



OLDER PEOPLE AND CONSUMER FRAUD

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*Paper presented at the
4th National Outlook Symposium on Crime in Australia,
New Crimes or New Responses
convened by the Australian Institute of Criminology
and held in Canberra 21-22 June 2001*

People aged 65 years and over have the lowest rates of crime victimisation when compared with other age-groups and with the rest of the population. This is due to the nature of the social relationships and activities of older people. Consumer fraud is an important component of older people's experiences with crime. Among older Australians, consumer fraud is 2.2 times more prevalent than assault, which is the most common of the violent offences. This contrasts with younger persons, among whom fraud is as common as assault (Carcach, Graycar and Muscat 2001). This paper will report data from a large AIC survey of older persons' criminal victimisation. It will focus particularly on the risks that older people face in terms of their vulnerability to acts of consumer fraud. In Australia at the present time there are approximately 2.3 million people or 12 per cent of the population aged 65 years and over.

What is Fraud?

Essentially fraud refers to consumer victimisation which may occur when someone is selling something or delivering a service. It includes such areas as commercial transactions (telemarketing, Internet sales, door to door sales, mail orders); home repairs and home construction; buying and servicing vehicles; and financial transactions (cheques bouncing or problems with credit card purchases, health care products and services fraud, the illegal transferring of money and property as well as superannuation scams). Fraud is one of three elements of economic crime which can be committed against older people. The other two elements include financial mismanagement, and matters associated with enduring power of attorney and guardianship. While these three areas do contain some common elements, they need to be examined separately.

In Australia, fraud is not recognised as a separate legal category of crime (other than conspiracy to defraud). Instead a variety of property offences may be used to prosecute any conduct which involves dishonesty, such as crimes of theft, and obtaining financial advantage by deception. In addition to this penalties associated with "white collar crimes" is often minimal and prosecution often difficult.

Types of Fraud

Commercial Transactions

Commercial Transactions include telemarketing, Internet sales, door to door sales and mail orders. Telemarketing is a particular problem in this area and is a case of new technologies posing new risks for older people. Telemarketing fraud has been described as the unlawful practice of marketing for the intent and purpose of inducing a person to purchase, donate or invest personal funds through a deceptive scheme designed to limit the benefit to the consumer, while maximising the profit to the seller. For the last decade, telemarketing has been a significant area of consumer fraud, particularly where older people are concerned. (Harris 1992). Similar types of scams can also be conducted over the Internet. Some forms of door to door selling could also be included here.

There is no available Australian data, but in the United States it has been estimated that \$40 billion is lost annually to the fraudulent sales of goods and services over the telephone. It is estimated that up to 10 per cent of the telemarketing firms operating in the United States may be fraudulent (Aziz et al 2000). A survey conducted in the United States revealed that 56 per cent of telemarketing fraud victims were 50 years of age or older. It also found that most victims of telemarketing fraud were well educated, have above-average incomes and are socially active. Less than 5 per cent of these people thought that a telemarketer could be a criminal and 40 per cent said that they could not distinguish legal from illegal telemarketing (Aziz et al 2000).

Repeat victimisation of older people is prevalent among illegal telemarketing and lists of people who have been victimised before are sold on the black market (Aziz et al 2000). In the United States, the National Fraud Information Center (NFIC) receives three or four reports each hour of older fraud victims whose losses total more than \$5,000 per incident (Elder Fraud Task Force 1997).

The use of home computers is also a relatively new phenomenon. Many older people are now make use of them for communications, obtaining information, entertainment and, most importantly, for shopping. In Australia between 1996 and 1997, the percentage of persons aged 55 and over who had used computers from home more than once a week increased 36 per cent to 296,000 with 22,000 of these purchasing goods or services online (ABS 1998). Along with this increased use of information technologies comes an increased vulnerability to the many fraudulent and deceptive practices which exist online. Older persons are not the only ones who are being defrauded through the use of computers, but they may be particularly vulnerable if they do not have a full understanding of the technologies they are using (Smith 1999).

Home Repairs and Home Construction

Although home construction is an important part of this category, home repairs are of more concern to older people. Home repairs or improvements include modification to a home or its environs some time after initial construction. In the early 1990s, in New South Wales, a number of pensioners were defrauded by a group of offenders who claimed that work was required to repair roofing, install insulation and repair electric wiring. In each case the work was unnecessary and the offenders demanded and received payment before the fraud was detected (Toemoe 1993).

