



UNITED STATES SENATE HEARINGS OF THE  
SUBCOMMITTEE ON AGING



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ELDER ABUSE: A NATIONAL SCANDAL

INTRODUCTION

Mr. Chairman and Members of the Subcommittee, I am Paul Hodge, Chairperson of the National Health Care Law Enforcement Alliance ("NHLEA"), the first organization of its kind in the nation to promote the creation of national proactive grass roots law enforcement related programs to protect our elder citizens in their home environment. I am pleased to represent my organization on whose behalf I am testifying. But I also speak from the perspective of a "front line" elder advocate and law enforcement person who, on a daily basis, has been intimately involved in and deeply committed to the fight against elder abuse in my home state of Rhode Island, the northeast and nationally.

In addition to my current duties as NHLEA Chairperson, for the past seven years ending in January of this year, I was Director of Investigations of the Medicaid Fraud Control Unit of the Rhode Island Attorney General's Office. This law enforcement unit has primary statewide responsibility for the investigation and prosecution of instances of elder/vulnerable individual abuse or neglect, which takes place in health care facilities such as nursing homes, hospitals, group homes and, to a growing extent, assisted living facilities. While Director of Investigations, I was Chairperson of the Northeast Healthcare Law Enforcement Association, a "first-of-its kind" regional law enforcement unit whose mission was to enhance the vigorous investigation and prosecution of instances of elder/patient abuse and provider health care fraud in all the New England states, New York and New Jersey. Prior to this, for five years, I was a prosecutor with the Federal Trade Commission and the Massachusetts Office of Attorney General working in consumer protection law enforcement prosecutions affecting our elder citizens.

In these varied roles, I have worked closely with local police departments, district/state/attorneys general offices, legislators, regulators, protective service personnel, ombudsmen, concerned elder community based groups and elder activists. I have had the unique experience of being involved with literally thousands of screenings, investigations and prosecutions of incidents concerning elder abuse in its many forms. In the last five years, it has been my observation that law enforcement throughout the country is experiencing an exponential increase in the number of reports, investigations and prosecutions of crimes committed against elder adults. Because of the aging of the American population and the increasing inability of our families, health care and other institutions to ensure the quality of life of our elder citizens, the demands on the nation's law enforcement infrastructure to protect them from abusive and criminal acts is fast becoming one of the most significant societal challenges of the coming millennium.

Despite the extensive achievements of law enforcement and other concerned parties, elder citizens are still the number one target for crooks and other perverse predators. An aggressive national initiative must be mounted to address the demographic realities that the United State's population is aging, reports of elder crimes are dramatically increasing and current law enforcement efforts and resources are severely strained and presently inadequate to meet the increase of these types of crimes.

The work you are doing here today is of critical importance. So first, let me thank and commend you Mr. Chairman for holding these hearings about the Older Americans Act and elder abuse. You are providing important national leadership in our efforts to make safe, protect and enhance the quality of life for our elder and vulnerable citizens.

## POLICY EVOLUTION AND LAW ENFORCEMENT CHALLENGES

Criminal prosecution is a relatively new concept in the lexicon of elder abuse. As pointed out by my colleague Roslie S. Wolf, Executive Director for the National Committee for the Prevention of Elder Abuse and one of the preeminent national leaders in this area, ten years ago, or even five, it was extremely unusual for law enforcement to be involved in elder abuse cases.

"The participation of the criminal justice system in elder abuse cases reflects the shift in elder abuse policy over the last thirty years. In the 1950s and '60's concern about the increasing numbers of very old, impaired elders led to the formulation of 'protective services' as an intervention strategy. With the passage of the 1974 public welfare amendments to the Social Security Act, states were mandated to provide an array of services (known as 'protective services') to meet the social, psychological, medical and legal needs of people with physical or mental limitations, who were at risk of being neglected or exploited or who were unable to manage their affairs." (Wolf, Hodge, Roberts, "Elder Abuse and Neglect: Prosecution and Prevention", *Critical Issues in Aging*, Vol. No 2. Fall 1998, released January 1999 and published by the American Society on Aging, pp. 35-38)

In response to this mandate, most states established adult protective services (APS) units in their public welfare (human services) departments or contracted out the work. Under criticism from various sources, further development of the program came to a halt. In the 1970s with the emergence of the women's movement and efforts to combat child abuse, the protective services movement was rejuvenated because the elder abuse problem was viewed differently. Instead of being one of "adults needing protective services", it became "victims of elder abuse, neglect and mistreatment".

As Wolf has noted, "in the aging network, elder abuse came to be viewed within the concept of care giving. The victim was portrayed as a very old, physically and/or cognitively impaired individual cared for by a family member who, because of heavy care giving demands and other responsibilities, became abusive or neglectful." Through the efforts of advocates, Congress passed elder abuse legislation as an amendment to the Older Americans Act.

As Wolf has pointed out, the child abuse model has had a profound effect on how elder abuse was first conceptualized and what the proper response mechanisms were. In the beginning, the general view was that elder abuse was because of caregiver stress. Then studies started to show that spousal abuse of older adults was more common than abuse by adult children. "Efforts by

the American Association of Retired Persons Women's Initiative Department, the Older Women's League, the Administration on Aging and others resulted in opening a dialogue between the elder abuse prevention and battered women's movements."

