PROTECTING OLDER AMERICANS FROM FINANCIAL EXPLOITATION

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WEDNESDAY, JUNE 29, 2016

United States Senate,

Committee on the Judiciary,

Washington, D.C.

The Subcommittee met, pursuant to notice, at 10:00 a.m., in room SD-226, Dirksen Senate Office Building, Hon. Chuck Grassley, Chairman of the Committee, presiding.

Present: Senators Grassley, Tillis, Klobuchar, Franken, and Blumenthal.

OPENING STATEMENT OF HON. CHUCK GRASSLEY, A U.S. SENATOR FROM THE STATE OF IOWA

Chairman Grassley. I thank everybody for their presence on a very important issue. I usually wait until there are representatives of both political parties here. But since we have a vote at 10:30, I have got permission to move ahead, and so I will give my opening statement and then I will refer to the Ranking Member.

Today's hearing will examine the growing threat of elder financial exploitation. It gives us an opportunity to ask whether the Federal government is doing all it can to protect our nation's seniors. Most importantly, we will hear today firsthand accounts of the impact of elder financial exploitation and the physical and emotional toll that it takes on our loved ones.

The elder financial exploitation has been called the crime of the 21st century. Studies indicate that it is the most widespread form of elder abuse, costing older Americans as much as $36 billion each year, under one suggested study. Some studies come in at somewhat smaller figures.

And as the number of older Americans increase, it is likely that the scope of these crimes will increase as well.

We must have a firm understanding then of the problem now, and ensure at the same time that effective countermeasures are in place to prevent, deter and prosecute these crimes.

It is equally important that we ensure appropriate support and resources are in place to help victims. Older Americans' trusting and polite nature, combined with their hard-earned retirement savings, make them attractive targets for these criminals.

In fact, it is estimated that approximately 37 percent of seniors in the United States are affected by some form of financial exploitation in any five-year period.

To make matters worse, these are not just one-time crimes. Criminals have found deceptive ways to set the hook on a particular victim and then return for more.

One study found that seniors who had been scammed out of just a small amount of $20 ended up losing an additional $2,000 in other scams over a five-year period.

But the most devastating impact of these crimes goes beyond seniors' bank accounts. Victims of financial exploitation can experience loss of independence, deteriorated health and psychological distress, all of which diminish the quality of life.

Today we see an array of schemes and scams targeted at our nation's seniors. We hear of the so-called grandparent schemes, where fraudsters will present themselves to a senior as a grandchild in distress in hopes of convincing the grandparent to immediately send cash or give out a credit card number.

In my home State of Iowa, we are hearing more and more about sweetheart scams where fraudsters cultivate a romantic relationship with an elder, typically online, and then convince the seniors to part with his or her hard-earned money.

And of course there are also sweepstakes and lottery scams, government impersonation scams and tech support scams, just to name a few. The form of these scams is limited only to the creativity of the professional fraudster.

But elder financial exploitation can take on a more personal nature as well. Sadly, I continue to hear of cases where an older American was deceived by a trusted family member or caregiver into signing over a deed or modifying a will. This has led to loss of homes and even a family farm.

There is still an alarming amount that we do not know about financial exploitation of senior citizens. According to one study, only one out of every 44 cases of financial exploitation is actually reported to authorities. This means that our understanding of the scope of these crimes is limited, at best.

But most importantly, it means that there are people out there today who have suffered and continue to suffer from financial exploitation and have not received the help they need.

For these many victims, the feeling of shame or embarrassment is simply too strong and it prevents them from sharing their story. And when the exploitation is by the hand of a trusted caretaker or a loved one, it is even harder to report to authorities.

So we must find ways to encourage and empower folks who believe that they have been victimized to come forward. For example, we need to arm families, friends and caretakers with the knowledge of what to look out for and who to turn to when they suspect exploitation. We also need to ensure that law enforcement is appropriately trained to respond to these financial exploitations, if reported.

Finally, we need to make sure that government at all levels is working to spread the word on this type of exploitation, that individuals on the front lines receive proper training and that those in the position to combat these crimes have the necessary tools to do it.

That is why I am developing Federal legislation to combat elder abuse and financial exploitation, and I am working with my friend beside me here, Senator Blumenthal, on that effort, which we hope to unveil soon.

It will promote more effective interagency coordination training to improve the investigation and prosecution of elder abuse, victim assistance to elder abuse survivors, improve data collection, and tougher penalties for scam artists.

Recently I also sent a letter to the Justice Department to learn more about its efforts to combat elder financial exploitation. I asked about what types of data the Department is collecting and how it is being used to support the Department's efforts.

Yet, in its response, the Department admitted that it does not collect data on the prevalence of elder financial exploitation nationwide. The Department further admitted that because of the systems currently in place, it cannot provide the statistical information on the number of cases that are prosecuted.

So it seems clear that we are not getting the full picture of elder financial exploitation and the adequacy of the government's response.

I have also asked the Justice Department what it is doing to combat IRS impersonation scams, which bilk millions of dollars from older Americans. This is far from just a Federal issue, by the way.

State and local governments are on the front lines of this battle on exploitation financially, so it is important that policymakers here in Washington listen and learn about what strategies are working.

I am pleased that we have with us today Donna Harvey, Director of Iowa Department on Aging, who will be able to discuss Iowa's efforts. I am particularly interested in how we can best protect seniors living in rural communities and how we can ensure that they too have access to support. So I look forward to hearing about the Iowa situation.

As we consider ways to improve the government's response at all levels, we must not lose focus on victims themselves and the pain that financial exploitation has caused.

