

U.S. Senate Special Committee on Aging

Hearing Statement

Chayo Reyes

May 20, 2002

Mr. Chairman, members of the committee, my name is Chayo Reyes I am a retired Detective from the Los Angeles Police Department and I developed the Department's first Elder Person's Estate Unit in 1987. I am also a co-founder of the Los Angeles County Financial Abuse Specialist Team and in 1993, I co-authored (with attorney Marc Hankin and former partner Dave Harned) California Senate Bill 1742 (enacted in January 2001). This law enables investigators to secure the remaining assets of a vulnerable elder or dependent adult during the course of a criminal investigation in order to prevent further loses. Since my retirement, I have remained active in this field as a consultant and educator and I am currently on the Board of Directors for the National Committee for the Prevention of Elder Abuse, here in Washington, D.C.

Ever since vulnerable elders and dependent adults have had assets, there have been individuals to financially exploit them. Our elders are the fastest growing segment of our society and they are also the financial backbone of our country's economy. They are living longer and saving more than ever before. But we as a society do not always recognize the threats to this vulnerable population. There are a number of circumstances that put an elderly person at risk: Physical and mental health issues, such as stroke, Alzheimer's, isolationism and other causes still exist in spite of our best efforts to protect our seniors.

Throughout my 15 years in working elder abuse cases, I have identified a common theme: The victims generally live alone, may be in poor health and in 95 % of our cases suffer from diminished mental capacity. These conditions make them at risk to exploitation through undue influence or duress. They are easily swayed and are likely to place their entire estate in control of befriending suspects.

It wasn't until medical experts such as Doctor Margaret Singer of Berkeley, California shed light on the phenomenon of undue influence were we able to begin to understand how this all happens. Undue influence is when people use their role and influence to exploit the trust, dependency, and fear of others. They use this power to deceptively gain control over the decision making of the second person. Training from medical experts in the field of undue influence is paramount for investigators of elder abuse cases.

The most common suspects I've come across have been family members,

in-home care providers, friends and neighbors but anyone in a position of trust can exert undue influence over a vulnerable person. It can be fellow church members, attorneys, accountants, befriending strangers, Ex-con caretakers, and predators, who specifically target the elderly. It is troubling to conclude that if there is an endless list of “silent” culprits there must also be an endless list of “silent” victims.

The suspects often isolate and/or relocate the victim in order to obtain complete control. The suspects then create, what my former partner Dave Harned and I refer as a “civil mirage”, by coercing the victims into signing powers of attorney, contracts, quitclaim deeds, wills, living trusts, adding their names onto the victim's bank accounts and obtaining numerous credit cards under the victim's name. In some cases, the suspects marry the vulnerable elder as another means of obtaining total control of their estate through “community property”.

Once in so-called *legal control* of the estate, the suspects operate as though they have *a license to steal*. They withdraw the victim's life savings; obtain loans on the property, making it subject to foreclosure, and max out the credit cards. They may even file bankruptcy to conceal the theft.

Ultimately, the elder becomes a “double victim”. First, by not having the benefit of their assets which were depleted by the suspect, and secondly, the victims are responsible for any accumulated debt and tax penalties.

Most people who discover or suspect these matters (to include law enforcement and prosecutors) often do not have the training or experience in gathering evidence to support the allegation. They too often assume that the documents show the suspect had “legal access” to the elder's estate. For these reasons, many reporting persons are automatically misinformed by authorities (social workers, law enforcement and prosecutors), that “*it is a civil matter*,” when in fact they are “hidden and silent” crimes. It is imperative that anyone in the position of recognizing elder abuse or exploitation be given specific training so they can adequately protect our vulnerable population.

Due to the victims age and poor health and the suspects' ability to quickly deplete the estate, timely preliminary investigations are extremely critical. Unlike other financial crime victims, these victims are not able to financially or emotionally recover. These cases may also cause physical harm and even death to the victims. As a result of being swindled, the victim may go into a depression and ultimately suffer from a condition know as “self-neglect”. They start out as productive, self sufficient citizens and

ultimately end up relying on government and/or family aid for the rest of their lives.

Our mission at LAPD was to network with multiple government and private organizations in order to maximize resources and utilize experts from different fields, in an effort to proactively put a halt to the exploitation and at the same time address the elders' long term needs to prevent them from falling victim again.