As Wolf has noted, "The inclusion of elder abuse within the family violence framework transformed it into a public health and criminal justice issue. While some people regret the 'medicalization' and 'criminalization' of the problem, the participation of medical, legal and law enforcement personnel and domestic violence advocates has helped the elder abuse prevention cause to a degree that was not possible when elder abuse was viewed as a public welfare, social service or aging issue."

The challenges facing law enforcement personnel to protect our elder citizens are daunting. The scope of the types of crimes committed against our elder citizens is broad and encompasses all the crimes in the criminal code including assault in its various forms, fraud, robbery, consumer protection scams and financial exploitation. On the rise and fast becoming the most prevalent types of crimes committed against the elderly are abuse, neglect and financial exploitation cases involving perpetrators who are relatives, business professionals/institutions, con artists and caregivers.

To those of us who have law enforcement experience, crimes against the elderly are particularly abhorrent and heinous because the victims are extremely vulnerable and the consequences of many crimes have a much greater impact and a more lasting effect on an elder victim's life than on a younger adult's. A simple slap to a twenty-five year old has a lot graver physical and psychological consequences to a frail and dependent eighty-eight year old nursing home resident or elderly grandmother living at home. Being swindled out of your life savings of ten thousand dollars may be an extremely negative experience for a thirty old who is healthy and gainfully employed but it is absolutely devastating and, indeed, life threatening to a seventy-six year old trying to make ends meet with just social security payments and no prospect of earning the stolen money back. To underscore the terrible effect abuse can have on our elder citizens, a study recently published in the August 5, 1998 issue of the Journal of the American Medical Association reported that mistreated elders were found to have more than triple the risk of death over a 13-year period compared to those who were not abused.

One of the most heart wrenching experiences I had as a prosecutor was to see a confused and embarrassed seventy-eight year old woman trying to be dignified and hesitantly explain to a young distracted police officer how she had been swindled out of her life savings of twenty thousand dollars by a telemarketing con artist. I will never forget the look in her eyes, the fear, the shame, the disbelief, the total feeling that her life had ended as she knew it because she had lost her safety net.

Added to this, elder related crimes are difficult for law enforcement to successfully prevent and prosecute because of diverse factors including the fact that many elders: are isolated; have a trusting nature; are specifically targeted by and/or are dependent on the services of unscrupulous individuals; are reluctant to come forward and report crimes for fear of retribution, shame or some debilitating physical and/or psychological impediment; may be poor witnesses because they cannot remember, become confused as to what happened or forget who committed the crime against them; and sometimes don't even know that they have been a victim of a crime.

When family members (mainly children) are the perpetrators especially in financial exploitation cases, law enforcement has added difficulty in responding and dealing with these cases because the parent/victim would like to treat the crime as a "family matter" and will not report it or cooperate with an investigation. Often the parent is very ashamed of what happened or, out of compassion and grief, does not want to see their child prosecuted and punished. Investigations of family members are further complicated by the existence of long-standing, complex family dynamics often coupled with substance abuse issues and other dysfunctional behavior.

To give you some idea about these types of crimes which are fast becoming all too common, a bank recently reported to a northeast prosecutor's office that it was going to foreclose a mortgage on the home of an eighty-three year old woman. The bank thought there was something funny and requested the authorities to look into it. When the state police investigated, it was discovered that the woman's son, her only child and a retired policeman, had forged her name on a power of attorney/loan documents and taken out a substantial mortgage on her house without her knowledge. The son had drug and gambling problems and promptly lost all the money. He then defaulted on the mortgage payments. The house was the only major asset that the woman had. When investigators explained to the woman what her son had done, she was heart broken and extremely embarrassed. In spite of this, she asked authorities not to do anything to her son; even though, she was going to be evicted and put into public housing. While the investigation was proceeding, the bank agreed not to foreclose. The woman died with her last memories being of what her son had done to her. She left all her remaining assets to him. He was never prosecuted.

While Federal policy changes have benefited elders who are abused in institutional settings such as nursing homes and which I discuss below, a lot more needs to be done to protect seniors from abuse in the home and public environments.

#### INSTITUTIONAL ELDER ABUSE LAW ENFORCEMENT EFFORTS

The majority of investigations and prosecutions of elder abuse related crimes occurring in the home setting or in public are handled by local/state police departments and the criminal sections of the district/state/attorney general's offices. With regard to health care facilities like nursing homes, while local units still have jurisdiction to handle these cases, a lot of these types of cases are mainly handled by Medicaid Fraud Control Units (MFCU). These units were created by Congress and specialize in investigating/prosecuting elder/patient abuse crimes occurring in health care facilities.

To give you a more detailed picture of the types of crimes being perpetrated in health care facilities and what is being done by the MFCUs to prosecute them, I have attached as an exhibit a copy of an article which I wrote entitled "National Law Enforcement Programs To Prevent, Detect, Investigate, and Prosecute Elder Abuse and Neglect in Health Care Facilities". The article was released this January in the Journal of Elder Abuse & Neglect, a quarterly journal published by the National Committee To Prevent Elder Abuse and The Haworth Press.

