

REMARKS BEFORE THE UNITED STATES SENATE

SPECIAL COMMITTEE ON AGING

JANUARY 16, 2019

Thank you, Chairman Collins and Ranking Member Casey, for this opportunity to appear before you and all other members of the Committee today. It is an honor to share with you some of my experience of over the last 40 years on the matter of elder financial abuse and exploitation, a subject to which I have devoted my professional life. In my observation, the federal, state and local initiatives in this field have grown significantly and much has been accomplished to help prevent elder financial fraud. However, with the explosion of technology and the growing older population, we have little time to waste in developing and implementing strategies to address what is now an increasingly a global issue.

When I work, I often think of the victims in my cases. But I also carrying my Uncle Howard in my heart. He was a small businessman and World War II veteran who lost nearly everything to an investment scheme as Alzheimer's disease took him away. He was one of thousands of victims of a large scheme run in Orange County, California. The recovery for his life's work was barely pennies on the dollar and my aunt, his life -long business partner, was forced to place him in a public institution, instead of being able to have him at home. She was legally blind and rode three busses each way, every day to visit him in his last year. This was not the ending they ever deserved or contemplated.

In the early 1980s, I was an enforcement attorney at the Securities and Exchange Commission (SEC) where I investigated investment frauds, particularly small offering and penny stock market manipulation schemes. Many of the victims of those schemes were older adults, specifically targeted by the perpetrators. It broke my heart to witness firsthand the financial, material and deep psychological damage suffered by those victims. The shame and broken trust in humanity they expressed was tangible and unforgettable. Sadly, today many older victims feel that same shame and broken trust.

I left the SEC to become an Assistant U.S. Attorney in the Southern District of Florida and in the District of Columbia. My focus was on white collar fraud investigations and prosecutions, and I always looked for cases involving older victims because I felt I could have a greater impact there. Later, at the Financial Industry Regulatory Authority (FINRA), the Consumer Financial Protection Bureau (CFPB), the Administration for Community Living (ACL) at HHS, and now as a consultant at the Department of Justice's Elder Justice Initiative (EJI), I learned more about the social and cognitive challenges facing older adults and participated in policy work and training to build responses to the growing issue of elder financial exploitation.

Despite renewed commitment in some quarters, the financial fraud schemes against older adults continue to grow and become more complex. The number of victims grow, too, as the population ages. This is also borne out by this Committee's own Fraud Hotline. During my career, I have witnessed a growing and effective multidisciplinary response to the frauds and swindles hurting and often devastating the lives of older adults. Much of this change is a direct result of increased federal attention and legislation. One very effective collaboration is the federal Elder Justice Coordinating Council.

FEDERAL, STATE and LOCAL COOPERATION

The Elder Justice Coordinating Council (EJCC), part of the Elder Justice Act (2009), has transformed the work of the federal government on issues of elder justice. Established in 2012, this twelve member federal agency council has grown to include new agencies and divisions within member agencies to further expand the reach of the Council's work. The Elder Justice Working Group (EJWG) comprised of staff members from each of the member agencies worked to establish Eight Recommendations adopted by the EJCC as a framework to guide its work and on financial exploitation and to create a more comprehensive and integrated federal approach to the issues of Elder Justice. It has provided a forum for discussion about prioritizing what issues need focus and how member agencies can work together to address them. Since 2012, partnerships across agencies have addressed the issue of financial exploitation and enforcement of financial crimes against older adults. Elder financial exploitation remains the most pervasive and fastest growing form of elder abuse in this country and the world. EJCC members have created the Interagency Guidance on Privacy Laws and Reporting Financial Abuse of Older Adults; routinely add substantive content to the Department of Justice's Elder Justice website, including substantial portions for prosecutors and law enforcement and training. Elderjustice.gov is now a leading resource in the field of aging. Partnerships with the Corporation for National and Community Service (CNCS), the United States Postal Inspection Service (USPIS), the DOJ and the ACL's resource centers are beginning to work with local TRIADS to more effectively help train advocates and law enforcement address local problems faster and more comprehensively. Agencies also worked together with ACL in the development of the National Adult Maltreatment Reporting System (NAMRS) database to develop a better picture of elder abuse nationally. Through the EJCC, the Social Security Administration and the

Department of Veterans Affairs received support and input to strengthen their representative payee programs and to fight fraud and abuse within those important programs. This year, for the first time, there is an Elder Justice track at CNCS for grantees of its RSVP and Senior Corps programs.

