www.justice.gov/elderjustice>

THANK
YOU!

If you have any questions, please feel free to email or give me a call.

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