The story of the MFCUs is instructive to us because the MFCU program has had many successes. It is an excellent example of how Congress can provide leadership in creating responsive law enforcement programs which may act as models and guides to future policy development. By way of background, in 1977, the United States Senate Special Committee on

Aging, Subcommittee on Long- Term Care held nationwide investigative hearings, which not only identified extensive provider fraud in the Medicaid Program but also uncovered pervasive patient/elder abuse in nursing homes. The hearings showed that most local police and prosecution units in the country gave patient/elder abuse a low priority and that successful prosecutions were seldom achieved because, among other reasons, prosecutors did not have the time, resources or expertise to prosecute these types of cases.

In response to these lurid revelations of fraud and shocking evidence of elder/patient abuse, the Congress passed legislation and mandated the creation of state Medicaid Fraud Control Units ("MFCU"). The missions of these units were to investigate and prosecute, on a statewide basis, instances of health care provider fraud and patient abuse and neglect occurring in health care facilities receiving Medicaid funds. Nursing homes, group homes and hospitals were included. Excluded from their jurisdiction were certain types of non-Medicaid certified facilities such as certain group homes, assisted/residential living facilities and adult family homes. While statutory reform has been proposed to expand the units' jurisdiction to assisted/residential living facilities, some states now permit Medicaid payments to these types of facilities under waiver programs, thus subjecting them to the MFCU's jurisdiction.

In accordance with Congress' mandate, most states have MFCUs. These units are federal/state funded and are usually operated from a state's Office of Attorney General or Chief State's Attorney. Since their inception, the MFCUs have accomplished much by recovering millions of dollars from health care providers who committed fraud and achieving over eight thousand convictions for health care fraud and elder/patient abuse violations. Nationally, they are the nation's primary law enforcement units with the developed expertise and track record to handle elder/patient abuse cases. Not only do they devote a substantial amount of their resources to elder/patient abuse investigations and prosecutions, annually, they review and screen thousands of abuse referrals.

The MFCUs unique experiences, documented by research, demonstrate that there exists a significant national misunderstanding about the pervasiveness and severity of the criminal activity in health care facilities. These crimes are particularly heinous and repugnant because they are perpetrated against elder "at risk" adults who can no longer care for themselves and are unusually vulnerable and susceptible to abuse, serious injury and death.

While state statutes and interpretive case law vary, generally, patient crimes can be categorized as physical, sexual and emotional abuse, neglect, mistreatment and financial exploitation. Physical abuse includes any assault, hitting, kicking, pinching, slapping, punching, pulling of hair and any sexual assault or abuse.

Emotional abuse is any harassing behavior which would cause emotional or psychological harm, including ridiculing or demeaning a patient, making derogatory remarks or cursing or threatening a patient with physical or emotional harm.

Neglect means caregiver failure to provide treatment, care, goods, or services necessary for a patient or failure to carry out a physician's plan of treatment and failure to report patient health changes. Also included is the failure to meet the physical needs of a patient including toileting, bathing, feeding and safety. Mistreatment means the inappropriate use of medications, isolation, use of physical or chemical restraints. Financial exploitation includes theft of a patient's

possessions, bank accounts; personal funds accounts maintained at the facility, the commingling of patient and facility funds or the use patient funds to pay for facility operations.

To give you an idea of the types of the MFCU elder/patient abuse cases that have been prosecuted nationally, the following are some of the more egregious examples:

- In Arizona, two defendants were prosecuted and pleaded guilty to three counts of aggravated assault. The abuse they committed ranged from spitting in the faces of bedridden patients, sexual assault, karate kicking elderly patients in the face and the chest, threatening to give a pill to a patient so that he would never wake up and stating that his body would be found in the desert. One patient was so afraid that he refused to eat or drink. The defendants told another patient that they were going to have sex with his wife and daughter.

- A Maine certified nursing assistant was convicted of reckless conduct with the use of a dangerous weapon for smothering a terminally ill patient in a nursing home; a South Carolina certified nursing assistant was charged for stuffing the mouth of a resident with a face towel to prevent her from yelling; a Salt Lake City certified nursing assistant was charged because she stepped on the face of an elder resident; and a Long Island, New York nurse who was charged with abuse when she threw a resident out into the extreme cold dressed only in her pajamas.
- A New York certified nursing assistant was found guilty of rape for sexually abusing a patient who was in a vegetative state after being injured in a car accident. The victim ended up giving birth to a baby boy who is now living with his grandmother. In Utah, a male certified nursing assistant was found guilty of fondling a female resident while giving her a suppository. In Washington State, a male certified nursing assistant sexually touched the breast and genital area of a paralyzed seventy-nine year old female resident.

In 1991, the Delaware MFCU, pursuant to the Delaware emotional abuse statute, gained the first conviction in the country of a certified nursing assistant who had emotionally abused an eighty-five year old nursing home resident. In sustaining the conviction and the constitutionality of the Delaware emotional abuse statute, the Delaware Supreme stated that elder nursing home residents are often at the mercy of their health care workers and are often afraid to report them for fear of retribution. According to the Court, a nursing home was the "home" of the resident and as such the resident had the right to be treated with the dignity and privacy which she would have received or been entitled to in her own home. This case has set an important precedent for future emotional abuse prosecutions nationwide.