In the south of England, two brothers recently received terms of imprisonment of twelve and fifteen months respectively, after having carried out almost 100 jobs involving minor building and painting work for older people in retirement resorts. The work was often of a poor standard, unnecessary, and over-priced and the offenders gained the trust of their victims by being 'genial and matey' (Johnstone 1999).

In the United States, home repair scams represent the second largest number of complaints to Consumer Affairs (Elder Fraud Task Force 1997). The complaints included the following:

- Contractors who take down payments, yet never return to do the promised work;
- Contractors who begin the work, but do not return to complete the work;
- Contractors who perform the work poorly and unsatisfactorily and do not correct the substandard work;
- Contractors who perform unnecessary work to increase the amount of the bill;
- Contractors who cannot be reached at telephone numbers or addresses given to the clients; and
- Contractors' sales representatives who arrange a high interest second mortgage in connection with financing of large home improvement contracts.

Vehicle-Related Complaints

This includes both buying new cars and mechanical work which is carried out on existing cars. In the case of older people it is car repairs which are of most concern. A wide variety of misleading and deceptive practices occur in the motor vehicle repair industry. These include carrying out unnecessary repairs, overcharging, deceptive advertising and the use of accelerated maintenance schedules. Older persons may be defrauded by such practices in the same way as others, although

their lack of familiarity with some of the most recent technological advances in vehicle design may make them particularly susceptible (Smith 1999). In the United States the largest number of complaints referred to Consumer Affairs involves vehicle-related complaints (Elder Fraud Task Force 1997).

Savings/Securities/Superannuation

Financial transactions in relation to savings, securities and superannuation are also be included in fraudulent behaviour which can affect older people. Recent government policy has been to encourage those in the workforce to accrue funds throughout their working life in order to provide for their retirement through superannuation, thus avoiding the need for them to draw on State-funded pensions. Due to regulation, losses through criminal activity both upon and within superannuation funds in Australia have been minimal. This has not always been the case in other countries. In the United Kingdom, for instance, British media tycoon, Robert Maxwell, allegedly stole the equivalent of over \$A900m from the pension funds of two of his public companies. This affected over 30,000 people, many of whom were older people relying on this money to fund their retirement. And, although, it may be assumed that the large insurance and investment companies are relatively safe depositories for public monies, including superannuation funds, the Barings Bank disaster means that all funds must be considered vulnerable to crime (Freiberg 1996).

As a result of superannuation disbursements as well as life-time savings and investments, many older persons have substantial assets to invest and this may make them attractive targets for investment fraud. In arranging to invest their funds, they often rely on professional advisers – lawyers, accountants and investment advisers – some of whom may act unprofessionally (Smith 1999). In 1996, the Victoria Police Major Fraud Group investigated a case where a husband and wife aged 85 and 80 provided a sole practitioner solicitor with \$200,000 to be invested on the basis of security by way of a registered second mortgage. The solicitor in question then misappropriated the funds for his own use.

In 2000 a finance broker from Western Australia was sentenced to 10 years in prison for misappropriating funds from older investors. He was the first broker in a larger financial scandal to be sent to prison. One recent example investigated by the Australian Securities and Investment Commission (ASIC) involved an investment adviser from the New South Wales Central Coast who was sentenced to four-years in prison on 29 charges of fraud. Most of this adviser's clients were older retirees and their investments were redeemed by the investment adviser through forging signatures on cheques and redemption forms (www.fido.adic.gov.au).

Health Care Products and Services Fraud

Older people use proportionally more medicines than younger people and visit health care providers more frequently. In 1997-98, the average number of Medicare services provided to Australians aged 65 years and over was 21.3, while the average for those under 65 was 8.9 (HIC 1998). Dementia may also increase older people's susceptibility to fraud. This could occur through fraudulent practices, both in the provision of health and medical products and treatments and in more general consumer transactions (Smith 1999).

Those with health problems may also be tricked into purchasing worthless remedies and cures for their conditions. Alleged cures for cancer and arthritis, and anti-ageing products, are regularly advertised and now appear on the Internet. Older persons may also be targeted by those selling health care appliances, such as hearing aids or spectacles. Sometimes such appliances are overpriced or ineffective, or they may be prescribed by unlicensed practitioners (Smith 1999). In some cases, medical practitioners may also exert undue influence over their patients to leave them bequests in

their wills, or try to borrow money from patients which they are unable, or refuse, to repay (Smith 1994). One instance, investigated recently in England concerned a general practitioner who was charged with murdering 15 female elderly patient, allegedly to secure bequests under their wills. In one case, it was alleged that an 81year old patient was murdered after the doctor forged a will that would have made him the sole beneficiary of her £ 300,000 estate (Jenkins 1999).

