

**Statement of Paul R. Greenwood, Deputy District Attorney,
Head of Elder Abuse Prosecution Unit, San Diego DA's Office**

Good morning, Mr Chairman and distinguished members of the Special Committee on Aging. My name is Paul Greenwood, and I am head of the San Diego District Attorney's Office Elder Abuse Prosecution Unit. I am also chair of California District Attorneys Association Elder Abuse Committee. It is an honor to be invited to appear before you and share my observations and perspectives as a prosecutor who has dealt with the varied issues of elder abuse prosecution for the past five years.

When District Attorney Paul Pfingst asked me to start an Elder Abuse Prosecution Unit in 1996, I confess that I had never heard of the term Elder Abuse nor had I prosecuted such a case. California had created an elder abuse law back in 1986 but it was little known by law enforcement and seldom used by prosecutors. By the end of 1996, I had filed 17 felony cases, in 1997 we prosecuted 37 cases, in 1998 we filed 75 cases, in 1999 there were 97 cases and last year we had over 120 felony elder abuse prosecutions. Our unit has grown from one prosecutor in 1996 to a staff of eleven – including five full time prosecutors, one investigator, two victim witness advocates and three support staff.

It is my belief that elder abuse will become one of the most serious issues facing law enforcement and prosecutors in this country within the next five years. As our aging population continues to expand, we will unfortunately see a large increase in the criminal cases in which seniors are targets of either physical or financial exploitation. However, we have a tremendous opportunity now to equip our law enforcement agencies to anticipate such an increase and help them to be ready to respond effectively and swiftly.

In the past two years, I have had the opportunity to travel to various parts of this country to assist with training at a local level. Response to elder abuse cases is currently varied and inconsistent. In some states participation by local law enforcement and prosecuting agencies in reacting to elder abuse crime is almost non-existent. I have had many conversations with committed Adult Protective Services caseworkers who are clearly very frustrated by the lack of response from their local police or sheriff or prosecutors. In other states, law enforcement and prosecutors are taking a lead in defining investigative and prosecutorial methods to hold the perpetrators of elder abuse accountable. What is needed is a uniform, consistent training which is available to every law enforcement officer and county, state and federal prosecutor. We urgently require a national curriculum on elder abuse training which can be given in a practical, hands on manner to officers and prosecutors who will be able to understand some of the complexities and challenges that we face when dealing with elderly crime victims.

Over the past five years I have prosecuted various elder abuse crimes including murder, rape, kidnapping, neglect and theft of life savings. Many of my victims have been in their eighties and nineties. Many have been inflicted with Alzheimer's disease or other forms of dementia. Such cases present major hurdles, but I am here to tell you that given the appropriate commitment, resources and passion on the part of law enforcement we can and will overcome such hurdles. To help us understand how we can collectively become

more effective in our response to the expanding number of crimes being committed against our seniors, I would like to highlight several areas that appear to have worked in our unit:

1. We need to recognize the importance of developing a multi-disciplinary team [MDT] to fight elder abuse.

When I started prosecuting these cases in 1996, I was fortunate enough to work in a County that had already established a MDT. Thanks to a very active Adult Protective Service Agency, Public Guardian's Office and County Mental Health Agency there was already in existence a group called F.A.S.T [Fiduciary Abuse Specialist Team] that met monthly to discuss cases of financial abuse. I was welcomed warmly to the first meeting and my participation in that group has taught me the value of multi-agency input and discussions. Ultimately, the decision whether to file a criminal case rests with the individual prosecutor, but for that case to reach the prosecutor often takes a team effort. Traditionally, law enforcement has been reluctant to sit in a room with other agencies who might appear to be more "socially" minded. If we in law enforcement are to have an impact in the criminal justice system in prosecuting elder abuse cases, then we must start by recognizing the important role that such agencies as Adult Protective Services play.

It is my experience that in a county where there is a MDT for elder abuse, there is also the groundwork for an effective law enforcement response to the crime of elder abuse. In San Diego I have had the pleasure of working alongside Adult Protective Services to promote a public awareness campaign, appear on radio and television programs to discuss elder abuse issues and to participate in discussions about potential criminal cases. I know of at least two counties in California where District Attorney Elder Abuse Investigators are being paid for out of the APS budget – a clear sign that MDT's work!

In San Diego I have the opportunity four times a year to chair the Elder Abuse Council meeting. Representatives from over 30 different agencies come together in our office – police, sheriff, APS, Public Guardian, Coroner's Office, Probation, City Attorney, Attorney General, County Mental Health, Fire & Paramedics, etc. Our common goal is to help make San Diego a safer place for seniors and to work collaboratively on solving some of the problems that prevent cases being reported and investigated.

