

The Philadelphia APS Bank Reporting and Loss Prevention Program

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October 3,2013

The Philadelphia APS Bank Reporting and Loss Prevention Program

- 1999- Start dialogue with Local Banks
- 2001- Grant from AOA
- 2002- Start dialogue with Wachovia over single case.

The Philadelphia APS Bank Reporting and Loss Prevention Program

- 2002- OAPS Director meets with Wachovia
 - Training schedule
 - Pilot Philadelphia
 - Footprintwide training

Vulnerable Adult Abuse: Role of the Financial Institution

- A primary role of financial institutions is to protect assets, prevent losses and safeguard consumer information.
- Regular customer contact puts financial institutions in a unique position to detect behavior changes and to assist in protecting customers.
- Proactive measures help to promote goodwill within the communities where institutions have footprints.
- Currently, 20 states and the District of Columbia require financial institutions to report suspected cases of financial abuse of the elderly.

Vulnerable Adult Abuse: Legal Issues

- Certain protections exist for financial institutions when reporting suspicious activity
 - The Right to Financial Privacy Act of 1978 applies only to federal agencies requesting consumer information from financial institutions.
 - Gramm-Leach-Bliley Act applies to federal, state and local agencies, but it contains several exemptions that permit disclosure, including “to protect against or prevent actual or potential fraud, unauthorized transaction, claims, or other liability”.
 - 49 states and the District of Columbia include immunity provisions in their APS laws that protect individuals who make reports in good faith. These immunity provisions may be interpreted as overriding the restrictions in applicable state privacy law.

Privacy Concerns

- On September 24, 2013 Seven Federal Agencies issued Interagency Guidance on Privacy Laws and Reporting Financial Abuse of Older Adults to Financial Institutions

Privacy

- The Gramm-Leach-Bliley Act establishes a general rule that a financial institution may not disclose any nonpublic personal information about a consumer to any nonaffiliated third party unless the financial institution first provides the consumer with a notice that describes the disclosure (as well as other aspects of its privacy policies and practices) and a reasonable opportunity to opt out of the disclosure, and the consumer does not opt out.

Privacy

- The following are specific exceptions to the GLBA's notice and opt-out requirement that, to the extent applicable, would permit sharing of nonpublic personal information about consumers with local, state, or federal agencies for the purpose of reporting suspected financial abuse of older adults without the consumer's authorization and without violating the GLBA:

Exceptions

- A financial institution may disclose nonpublic personal information to comply with federal, state, or local laws, rules and other applicable legal requirements, such as state laws that require reporting by financial institutions of suspected abuse. (15 U.S.C. 6802(e)(8) and implementing regulations at ___15(a)(7)(i)).1

Exceptions

- A financial institution may disclose nonpublic personal information to respond to a properly authorized civil, criminal, or regulatory investigation, or subpoena or summons by federal, state, or local authorities or to respond to judicial process or government regulatory authorities having jurisdiction for examination, compliance, or other purposes as authorized by law. (15 U.S.C. 6802(e)(8) and implementing regulations at __.15(a)(7)(ii)-(iii)).

Exceptions

- A financial institution may disclose nonpublic personal information to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability. (15 U.S.C. 6802(e)(3)(B) and implementing regulations at __.15(a)(2)(ii)). For example, this exception generally would allow a financial institution to disclose to appropriate authorities nonpublic personal information in order to:
 - Report incidents that result in taking an older adult's funds without actual consent, or
 - Report incidents of obtaining an older adult's consent to sign over assets through misrepresentation of the intent of the transaction.

Exceptions

- To the extent specifically permitted or required under other provisions of law and in accordance with the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.), a financial institution may disclose nonpublic personal information to law enforcement agencies (including the CFPB, the federal functional regulators, and the FTC), self-regulatory organizations, or for an investigation on a matter related to public safety. (15 U.S.C. 6802(e)(5) and implementing regulations at __.15(a)(4)).

Exceptions

- In addition, a financial institution may disclose nonpublic personal information with the consumer's consent or consent of the consumer's legal representative. (15 U.S.C. 6802(e)(2) and implementing regulations at __.15(a)(1)).

Internal Awareness and Training: Role of the Customer Contact Staff

- If you suspect fraud:
 - Carefully verify the transactional authority of person(s) acting on the customer's behalf.
 - Avoid confrontation and attempt to separate the vulnerable adult from the individual accompanying him or her.