- In Arkansas, a certified nursing assistant was successfully prosecuted for failing to feed a resident who could not feed herself. A video caught the certified nursing assistant dumping the resident's food into trashcans on different occasions. In Arizona, the Medicaid Fraud Control Unit prosecuted a board and care operator who left two elderly female residents with Alzheimer's disease in a filthy room with blood spattered on the walls and the carpet caked with feces, vomit and urine. The women were partially clad and one of them was tied to a bed with a sheet restraint.
- In Ohio, Oklahoma, Hawaii, Nevada and Delaware, certified nursing assistants and other health care workers have been prosecuted for not following residents' plans of care which

required a two person transfer at all times of the residents when they were being moved. The care plans were ignored and the transfers were attempted by one person with the results that the residents were dropped on the floor sustaining lacerations, bruises and fractures.

- Maryland, Kansas, Pennsylvania and New York have not only prosecuted caregivers for neglect violations, but also the owners of the facilities have been prosecuted. One of the worst cases involving neglect was a Maryland case involving a doctor who was the owner, medical director and personal physician for one hundred and fifty-seven residents in a Baltimore nursing home. By not providing the most basic care to his residents and not allowing other physicians to administer to their needs, many of the residents suffered from malnutrition, dehydration and untreated bedsores, which led to limb amputations. The doctor was convicted of criminal neglect, sentenced to two years in prison and ordered to pay a \$5,000 fine.
- In Michigan, a case manager at a nursing home was prosecuted because he had instructed his staff to contact him first before they provided emergency medical treatment to any resident with the result that, pursuant to his instructions, a resident waited seventeen hours for medical attention and finally, to get help, crawled to the facility's roof where she fell sixteen feet and fractured her pelvis and elbow.
- In Ohio, the MFCU convicted a nursing home office manager of theft for stealing from residents' allowance accounts and was sentenced to one year in prison, which was suspended, one-year probation and restitution. In Colorado, a nursing home bookkeeper pleaded guilty to one count of felony theft for embezzling over \$ 33,000 from nursing home accounts and patient personal needs trust funds. She was sentenced to sixty days in jail, twelve years probation, two hundred hours of community service and restitution. In New York, a nursing home manager was convicted of stealing over \$ 350,000 of residents' pension benefits by taking over one hundred and eighty checks made payable to residents, cashing them and appropriating the funds for her own use.
- In New Hampshire, the MFCU successfully prosecuted a Navy Petty Officer who stole \$ 120,000 from his mother who was a resident of a nursing home. The theft left the resident destitute. The son was required to sign over his retirement benefits so that restitution could be made to his mother. In South Dakota, a defendant and his girlfriend stole and forged checks totaling more than \$ 21,000 and belonging to his girlfriend's parents who were nursing home residents. The defendant pleaded guilty to one count of forgery and was sentenced to five years imprisonment, with three years suspended upon the conditions that, among other things, he makes restitution.

In addition to the foregoing prosecutions, the MFCUs have provided expert assistance to other law enforcement units investigating and/or prosecuting these types of cases. They have also been instrumental in instituting diverse legislative, training and community out reach initiatives, which has enhanced our efforts to detect and prevent elder/patient abuse.

To give you an example of some of the type of creative abuse prevention programs that have been developed by the MFCUs, I would like to bring to your attention the national award winning Rhode Island caregiver training programs to detect and prevent elder/patient abuse.

In 1992, when I became Director of Investigations for the Rhode Island Attorney General's Medicaid Fraud Control Unit, I was determined to give elder/patient abuse investigations and prosecutions a top priority. As part of a comprehensive, effective and aggressive enforcement program, I concluded that the development of abuse avoidance training programs for "frontline" caregivers giving direct care to "at risk" elder/vulnerable adults was critical. Most of these caregivers were employed in nursing homes, group homes, hospitals, assisted/residential agencies and home health care agencies.

The training programs developed were unique because, for the first time, they combined the law enforcement, regulatory and clinical disciplines with a curriculum tailored to the specific "day-to-day" practical needs of and issues being dealt with by the target health care worker audience. The main mission goals of the programs were to: 1) sensitize and train health care workers such as nursing assistants, nurses, doctors, administrators and others in the prevention and detection of elder/patient abuse, neglect, mistreatment and financial exploitation and 2) encourage referrals and enhance incident reporting thereby helping law enforcement and regulatory oversight, investigations and prosecutions. As trainers, I enlisted the participation of a unique combination of prosecutors, investigators, regulators, clinicians, academicians, gerontologists, psychologists and others. To underscore and emphasize the joint regulatory/law enforcement policy of "zero tolerance" for abuse and neglect, I initiated the active participation of the Rhode Island Attorney General and the Directors of the state's Departments of Health, Elderly Affairs and Mental Health, Retardation and Hospitals.

Since the inception of the training programs, over 9,000 individuals or 80% of the state's total nursing home work force and about 98% of the nursing home administrators were trained; over 1,000 individuals or 28% of the state's group home direct care staff and about 99% of the group home administrators have been trained; and a "first-of-its-kind" training was organized for the Rhode Island and Massachusetts Attorneys General Offices whereby 500+ Rhode Island and Massachusetts nursing home, hospital, group home, assisted living/residential care, home health care administrators were trained.