As long as I have been doing this work, research has remained a gap in our knowledge about perpetrators and victims and about what interventions may be successful. The Department of Justice, ACL, and NIH have given research grants to support innovative projects in the field of elder abuse financial exploitation. Some grantees are integrating technology tools for prevention of elder abuse. Federal, state and local law enforcement agencies worked with the ACL resource centers for Adult Protective Services, the National Center for Elder Abuse and the National Center for Law and Elder Rights to enhance their training about elder abuse and financial exploitation results.

Federal public awareness campaigns and have successfully leveraged ways of getting important and useful knowledge to the public through products such as the Federal Trade Commission's (FTC's) Pass It On campaign and the CFPB's fiduciary guides, Managing Someone Else's Money. This information is also distributed in multiple languages to reach a wider audience. Training opportunities across many disciplines including Adult Protective Services, financial services training, and civil legal services for older adults have broadened the field. Webinars and training from member agencies frequently feature participants from several federal agencies, non-profits and private partners with whom they work. Agencies and law enforcement work together with the financial services sector to develop training programs. Civil legal services received support from the Elder Justice AmeriCorps which allowed new attorneys

the opportunity to work for two years on the often complex legal issues facing older adults. These efforts have reach thousands of older Americans and their families.

By using the expertise and resources of its members, making partners across federal agencies, and thinking broadly and inclusively about how to address important issues for older adults, the EJCC has moved the field.

As with EJCC, federal legislation has been an important tool to move federal law enforcement. The recently signed Elder Abuse Protection and Prosecution Act (EAPPA) is also making its mark. By establishing an Elder Justice Coordinator (EJC), an AUSA devoted to this issue in every federal district, and requiring regular training of FBI agents, the issue of elder abuse and financial exploitation is now a cornerstone of federal law enforcement work. EAPPA's provision requiring community outreach by EJs further offers the opportunity to build multidisciplinary partnerships with state and local counterparts and to bring benefits to the field. The mere fact that local and state law enforcement know that there is a strong federal interest in this work and in greater cooperation across jurisdictions will enhance the number and quality of elder abuse and financial exploitation cases brought nationwide. A key provision of EAPPA requires training on how to work with older victims and witnesses. This training has included elder abuse experts and neuroscientists as well as victim specialists in the field.

The National Association of Attorneys General (NAAG), under the leadership of Kansas Attorney General Derek Schmidt, has been key in building partnerships within states and with the federal government. There are long standing state and federal partnerships with state Medicare Fraud Units (MFCU) units in the area of health care fraud, but under Attorney General Schmidt elder abuse and financial fraud cases have greater focus. Some states, like New York

and Maryland have a specific Assistant Attorney General assigned to elder affairs, covering cases from consumer concerns to criminal prosecutions.

The National Center for State Courts also conducts elder abuse and financial exploitation training for judges and court personnel. Victim witness advocates also participate as trainers in these courses. The Center is working to develop a system to track guardianship expenditures to alert the court and to prevent fraud by guardians.

On the local level, the International Association of the Chiefs of Police (IACP), supported by the DOJ has just released Roll Call videos on elder abuse and financial exploitation which are shared with its membership of over 30,000 members in 150 countries and are available on its website. These short videos feature different aspects of elder abuse and showcase the key role that local police play in identifying elder abuse and financial exploitation and bringing the perpetrators to justice. There are also other initiatives by IACP to specifically address financial exploitation. There are many outstanding local prosecutors throughout the nation including those in King County, Washington (Seattle), Cook County, Illinois (Chicago), Los Angeles County, Orange County and Marin County in California, to name just a few. Each of these local experts are usually part of multi-disciplinary teams, which now, with EAPPA look to include federal agents and prosecutors.

These partnerships and training opportunities have changed the field of law enforcement of elder abuse and financial exploitation. The cooperative work of agents and officers who worked on the hundreds of cases brought in last year's historic nationwide elder fraud sweeps is a tribute to the benefits of law enforcement collaboration in all departments.

EDUCATION: RAISING AWARENESS ABOUT ELDER ABUSE AND EXPLOITATION

There has been renewed attention on materials, campaigns and outreach to increase awareness about frauds targeting older adults. However, there are often limits to the education of older adults without further support. Complexities associated with cognitive changes present challenges to how to create effective information campaigns and bring awareness about financial dangers. Mild cognitive impairment often affects the ability of older adults to retain well intended and important information once they have received it. Often, a few hours after the best organized presentation on how to prevent being a victim of current frauds and swindles, the information and warnings may fade and the message diminishes. One of the strengths of the FTC's Pass It On campaign is the manner in which it encourages the continuation of the conversation.