Internal Awareness and Training: Role of the Customer Contact Staff

- If you suspect fraud:
 - **Delay the suspicious transaction, if possible, by advising the customer that additional verification of the transaction is required**
 - Power of Attorney (*POA*) request: “Mr. Jones, do you want Ms. Smith to be able to withdraw money from your account at any time without needing your permission?”
 - Home repair or 419 scam: “Mrs. Green, \$4,000 is a lot of cash to be carrying around. For your safety, I can make a check out to the other party if you have the receipt with the correct spelling of the name.”

Internal Awareness and Training: Role of the Customer Contact Staff

- If you suspect fraud:
 - Delay the suspicious transaction, if possible, by advising the customer that additional verification of the transaction is required.
 - If you can't delay the transaction, a referral should still be made to APS. You may not be able to stop that specific transaction but you might help prevent a loss of the customer's life savings.
 - Contact Corporate Security or Regional Operations Officer for assistance and guidance.

Real Bank Cases

A contractor brings a customer in to the bank for a large withdrawal for home improvements. He then returns alone a week later with a document naming him power of attorney. A referral is made to APS and they visit the home and find the contractor and his family removing all contents of the home. Law enforcement is called and the customer is eventually found in a local hospital's psychiatric ward. The contractor had pretended to be her son and had her committed on a suicide watch.

Real Bank Cases

Older Adult has drug addicted son living with her. He convinces Mom to add his name to her account. Immediately he starts withdrawing all of her social security benefits each month. She is living in a home in need of repair while he steals \$28,000 over 17 months.

“Good Samaritan” brother-in-law takes over all banking and bills as Power of Attorney. He provides cash to his sister-in-law for incidentals but does not allow her to see her bank statements. Daughter orders copies from bank and identifies \$145,000 in withdrawals over 12 months.

Real Bank Cases

Teller notices a regular customer has not been in the branch in some time but a young woman is cashing 2-3 checks on the account per week (\$200-400). A referral to PCA finds the customer bedridden with a hip injury and afraid to stop writing checks to the young home health care aide for fear she will be left alone all day while her roommate is at work. PCA arranges for someone to visit her and provide meals and light housekeeping during the day.

Real Bank Cases

Customer comes in to withdraw \$10,000 in cash and seems distracted and nervous. Teller refers the customer to the manager. Customer at first resists but finally breaks down and admits there are two people waiting for him in the parking lot. A third person is holding his wife at their home until he gives them the money “or else”. The distraught customer explains “these people seemed so nice when they knocked on the door and offered to do some landscaping for a good price”.

The bank calls the police & APS and the suspects are apprehended in branch parking lot. The wife is freed unharmed and APS takes them both into protective care.

Summary

- Older adults have the right to make their own financial decisions. APS only steps in when they lack the capacity to make those decisions. Sometimes we have to “let it go”.
- Financial institutions can and do stop elder abuse everyday. A national bank protected \$62 million in senior deposits over 4 years.
- Seven out of ten times when a bank employee thinks something is wrong - they are correct.

Call to Action

- Financial Institutions can make a difference.
Identify loss prevention personnel to partner with APS on case investigations.
- Train personnel in customer contact and transaction review roles to identify and report suspected financial exploitation.
- Participate in a consumer awareness campaign developed with Local or State APS Partner

Why Partnership?

- Right Thing to do
- Good Business Practice
- Saves You Money

Results

- A pilot program between PCA and WACHOVIA Bank in 2003 training tellers and customer staff to identify the signs of Elder Financial Abuse.
- The PCA WACHOVIA Partnership was expanded into a permanent partnership between the bank and APS teams across the country.
- More than 3,000 cases were investigated, \$2.2 million in losses prevented and \$62.5 million in assets were protected

BITS Fraud Protection Toolkit

- OAPS Director and VP of Loss Prevention of Wachovia meet with Financial Service Roundtable.
- BITS creates program based of PCA/Wachovia partnership.
- Bitsinfo.org/ publication revision 2010.