As a result of these training initiatives, two things of significance occurred. First, because of the success of the training project, more cases of elder/patient abuse have been recognized, reported and prosecuted. Thus, vulnerable seniors as well as developmentally disabled individuals are now being better protected from those who abuse them. Second, in recognition of their effectiveness, in June, 1997, the National Association of Attorneys General bestowed its prestigious 1997 Elder Initiative Award on the Rhode Island Attorney General's Office for the training programs I created and identified them as national models for other law enforcement units to follow.

The MFCUs' efforts have produced some very encouraging results and have enhanced the protection afforded elder citizens who are patients in health care facilities. While the MFCUs have accomplished much, as a general rule, they are still not at the funding/staffing levels necessary to provide comprehensive coverage of all the nation's nursing homes and other health care facilities. Also, as impediments to their efforts, it should be born in mind that elder/patient abuse and neglect investigations and prosecutions present unique challenges because, often, the victim, due to illness, age, death or fear of retribution, is unable or unwilling to provide the critical information necessary to sustain a successful prosecution, and there are no other witnesses to the crime. The following are additional obstacles to the successful prosecution of

elder/patient abuse prosecutions:

- Too often, judges seem disinterested in handling elder/patient abuse cases and do not hand out appropriate sentences to those convicted of patient abuse. Judges and juries tend to disbelieve the prosecution's evidence, even eyewitnesses, in criminal cases with the result that it is very difficult for prosecutors to sustain the criminal burden of proof "beyond a reasonable doubt".
- Involved state agencies like the Boards of Health, Human Services or Elderly Affairs do not report to law enforcement units relevant, material incident, survey or licensing information in a timely manner and will not share information regarding patient abuse cases because of the often misguided belief that they would be violating "patient confidentiality" if they disclosed said information.
- Nationwide, there is a lack of appropriate statutes requiring the reporting of elder/patient abuse, neglect, mistreatment and financial exploitation.
- Elder/patient abuse cases are either given a low priority by local police and/or local prosecutors, or the prosecutors and police are not aware or sensitive to prosecuting these types of crimes. It is difficult to identify qualified expert witnesses who are capable and willing to testify in elder/patient abuse prosecutions.

#### NONINSTITUTIONAL ABUSE LAW ENFORCEMENT EFFORTS

While we have in place a national MFCU law enforcement system to protect elders in health care facilities, we have no similar comprehensive crime prevention system to protect them at home or in public. The protection afforded a vast majority of our senior citizens is inconsistent, ill-planned and varies greatly in effectiveness from time to time, state to state, city to city and neighborhood to neighborhood. Indeed, in many areas of the country, local law enforcement has no targeted proactive programs to protect elder citizens. Criminals and other predators take full advantage of these realities and that is why elders are Target #1 for crooks. This alarming state of affairs has been further underscored by the recent findings of the National Elder Abuse Incidence Study released by the Federal Administration on Aging, United States Department of Health & Human Services.

According to the study's Executive Summary: America's burgeoning elder population has affected every segment of the social, political and economic landscape. Public debate of the issues surrounding the special needs of the approximately forty-four million persons in the country age sixty years and over has heightened national awareness and concern. As a result, public policies relating to issues such as retirement security, affordable long term care, and quality of life are changing to meet the unique needs of the aging population. Yet, as the public looks toward improving the lives of the elderly, abuse and neglect of elders living in their own homes have gone largely unidentified and unnoticed. The national Elder Abuse Incidence Study has shed new light on this significant problem with the finding that: - Approximately 450,000 elderly persons in domestic settings were abused and/or neglected during 1996. When elderly persons who experienced self-neglect were added, the number increases to approximately 551,000 in 1996.

- Our oldest elders (80 years and over) are abused and neglected at two or three times their

proportion of the elderly population.

- In almost 90% of the elder abuse and neglect incidents with a known perpetrator, the perpetrator is a family member, and two-thirds of the perpetrators are adult children or spouses.
- Women are disproportionately victimized, representing three-fourths of the psychological abuse incidents and 92% of the financial abuse cases.
- Elder abuse cases often go unreported. Of the 450,000 cases involved, only one in six was recorded officially.

As beginning steps to developing national strategies, many organizations and concerned individuals both locally and nationally have instituted a wide variety of enforcement, training, public awareness and other types of programs to protect the elderly. Many of these programs have been initiated by coalitions of committed lawmakers, law enforcement personnel, regulators, community-based organizations, ombudsmen, trade unions, the medical professions, academia, business and the potential elder victims themselves. A lot of these programs will serve as great models and have "made a difference" in the quality of lives of many of our senior citizens. To enhance their sustaining power, consideration must be given to institutionalizing them with long term funding and staffing.

To give you some idea of the programs I am talking about, in addition to those discussed here today by my fellow panelists, the following are some good examples of what has occurred in the last two years:

Mississippi Attorney General Mike Moore and his Office of Consumer Protection developed a consumer awareness television program called "The Consumer Connection" which covered fraudulent and deceptive practices targeted to elders. American Association of Retired Persons ("KARP") volunteered as actors to create public service announcements on the same topics.