2. We need to encourage the establishment of vertical prosecution units for elder abuse.

About twenty years ago, we realized that we needed to train our prosecutors how to handle child abuse and domestic violence criminal cases. As a result, most metropolitan prosecuting agencies now have teams of prosecutors dedicated to prosecuting such cases. We need to do the same with elder abuse cases. There are dynamics in elder abuse crimes that require specialized training for prosecutors. For example, how do we respond to a situation in which the elderly victim is in the early stage of dementia and the perpetrator has not yet been arrested? By the time that the defendant is apprehended, the victim may be suffering from moderate to severe dementia and is unable to recall the events that led

to the criminal act. The victim may in fact be unable to qualify as a competent witness. Do we dismiss the charges against the defendant or are there other ways to prove the case? How do we handle a case in which we have a bedridden 90-year-old victim who is unable to come to court? How do we deal with a situation of multiple victims from a residential facility aged between 85 and 95 who have had their personal effects and money stolen by a former security guard of that facility? What about the case of the 78 year old widowed mother, severely beaten by her 49 year old son, who now does not want to testify against her son and who has made it clear that she will not support the prosecution?

These are real problems with which we are grappling daily. During the past five years we have learned through trial and error that there are methods to overcome these issues. That is the benefit of having a vertical unit and we must ensure that elected prosecutors throughout this nation understand the importance of creating such resources within their offices. If you come to our unit we will be able to show you the wheelchairs, the walkers, the oxygen machine, the hearing device, the specially equipped van, and even a special waiting area for our seniors – complete with recliner, sofa, television and soft lighting. These are the things that they do not teach you at law school, but which are so important to our elderly witnesses. It also sends out an important message to our community – the DA cares about seniors.

California now has at least seventeen counties in which there is a vertical elder abuse prosecution unit. It is to be hoped that other states will follow suit.

3. We need to provide the resources for our police to become better first responders to elderly crime victims.

Just as we need specialized prosecution units to handle these cases, so we need to create police teams that are properly trained to respond to situations where the crime victim is an elder. San Diego Police Chief David Bejarano realized this after seeing the emphasis that the District Attorney Paul Pfingst was placing on elder abuse prevention and prosecution. As a result, Chief Bejarano created the San Diego Police Elder Abuse Investigation Unit last December, consisting of six detectives and one sergeant. After the backlog of uninvestigated financial abuse cases have been cleared it is anticipated that this team will assist in the training of officers at the various precincts around the city and will provide support for a first response to a location where there is an elderly victim. The quality of the first response is critical and often determines whether a criminal report is taken and whether a detective is assigned for follow up work. A well-trained and prepared officer will be able to spot the red flags that often accompany physical and financial elder abuse cases. Such an officer will not be deterred even if the victim appears to be confused or forgetful.

First responder training should also include paramedics and fire personnel. Often it is a paramedic or firefighter that is called to a scene where a senior is in distress. If that individual has received the necessary training then he or she will make that important call to the local police or sheriff and thus preserve a crime scene. We were reminded last

October in our county of the importance of such training for first responders. An 85-year-old man was found dead in his house by his 81-year-old wife who called 911. Both police officers and paramedics responded. The wife told officers that she had seen a lady in the house prior to her husband's death. All of the responders dismissed her claims as delusional. The coroner's office and the deceased's treating physician were contacted by telephone. Because there was no sign of a forced entry or of a struggle, it was assumed that the death was natural and a waiver was obtained – avoiding the need for an autopsy. The next day, a representative from a bank called the family to alert them to unusual banking activities that had occurred since the man's death. The family contacted the police who in turn ordered an autopsy. The coroner found that the cause of death was strangulation and blunt force trauma. Subsequently, a female was arrested and charged with the murder of this 85-year-old man. Our unit is prosecuting that case.

4. We need to draft new laws that will assist with the investigation and prosecution of elder abuse perpetrators.

Many of our elderly victims are vulnerable and deserve greater protection under the law. We should consider the following areas for possible implementation of new laws:

- a. Extensive background checks for all care providers of elders
- b. Expansion of the list of categories of mandated reporters of elder abuse and an increase in the penalty for failure to comply with the mandated reporting
- c. A lifting of confidentiality restrictions that currently prevents many civil elder law attorneys from reporting suspected cases of financial elder abuse of their clients to law enforcement
- d. Compulsory training for all sworn peace officers in elder abuse awareness and investigations
- e. Creation of a curriculum for training judges to understand the dynamics of elder abuse

Mr Chairman, I appreciate being given this opportunity to share my perspective as a prosecutor. It is my privilege daily to enter a court room and endeavor to seek justice on behalf of a generation that has been called by some "our finest generation." With that privilege comes problems and obstacles, but I am optimistic that we are facing the challenges and that we are sending the right message to potential perpetrators of elder abuse. Today's hearing is a huge step in this nation's collective response to the growing problem of elder abuse. The United States owes so much to the millions of seniors in this country who have given selflessly for the greater good of the country. We owe it to them to make this country a safer place for people to grow old with dignity, respect and protection.

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