Education, especially, financial literacy education, in the context of multigenerational training may well have an effect and act as a protective measure in the face of financial exploitation. Multigenerational training can provide some of the support an older adult may need in the face of fraud. Having other trained family members or trusted persons can also be important supports in the face of social isolation and cognitive impairment. Providing someone to talk to in the midst of pressure from a perpetrator and breaking down the social isolation, this can act as a preventive action against fraud. For example, the NY State Attorney General's office this fall released a short Public Service Announcement about the Grandparent Scam. In it, high school students speak to their grandparents to tell them to call *them* before they send money to anybody. It is a straightforward appeal. The PSA also includes Dr. Ruth Wertheimer, who was nearly a victim of the same scam.

FINANCIAL SERVICES

The financial services industry has also become a strong and much needed partner in the fight against elder financial exploitation. The Senior Safe Act, passed last year, will undoubtedly increase reporting of financial exploitation of older adults and provide the much needed training to tellers and supervisors of financial institutions. In many of the cases I prosecuted, I was told by bank tellers that they were afraid to report what they saw before them for fear of losing their job; not because they were wrong, but because they were afraid of losing the customer.

NASAA, the North American Securities Administrators Association, under the leadership of Maine Securities Administrator, Judith Shaw, drafted a Model Act to Protect Vulnerable Adults which has now been adopted in 19 states and is set to be voted on in at least 5 other states this year. This Act and the Advisory Group on Senior Issues has created an informal nationwide multidisciplinary team focused on senior investors.

SIFMA, the Securities Industry and Financial Markets Association, through its Senior Investor Protection program has a long standing working group and sponsors regional programs involving federal, state and local law enforcement, local SIFMA members, federal, state local prosecutors and often experts in the field of aging and cognition. It has a special section on its website devoted to issues of senior investors and a tool kit for brokers and investment advisors on recognizing common frauds, elder financial exploitation and tips about what to do when a fraud is recognized.

The new FINRA Rules, Rule 4512 that creates a trusted contact form for account holders regardless of age and Rule 2165 that permits a transactional hold by a broker suspicious of a transaction, are also changing some of the ways the financial industry addresses elder financial

fraud. Working with law enforcement, these new rules offer powerful investigative tools. The FINRA Foundation also works with National Center for Victims of Crime on these very issues.

The American Banker Association and AARP's BankSafe program also address the need of banks to train staff. BankSafe's program, will provide bankers with few resources to develop financial exploitation training, a downloadable training program for their use.

Adult Protective Services has also developed a universal document demand for its financial exploitation which is in use in a few states where it has significantly reduced the time in which an APS worker receives financial records.

TECHNOLOGY

Large scale frauds against older adults are often accompanied by a new technological development. Information collected from social media accounts of older adults often provides perpetrators access to execute a fraud. Grandparents can be especially vulnerable in this way. Gift cards, MoneyGrams and Western Union wires are all liable to misuse.

These tools along with tech support frauds and spoofing can leave older adults vulnerable. Enlisting experts in technology and building partnerships can help move us closer to understanding those schemes and uncovering solutions.

There are a few technology companies that work to fight elder financial exploitation. For example, EVERS SAFE, a company founded specifically to address prevention of financial exploitation, uses complex alert systems to tell a customer if there is any unusual activity on any account. This type of technology can be used by older adults or loved ones to monitor accounts.

CONCLUSION

The field of aging is making progress in addressing the important issue of elder financial exploitation. Collaborative work across law enforcement, including agents and prosecutors of all jurisdictions investigation and prosecuting cases is critical. Including the financial services industry and the tech industry as investigative partners or experts in those cases may help reduce the number of victims in larger cases. Large scale sweeps are always noticed by the perpetrators and serve as a signal that law enforcement will continue to bring cases of all sizes to protect older adults from financial exploitation. But law enforcement alone cannot solve this problem. A multidisciplinary approach is essential.

Exploring public -private partnerships with the card and tech industry may also provide opportunities for prevention. Continuing to invest in technological innovations to address elder financial fraud and prevention. More technical training opportunities for state and local law enforcement will also help obtain an earlier response to a victim.

Understanding the vulnerability of an older adult and addressing the risk of elder financial exploitation is complicated. The two highest risk factors for elder abuse and financial exploitation are social isolation and cognitive impairment. If we address those two factors in collaboration with law enforcement and public awareness efforts, we can build protective mechanisms in the prevention of elder financial exploitation.

THANK YOU