- Washington State Attorney General Christine O. Gregoire formed the Elder Rights Project as a proactive effort to respond to the needs of Washington's elder population. The project has included the creation of training with the AARP and legislative programs designed to increase the effectiveness of law enforcement efforts to protect Washington's elder citizens.
- Florida Attorney General Robert Butterworth and his office created "Operation Spot Check", the mission of which was to do inspections of nursing homes and adult living facilities in Broward and Palm Beach Counties. The program included participation by building inspectors, Area Agency on Aging personnel, police, Long Term Care Ombudsmen Council, Agency of Health Care Administration and MFCU personnel.
- To combat financial exploitation, some very innovative programs have been created. In Los Angeles, the FAST (Financial Abuse Specialist Team) program was started. When a difficult case of elder financial abuse is being handled by adult protective services ("APS") or the Los Angeles police department which has a financial exploitation unit, FAST is often used to advise the police or APS on how to handle these complex matters. FAST members represent a diverse group of professional disciplines from, to mention a

few, the police exploitation unit, APS, mental health, gerontology, the private practice of law, accounting, etc. Because of their success, FAST programs are now operating in Orange County and San Diego, California.

- Denis Dillon, District Attorney for Nassau County New York has a Special Investigations Bureau which works closely with the local consumer protection agency to investigate home improvement fraud scams against seniors. It also uses an undercover "sting" operation whereby a senior citizen is set up in a house and requests simple repairs and inspections by contractors the District Attorney's office has received complaints about. When the contractors show up, don't do the work promised, overcharge or "discover" problems that actually do not exist, they are then prosecuted.

In concluding my discussion of elder abuse prevention law enforcement projects, I would like to bring to your attention four proactive programs which I believe are good models for the development of future policies and practices to prevent, detect and prosecute elder abuse related crimes. They are the Northeast Healthcare Law Enforcement Association, the San Diego District Attorney's Elder Abuse Prosecution Unit, the Delaware Attorney General's Elder Abuse and Exploitation Project and the Meals on Wheels Association of America Training Project to Detect and Prevent Elder Abuse.

#### NORTHEAST HEALTHCARE LAW ENFORCEMENT ASSOCIATION

Prior to 1995, state and federal law enforcement policies and efforts in the New England states, New York and New Jersey to combat rampant elder/patient abuse and pervasive provider health care fraud were sporadic, unfocused and conducted in ad hoc manner. To exacerbate the situation, the involved law enforcement agencies had, in some instances, historically strained relations, interagency antagonisms and political/bureaucratic rivalries. This often resulted in, among other things, little or no meaningful communications between the involved agencies, a distinct lack of trust and respect for professional competence, a strong reluctance to share vital intelligence and few coordinated interagency elder/patient abuse and fraud investigations and/or prosecutions.

Recognizing that many elder/patient abusers and health care providers who have committed fraud were benefiting by this non-productive state of affairs, as Director of Investigations for the Rhode Island Attorney General's MFCU, I had a vision to change these divisive policies by creating the Northeast Healthcare Law Enforcement Association (NHLEA). NHLEA's mission was to be unique nationally and regionally because, for the first time, senior law enforcement managers from all the involved regional federal and state elder/patient abuse and health care fraud law enforcement units were to be brought together and encouraged to commit to working together.

In October of 1995, with the support of a core group of senior investigators from the attorney's general offices of Connecticut, Maine, Massachusetts, New Hampshire, New York and Vermont, NHLEA was formed. I served as its first Chairperson. In addition to fraud matters, NHLEA has greatly enhancing elder/patient abuse enforcement efforts in the northeastern states by instituting creative, targeted enforcement programs. To mention two notable achievements: NHLEA members have provided key support and training to each other with the effect that not only have joint interstate and interagency elder/patient abuse investigations and prosecutions increased in

the region but also so have statewide intrastate investigations/prosecutions. The second NHLEA achievement was the creation of a "first-of-its-kind" elder abuse criminal offender database, which enabled NHLEA members to track all individuals, convicted of elder/patient abuse and financial exploitation in the northeastern states. This database was established when it was noted by NHLEA members that elder abuse offenders were "jurisdiction hopping". After being convicted of elder abuse crimes in one state, the offenders would then go to another state and, undetected, gain employment, which put them once again in close proximity to potential elder/vulnerable victims. The database was managed by the Massachusetts Attorney General's MFCU. Data was supplied by all the NHLEA members. In several notable instances, because of this database, "jurisdiction hopping" abusers were identified and dealt with.

NHLEA is still the only regional law enforcement organization of its kind in the nation and is an excellent model for future regional elder/patient abuse initiatives in other areas of the country.

#### SAN DIEGO DISTRICT ATTORNEY'S ELDER ABUSE PROSECUTION UNIT

Recognizing that there was a critical need to focus on the protection of the some 350,000+ elder citizens living in San Diego County, California, in 1996, District Attorney Paul J. Pflingst created the Elder Abuse Prosecution Unit. This unit is unique in that there are very few specialized elder prosecution units in existence in the country. The unit is led by Deputy District Attorney Paul R. Greenwood and is staffed with two additional prosecutors and an investigator. Since its inception, the unit has prosecuted about two hundred and twenty felonies involving either physical or financial elder abuse of elder citizens.