Philadelphia Financial Exploitation Prevention Taskforce

- In the summer of 2010 we met with the mayor's office in Philadelphia, a breakfast meeting, "Conversation on Protecting Philadelphia Seniors, from Financial Exploitation was held.
- CEO's of financial institutions with the largest market share in Philadelphia were invited. The DA and police commissioner were also present.
- Philadelphia Financial Exploitation Prevention Task Force was formed including DA, police, Banks, legal service providers, and APS continues to meet monthly and shares information on cases. Most banks and other financial institution fully cooperate with APS.

Practical tips for building APS financial institution partnership

- Study background material.
- Massachusetts Banking Project .
- Can Bank Tellers Tell?
- Research and studies on elder financial exploitation, financial capacity and aging brain.

Practical tips for building a APS financial institution partnership

- Be ready to address privacy concerns.
- Learn to speak the language of financial world.
- If possible have a specialist in your unit who investigates most of the financial cases and gives support to investigators.
- Find one partner to use as a model with the other partners.
- Be persistent and be flexible .
- use your law to enhance communication not discourage it.

Resources

- Summer of 2012 edition “Generations” the Journal of the American Society on Aging.
- Research done by Natalie Denburg and David Laibson
- MetLife Mature Market Institute
- Investors Protection Trust Survey.
- Video- Elder Financial Fraud: A National Epidemic.

Elder Abuse is Deadly

- Elder victims are three times more likely to die than non-abused seniors.(Lachs,1998)

Elder Abuse is Common

- One million people turn sixty every month.
- There are up to four times more elder abuse victims than child abuse victims.

(Lachs,2011)

Elder Abuse is Expensive

- Elder abuse victims are four times more likely to go into a nursing home.
- 9% of financial abuse victims may turn to Medicaid as result of the abuse. (Gunther, 2010)
- Financial exploitation of the elderly cost us \$2.9 billion dollars a year. (MetLife Study, 2011)

Elder Abuse

- Is under reported, only 1 of 23.5 cases are reported (only 1 of 44 financial exploitation cases) . (Lachs, 2011)
- Occurs largely elder people's homes rather than inside of facilities (95 % of seniors live at home). (National Elder Abuse Incidence Study,1995)
- Is perpetrated by family member, caregivers, trusted advisors, and strangers.

Adult Protective Services

- Is the 911 system for elder abuse and abuse of younger adults with severe disabilities. APS is the last resort for many victims serves as a “safety net for the safety net”.
- APS is the nations only victims services that receives no designative federal funding to serve extremely venerable victims of crime, abuse, neglect, or exploitation.

General Accounting Office Report on APS, 2011

- Funding for Elder Justice activities in 2009 equals \$11.9 million dollars. (GAO study, 2011)
- Child Abuse Funded 2009 for \$8.3 billion dollars. (Stoltzfus, 2009)
- Animal Welfare Act 2009 Funded \$21.5 million dollars. (U.S. Department of Agriculture 2009)

Who Does the Exploitation

- Most common abusers are family member, most often adult children.
- “Typical” abuser is a unemployed adult son that lives with mom or dad and is financial dependent upon them.
- Grandchildren, Siblings, Caregivers, and Neighbors also included.
- Substance abuse and mental illness, and gambling also seen amongst abusers.

Exploitation by Trusted Others

- Physical harm
- Threats
- Undue influence
- Isolation

Exploitation by Strangers and Scam Artists

- Sucker list
- Power and Control
- Boiler Room
- In the “Ether”

Common Scams

- Lottery scams
- Grandchild in distress
- Charitable donations scams
- Unsolicited work

Special Considerations That Make the Elderly Especially Vulnerable

- 35.6 million people living with dementia world wide in 2010. (World Health Organization 2012)
- Will double to 65.7 million by 2030.
- Will triple to 215.4 million by 2050.
- Isolation
- Fear
- Unlikely to report

Recent studies of the aging brain

- University of Iowa researchers has found normal aging of the brain leads to vulnerability. (Asp,2012)
- Researchers at UCLA found that elder people don't respond readily to faint clues that suggest that a person may be untrustworthy. (Castle, 2012)
- Mild Cognitive Impairment (MCI)
- Harvard Researchers ability to make astute decisions peak at 53 takes a steady drop and a precipitous drop at 70. (Agarwal, 2009)

So Let's Recap

- Largest, wealthiest, cohort in history
- Isolation
- Normal and disease related changes in the brain
- Failure of government and society to even recognize
- Family and scam artists

Research Citations

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