From 1987-1999, along with members of the Los Angeles County Area Agency on Aging "Financial Abuse Specialist Team" or "FAST, our unit prevented the loss of and/or recovered over \$91,000,000 in victim's assets (e.g. homes, vehicles and life savings). This figure only reflects LAPD cases, it does not include the millions of losses prevented or recovered, while networking with law enforcement agencies across the country. The LA FAST team was the first in the country and is coordinated by WISE Senior Services in Santa Monica, California.

With the growing elder/dependant adult population, the abuse of this vulnerable population will continue to be a growing problem and major concern for social workers, law enforcement, prosecutors, financial institutions and health care professionals.

There is a nationwide lack of training, expertise and resources to properly investigate, prosecute and litigate these cases. For example, most states lack legislation to address consent by victims who may be subject to undue influence or duress.

It is imperative that such matters involving victims suffering from dementia, subject to undue influence or duress be handled with the same attention, sensitivity, and resources given to juvenile and domestic violence crime victims. We must continue to take care of those who have taken care of us.

Thank you for having me here today.

Chayo Reyes
Retired LAPD Detective

TESTIMONY OF ATTORNEY GENERAL JANE BRADY
Senate Special Committee on Aging
May 20, 2002

I want to thank the Senate Special Committee on Aging for inviting me to speak and for addressing this important issue. It is particularly fitting that you would hold this hearing in May, the month we honor older Americans.

As was already noted, I serve as Attorney General of Delaware. In Delaware, the Attorney General is also the District Attorney for the entire state. I served as a criminal prosecutor in the office for over 12 years. Personal experiences, and others I had as a prosecutor, have shaped my perspective and my priorities as Attorney General. I appreciate the opportunity to outline some things we are doing, or that can be done, to assist senior victims of crime. In light of the specific area of inquiry, I will direct my comments to the financial exploitation of seniors.

I lived with my grandmother for seven years just prior to her death. She suffered from Alzheimers for most of that time. There were many difficult and emotional times. I learned firsthand many of the issues seniors must face. One day while I was at work, she was the victim of Romers, who fixed the "leak" in our roof (which did not exist).

One of my dearest friends is now 81 years old. A few years ago, she called me in great distress. When I went to her home, she showed me her closet, the floor of which was covered by unopened mail, all telling her she had won. She confessed that in the beginning, she felt important that she was receiving so much mail. Eventually it became a significant burden. To this day I do not know how much she spent - she will only acknowledge "a small King's ransom."

I have no tolerance for persons who victimize seniors.

Most Attorneys General offices in the county have Medicaid Fraud Control Units, which, in addition to handling financial fraud against the state Medicaid program, are also given responsibility for the investigation and prosecution of patient abuse and neglect.

But, there are few resources specially designated for the detection, investigation and prosecution of crimes against seniors who live in the community, and that is where most of the crimes involving financial exploitation occur. In my experience as a prosecutor, I know there were times when law enforcement was not equipped to make a determination that a crime occurred - most particularly in financial matters. They often referred complainants in matters involving joint checking accounts, powers of attorney, title to property and abuse of guardianship responsibilities to the civil courts. After all, if two persons have a dispute about who is actually entitled to assets, the matter is most often handled there.

I hired retired police officers to act as liaison between the social service agencies for seniors, the law enforcement community and our office. The program is entitled the

1 The Chairman. Well, thank you, Madam Attorney General,
— 2 and obviously, Delaware is a real leader in this effort
3 through your efforts, and we congratulate you for what you
4 have done.

5 I think that I want to particularly thank every one of
6 the members of the panel who have been with us all
7 afternoon, and many have come from long distances to present
8 their stories. I think that what we have heard today, that
9 a crime can be committed with a pencil as well as with a
10 gun. It depends on the type of activity, but it is still a
11 crime, whether it is with a pencil or a gun or by some other
12 type of scam that is perpetrated on people who are very
13 vulnerable.

14 Ms. Gingerich, yours was a roof. How did you figure
15 out that something was wrong, that these people were not
16 really honest, what they were doing to you?

17 Ms. Gingerich. Well, I do not know. I did not really
18 figure it out. I just--well, it was a lot of money and I
19 just did not say anything to my kids and my husband. And I
20 was talking with my sister, that is when it all started.

21 The Chairman. I guess because of the efforts of the
22 Delaware Attorney General's Office, I forgot--were these
23 people prosecuted, or they gave you your money back?

24 Ms. Gingerich. Yes.

— 25 The Chairman. Do you know if they were prosecuted, Ms.