Examples of the physical abuse cases prosecuted are: rape of an Alzheimer's patient by a healthcare worker; murder of an elderly mother by a son and daughter; attempted murder by a son on his father; criminal neglect by caregivers who leave elders in deplorable conditions such as with bedsores, malnutrition, etc; serious assaults on elders by a child or caregiver; and street robbery by a stranger on an elderly victim during which the victim sustains serious injuries. Financial abuse cases have involved the prosecution of the systematic thefts of checks and ATM cards, including the transfer of thousands of dollars from the elder victim's accounts, by caregivers; the opportunistic thefts by casual workers at an elder's residence; the forging of documents leading to the transfer of title of an elder's house; thefts of jewelry from an elder by a person in a position of trust; and embezzlements by children and grandchildren of the elder to furnish a drug or gambling addiction.

In addition to its impressive prosecution record, the San Diego District Attorney's Elder Prosecution Unit has accomplished some very proactive goals. For example: to raise public awareness about elder abuse, the unit created public service radio and television announcements, billboard advertisements promoting the "800" number of Adult Protective Services and a speakers program to educate elders and the community at large. The unit has trained police agencies in the criteria for investigating elder abuse cases, which has included addressing line-ups for the beat cops and organizing seminars for detectives. It has worked with local banks to train bank employees in ways to identify the red flags for elder financial exploitation. The Unit has sought funds from local companies to help furnish it with specific equipment that is needed to provide support for the elderly victims it has helped. It has secured donations of wheelchairs, oxygen tanks and a high tech "Elmo" - a visual aid, which allows prosecutors to display forged checks and documents in the courtroom. British Airways donated an airline ticket the proceeds

from which were used to furnish a senior citizen waiting room in the Unit's office complete with sofa, recliner, television, VCR and soft lighting. The San Diego District Attorney's Elder Abuse Unit is unique nationally and a proven model for other prosecution units to follow.

#### DELAWARE ATTORNEY GENERALS ELDER ABUSE AND EXPLOITATION PROJECT

The Delaware Elder Abuse and Exploitation Project ("DEAEP") is a "first-of-its-kind" law enforcement project that depends on multi-dimensional interagency cooperation to prevent and prosecute crimes against the elderly. In the early 1990's, prior to the formation of DEAEP, the state's Criminal Justice Council noted a significant increase in the number of abuse, neglect and exploitation cases reported involving elder and vulnerable adults. While the Delaware Division of Aging and Adults with Physical Disabilities-Adult Protective Services (APS) was primarily responsible for protecting vulnerable adults, it did not get involved in criminal investigations dealing with abuse or neglect. Because of this and other identified problems, it was determined that there must be more cooperation and coordinated activity between law enforcement and adult protective services to successfully combat these crimes and abuses. Under the leadership of Attorney General Jane Brady, in 1997, the Delaware Attorney General's Office secured funding from the U.S. Department of Justice, Office for Victims of Crime and created the DEAEP. Presently, the program is funded by the state and is one of the first multi-dimensional, statewide elder enforcement programs in the nation. It is headed by advocate/investigator Edward Hazewski who coordinates efforts between APS, law enforcement and the Attorney General's Office.

The protocol for how cases are handled is that the majority of abuse, neglect and exploitation referrals are made to the state's APS agency. The APS staff performs all their usual duties, assessing the situation and providing services where they are needed. If they feel that abuse, neglect or exploitation has occurred, they notify the DEAEP. If there is danger of immediate harm to the vulnerable adult, local police are notified and asked to go to the crime scene as soon as possible.

Once a matter has been referred to the DEAEP, the project's investigator works with APS in developing a customized investigative case plan. In addition to being involved with all aspects of a case and acting as a liaison between law enforcement and APS personnel, the Attorney General's project investigator also handles cases involving exploitation by fiduciaries, caregivers, relatives and others. Since 1996, the office has prosecuted twenty-five exploitation cases all of which resulted in felony pleas and restitution. The DEAEP is a model law enforcement program which proves and underscores the reality that cooperation and coordinated activity between the interested agencies is critical if success is to be achieved in handling elder/vulnerable individual abuse, neglect and exploitation cases.

#### MEALS ON WHEELS ASSOCIATION OF AMERICA TRAINING PROJECT TO DETECT and PREVENT ELDER ABUSE

The newest and most ambitious of the national cooperative programs is the elder abuse detection and prevention training program being jointly developed by the Meals on Wheels Association of America (MOWAA) and the National Healthcare Law Enforcement Alliance (NHLEA).

MOWAA is the oldest organization of its kind and through its more than seven hundred

programs is a huge grassroots volunteer army. Its approximately one million volunteers serve critical nutritious meals daily to thousands of elder and vulnerable home bound individuals nationwide. NHLEA is the first law enforcement organization of its kind in the country and has received national recognition for training programs it has developed to detect and prevent elder/vulnerable individual abuse and neglect. The alliance between these two organizations will result in the creation of the largest and most significant elder abuse prevention-training program in the history of the nation.