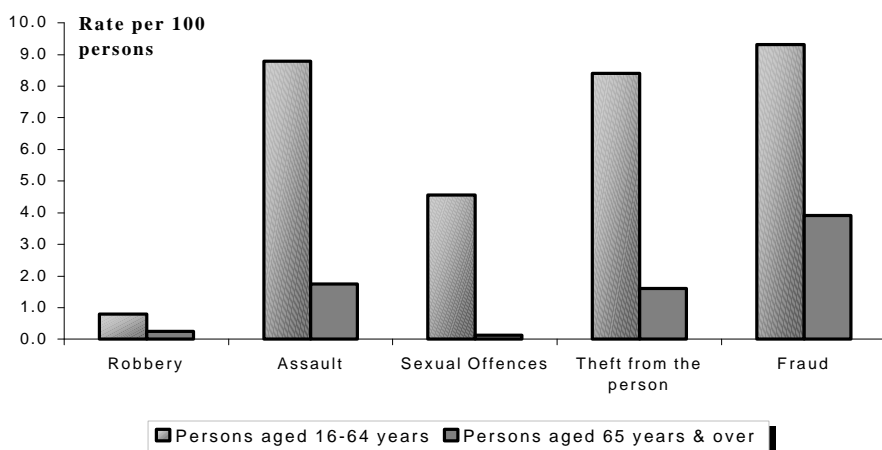
An investigation into Australia’s largest nursing home fraud was concluded in January 1997, when a nursing home operator, who was also a pharmacist, was convicted of defrauding the Commonwealth. The defendant had operated five nursing homes and had stolen \$1.7 million in Commonwealth government funding by lodging false claims for costs allegedly incurred in respect of the nursing and personal care of frail aged residents. Claims were made for family members, non-existent employees on the nursing payroll and other staff not involved in nursing or personal care of residents, such as builders, bricklayers and other contractors (Comfraud Bulletin 1998, p3).

The Prevalence of Fraud

The extent of fraud directed towards older people is difficult to estimate because there is no national reporting mechanism. There is, therefore, a lack of extensive data on the nature and extent of fraud committed against older Australians and the data which do exist for fraud generally rarely include the variable of age. Accordingly, on the basis of official crime statistics, it is not possible to state with any precision the extent to which older persons have been victimised through fraud and whether the rate of victimisation is greater or lesser than for other age groups. This situation has, however, to some extent been rectified by an Australia-wide survey which was initiated by the Australian Institute of Criminology in April 2000. This survey was conducted in conjunction with the Australian component of the International Crime Victims Survey and had a sample size of 3,032 individuals, of whom 1,246 people were aged 65 years and over. This data is analysed below.

Figure 1 compares the victimisation rate per 100 relevant persons for five offence categories. These are robbery, assault, sexual offences, theft from the person and consumer fraud. Here it can be seen that amongst all age groups, consumer fraud is the most commonly committed offence. However, for those aged 65 years and over, the prevalence of consumer fraud is more than twice that of assault and theft from the person. When an analysis of consumer fraud is made by age-group, both males and females under the age of 65 years are almost equally as likely to be affected, while in the age-group aged 65 years and over, males are one and a half times as likely as females to be victims of consumer fraud. These figures are weighted to adapt to the known population and classified by gender, age and offence.

Figure 1: Victimisation Rates for Selected Offences, Persons Aged Less than 65 Years and Persons Aged 65 Years and Over



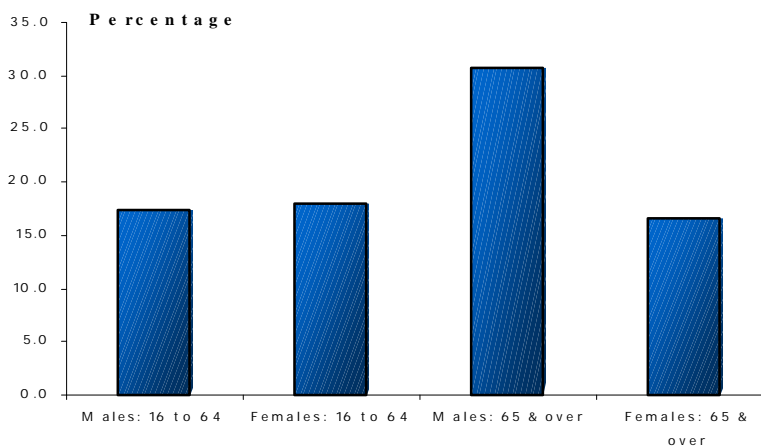
Source: Australian Institute of Criminology, Australian Crime Victims Survey 2000