Under the leadership of MOWAA Executive Director Enid A. Borden, the training program's mission goals are to 1) improve the quality of life and care of the elder/vulnerable citizens who receive vital daily meals from MOWAA's volunteers; 2) develop a national training program which will train MOWAA volunteers in the warning signs of self/caregiver neglect, physical, emotional and sexual abuse and financial exploitation and the proper reporting protocols; 3) aid in the enhancement of law enforcement and regulatory efforts to provide help, detect and prevent instances of self/caregiver neglect, abuse and exploitation; and 4) serve as a model training program that may be easily replicated by other organizations providing services to elder and vulnerable individuals.

The purpose of this training program is to heighten the awareness of MOWAA volunteers. It is not intended or desired that MOWAA volunteers act as law enforcement or protective service personnel or that the MOWAA's primary mission of providing critically needed nutrition be impeded or in any way. If a MOWAA volunteer happens to see some signs of self/caregiver neglect or abuse, the training program will provide procedures designed to protect the privacy and dignity of the homebound individual involved and, at the same time, provide a system to evaluate what is taking place and determine whether additional aid should be recommended or provided.

Presently, we are in the beginning stages of the program. In the early summer of 1999, pilot programs will be conducted in your state of Ohio Mr. Chairman and in Rhode Island. The training program will then be introduced nationally through a layered outreach program. Local law enforcement and social service organizations will be educated about the program through targeted local, regional and national public relations and informational programs.

## CONCLUSION AND RECOMMENDATIONS

Despite the extensive achievements of many concerned persons and organizations some of which have been discussed herein, much more needs to be done to protect our elder citizens. An aggressive long range national initiative must be mounted to address the demographic realities that the United States population is aging, reports of abuse and neglect crimes are dramatically increasing and current law enforcement efforts and resources are inadequate to meet the increase in these types of crimes. While a national initiative would include many diverse components, the following are critical:

- As a first step to developing a national dialogue and identifying law enforcement/community leadership, a national "Elder Abuse Prevention Conference & Internet Forum" should be convened. The Conference/Forum would be critical in the development of new elder abuse prevention paradigms, policies and programs.

- A National Law Enforcement Elder Crimes Center ("NLEECC") should be established to provide continuing national leadership and act as a critically needed national "think tank" for elder crime law enforcement efforts. Among other functions, the NLEECC would: aid in the coordination of inter/intra state enforcement efforts and intelligence gathering/dissemination; identify and develop model elder crime prevention policies, programs and practices; develop statistical data to facilitate policy development; maintain a data base of the elder abuse prevention programs which are in operation around the country; develop training programs for law enforcement about elder abuse prevention, detection, investigation and prosecution practices and procedures; and create/manage an interactive website for use by law enforcement, regulators and other organizations involved in the fight against elder abuse. - Local police departments and district/state/attorneys general offices must establish "Elder Abuse Units" to specialize in the investigation and prosecution of elder crime cases and to develop multi-disciplinary, community-based elder abuse prevention enforcement programs. Funding sources must be established to "institutionalize" these units and provide for their long-term existence.
- In large metropolitan areas, local "Elder Courts" must be established to exclusively handle criminal cases involving elder victims; judges must be trained and sensitized to the special complex dynamics of elder crimes; subject to constitutional parameters, evidentiary and procedural rules must be adjusted to account for the fact that many senior victims have to be treated in special ways; and sentencing guidelines should be developed to ensure that offenders are given "stiff" sentences for committing these heinous crimes.
- All states should have statutes that: clearly proscribe the various types of elder crimes along with enhanced penalties for their breach; mandate the reporting of institutional and/or domestic elder abuse crimes to law enforcement; mandate the licensing and periodic criminal background checks of all caregivers and people providing aid to elders such as home health care workers; and make it a serious offense for a caregiver to lie or make misrepresentations on employment application forms.
- Nationally, to develop effective, grass roots enforcement programs, involved law enforcement units must initiate "out reach" programs to enlist the aid of concerned legislators, regulators, elder advocates, the medical and academic communities, labor, business and other involved persons or organizations.
- A nationwide series of elder abuse prevention training programs should be created targeted to "frontline" law enforcement, regulators and caregivers. As part of state licensing board regulations, to keep their licenses active and in good standing, health care workers or those providing aid to elders should be required to have annual training in the prevention of elder abuse, neglect and mistreatment and the reporting requirements.
- Subject to constitutional and statutory protections, national and statewide data bases should be established of caregivers or others who have been convicted of elder abuse related crimes and/or had action taken against their licenses. These databases could be accessed by law enforcement, state licensing boards and prospective employers.
- Lastly, national model enforcement programs should be established and made available

to local jurisdictions that desire to institute and enhance their elder abuse law enforcement efforts.

In closing, let me again commend you Mr. Chairman and the Committee for holding these hearings on elder abuse and for providing critically needed leadership. We look forward to working with you in the weeks and months ahead to forge a forward-looking national bipartisan policy to enhance our efforts to protect our elder citizens. Thank you for your time, commitment and energy, and especially for this opportunity to come before you to express the views of the National Healthcare Law Enforcement Alliance. I would be pleased to answer any questions you may have.