Repeat victimisation has been identified as an important area when developing crime prevention and law enforcement strategies. Numerous research studies have shown that, in all offences recorded by the police, a minority of victims experience the majority of crime. In a similar manner, a small minority of offenders are responsible for a large proportion of all offences (Pease and Laycock 1999). Some neighbourhoods therefore experience more violent crimes than others. For instance, one study has shown that over half of all property crimes (for example break and enter and motor vehicle theft) occurred in just over a quarter of all households. Households that experienced three or more incidents (10 per cent of all victim households) during a year-long period accounted for 25 per cent of all incidents. The same study showed that about two-thirds of personal crimes (assault, sexual assault and robbery) are experienced by 41 per cent of victims. It also made the point that if, as a crime prevention measure, 1000 randomly selected households which had not been victimised were targeted, then on average 83 household crimes would be prevented. However, if 1000 previously victimised households were selected then 286 household crimes could possibly be prevented (Mukherjee and Carcach 1998).

In the case of consumer fraud victimisation, the hypotheses of repeat victimisation would translate into the fact that some people, or groups of people, are more likely to be victims of consumer fraud than the rest of the population. When they have been pursued once by a confidence trickster, they are more likely than other people in the population to be sought out again. By the same token, the people committing these offences are more likely to be targeting hundreds and in some cases thousands of people.

Figure 2 shows the rates of repeat victimisation of those who were victims of consumer fraud. Here it can be seen that males aged more than 65 years are almost twice as likely as both females and males in other age groups to be subjected to repeat victimisation of consumer fraud.

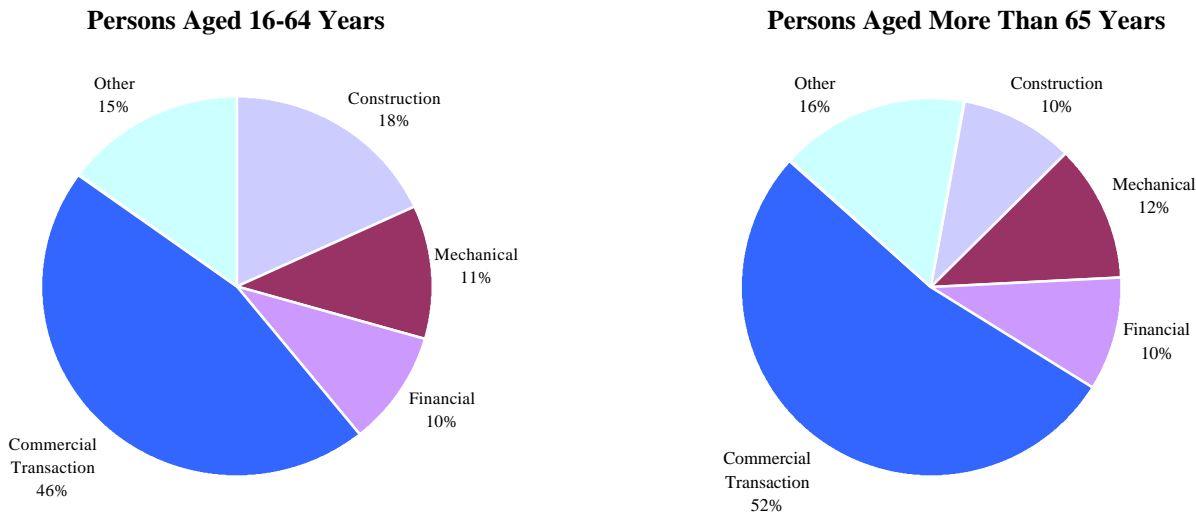
Figure 2: Victims of Fraud Who Have Been Victims More than Once: Persons Aged Less than 65 Years and Persons Aged 65 Years and Over



Source: Australian Institute of Criminology, Australian Crime Victims Survey 2000.

Figure 3 shows that both older and younger people are almost equally at risk from the various types of consumer fraud. Commercial transactions (including offences such as telemarketing, Internet sales and door to door sales) are by far the most prevalent of all the components included within consumer fraud. This accounts for half of the total number of reported incidents.

Figure 3: Consumer Fraud Offences, Persons Aged Less than 65 Years and Persons Aged 65 Years and Over



Source: Australian Institute of Criminology, Australian Crime Victims Survey 2000.

The Impact of Fraud

The extent to which victims are affected by fraud depends on a variety of factors including the type of crime, the amount or extent of assets stolen, the degree of trust a victim had towards the perpetrator, the victim's ability to remain financially independent and in control of his or her own life after a crime is discovered, the victim's family and support structure and the victim's success in locating and using community resources. Financial consequences include bankruptcy or having to sell one's home and/or business. The loss of retirement funds may mean that a victim has to postpone retirement, go back to work, or move in with other family members. Older victims of fraud are often affected as seriously by crimes labelled "non-violent" as they are by violent crime (Deem 2000).

Many people also suffer physical or mental health repercussions. Physical health problems may arise as the result of stress. This may result in isolation from friends or family and depression. A study on the impact of fraudulent financial investment schemes in the 1980s noted that depression is caused by the fact that initial financial loss often resulted in subsequent catastrophes, such as loss of home and difficulty paying taxes (Gazini, McFarland & Bloom 1990).

White collar crime is generally viewed in the community as less serious than violent crime. Also the consequences of white collar crime are not as physically obvious as violent crime and are internal rather than external. The impact therefore includes guilt and shame, disbelief, anger, depression, a sense of betrayal and a loss of trust (Wells 1989).

Prevention

To protect older people from acts of consumer fraud, a combination of strategies involving legislation and law enforcement as well as education and information directed at older people need to be put into place.

Legislation

In order to raise awareness of the problem of fraud directed at older persons, and to ensure that cases of deception may be prosecuted effectively, it has been suggested that specific legislation should be enacted to proscribe some of the more flagrant deceptive practices which target older people. In the United States specific legislation has been enacted make certain telemarketing practices illegal, and in Australia the Australian Competition and Consumer Commission has powers to investigate and prosecute misleading and deceptive practices, whether they affect older persons or others (Smith 1999).

Law Enforcement

Law enforcement agencies have a central role to play, not only in investigating crimes of deception perpetrated against older people, but also in informing them of the risks and suggesting appropriate fraud prevention measures. Most police services throughout Australia have officers involved in crime prevention who liaise with older people in the community.

In the United States, so-called “law enforcement gerontologists” have been used to work with older people and community groups to alert potential victims to new schemes and initiate a variety of self-help programs, some of which make use of older people as volunteers. Such specially trained officers are able to offer information and advice in a constructive way, rather than creating unnecessary alarm which could be counter-productive (Rykert 1994).

Education and Information

Titus and Glover (1999) concluded their review of fraud victimisation research by commenting that evidence of prior victimisation is a high indicator of future victimisation. This is confirmed by the data analysed (Figure 2) earlier in this paper relating to the Australian Crime Victims Survey conducted by the Australian Institute of Criminology in 2000. Titus and Glover (1999) suggest that information and education on fraud prevention should be specifically targeted at those who have been victimised in the past. Older people should also be encouraged to report their experiences of fraud to authorities. Only when individual cases come to light can patterns of victimisation be discerned and appropriate preventive action taken. The available avenues of consumer redress should be publicised and the functions of different agencies coordinated in order to make the process of complaining easier (Smith 1999).

Business and professional organisations within the private sector may also be able to assist in the prevention and detection of consumer fraud against older people. In Canada, for example, older people have begun authorising their banks to monitor their accounts for unusually large transactions or unusual patterns of transactions. The bank is then authorised to raise its concerns with the account holder and to warn of the possibility of fraud. Account holders, however, retain full rights over their accounts and may elect to disregard any warnings given. A result of this scheme is that one person was prevented from losing C\$20,000 through a telemarketing fraud following an earlier incident in which C\$40,000 had been lost (Zanin 1998). Similarly, in the United States, a program in which bank employees received special training in the identification of possible cases of fraud against older people’s bank accounts led to the identification of a number of malpractices (Price and Fox 1997).

Conclusion

Consumer fraud is a problem of almost equal proportions for both older and younger people. However, among older people, consumer fraud is 2.2 times more prevalent than assault, which is the most common of the violent offences. Educating the public as well as law enforcement is critical so that cases of consumer fraud are reported in a timely manner and adequately investigated. An integrated effort between all agencies involved with older people, including law enforcement, would ensure that crimes are timely reported, thoroughly investigated, appropriately charged and prosecuted, and that the victims are protected from further exploitation.

While fraud is a risk factor for older people, being both aware of the risks and informed of ways in which to avoid them is essential for all people, regardless of age. Alerting older persons to these issues will help to enable them to live free from the potentially disastrous consequences which consumer fraud can entail.

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