Originally scheduled for today was Karla Sibert, a fellow Iowan whose elderly parents were scammed out of tens of thousands of dollars, and her story demonstrates the importance of watching out for loved ones.

Karla was unexpectedly unable to visit us today because of surgery she had to have, so I am thankful that another person, Joe Marquart from AARP Iowa, will be sharing Karla's story with us.

No doubt, any effective solutions to elderly financial exploitation will require the commitment and collaboration of folks across the aisle and across the board. I hope today's hearing will help bring more attention to this issue, and I want to thank all of our witnesses for their hard work.

And now, to my friend, Senator Blumenthal.

Thank you.

OPENING STATEMENT OF HON. RICHARD BLUMENTHAL, A U.S. SENATOR FROM CONNECTICUT

Senator Blumenthal. Thank you. Thanks so much, Mr. Chairman, and thank you for having this hearing on a profoundly important and meaningful topic to all of us of all ages.

Senator Grassley has been a real champion in this area, and I do look forward to working with him to expand the reach and protection of our Federal laws in this heartbreaking and gut-wrenching area.

In the news business there is saying, “If it bleeds, it leads,” and so all too often the quiet, invisible heartbreak of financial elder abuse fails to make the headlines. But it happens every day, and it is a scourge. It needs to be fought and conquered.

I am particularly pleased to have with us today Nancy Shaffer, who is the Connecticut State Long-Term Care Ombudsman, who has a very distinguished career and has been a real fighter for justice for our senior citizens.

And I want to join in welcoming the Iowa witnesses who are here, particularly Donna Harvey, who is Director of the Iowa Department on Aging.

As Attorney General of my State, I saw these injustices firsthand and made a commitment to confront and defeat the con artists and scammers and crooks who have taken advantage of Connecticut's nearly 500,000 senior citizens -- a population, as we all know, that will only increase in coming years.

Unfortunately, elaborate scams run by crime syndicates have only proliferated. We know them as organized crime, not necessarily as they were depicted in the movies and in the old days, but they are crime syndicates who are equally pernicious and insidious.

Each year, financial exploitation costs older Americans nearly $3 billion, yet four out of five cases go unreported, as Chairman Grassley noted, in part because victims are all too often ashamed to report the abuse. They are ashamed, they are embarrassed, they often fail even to tell their own family members about it.

And so part of the reason is in fact because the overwhelming majority of abuse is committed by people occupying positions of trust -- home health workers, fiduciaries and even those family members.

In my work in Connecticut, I have heard far too many stories of elder abuse and financial exploitation, how incredibly damaging it can be for an individual and their loved ones -- damaging to their self-respect and dignity, to their quality of life, not just to their financial situation, their sense of self and self-respect.

One story in particular struck me that I think has always been my inspiration in this area. Robert Matava, a former resident of Unionville in Connecticut, a veteran, a Marine, Purple Heart recipient -- in fact, a veteran of World War II.

He was defrauded and turned out of his home by his own son, whom he had entrusted with his assets. Mr. Matava told me about losing his home, his business, his savings and how at every turn he was at a loss for whom to ask for advice.

I could not help but wonder how much pain he suffered, a man who survived the worst -- literally the worst of World War II -- coming back and then years later to see the worst of our financial injustice system.

If he had earlier found someone to offer him and provide civil legal services specializing in elder justice, much of that pain might have been avoided.

Mr. Matava, unfortunately, has passed away, but in his honor I introduced legislation that bears his name. This bill would address a missing link in our legal system providing seniors with the right legal assistance at the right time.

Last June, Senator Ayotte and I introduced the Robert Matava Elder Abuse Victims Act of 2015. This bipartisan measure would enhance the legal response at the Federal, state and local levels in various ways. And in addition, in

April I introduced the Elder Protection and Abuse Prevention Act of 2016 to address the really inexplicable and inexcusable lack of screening requirements in Federally funded senior services.

The goal of this kind of legislation is as much to shine a light on the problem, to educate and inform and to provide advocates for seniors who otherwise might go unadvised and unrepresented.

But on both these measures and others, I look forward to working with Senator Grassley in developing even stronger legislation. My home State of Connecticut has made progress in addressing this issue, including passing a law that requires financial agents to be trained in detection of elder fraud, exploitation and financial abuse.

And Nancy Shaffer, our witness from Connecticut, will tell of how she has been on the front lines and how Connecticut has been fighting abuse of older Americans. And I thank her again for her dedication and passion in protecting vulnerable citizens.

I will have to be absent temporarily because, as you know about, in the Senate we have more than one thing going on at the same time, and I have a meeting of the Commerce Committee, a markup of legislation that is important to senior citizens as well as others. I will be gone very temporarily, I hope, Mr. Chairman, and then come back before we have our vote.

I have read the testimony that will be offered by the initial two witnesses, and it is very informative and helpful, and I thank you both for being here today.

Mr. Horn, you have the best job in the world, as I know from my own experience in that job, and I thank you both for being here.

Ms. Greisman, thank you for your great work here in Washington, D.C. as well. Thank you both.

Thank you, Mr. Chairman.

Chairman Grassley. Thank you for being here and thank you for your cooperation as we develop that bill.

Once again, I thank everybody for being here. On the first panel of witnesses we have John Horn, Acting U.S. Attorney in the Northern district of Georgia. He has been a Federal prosecutor for a long time now, since 2002. Mr. Horn received a bachelor's degree from the College of William and Mary and a law degree from the University of Virginia School of Law.

And we have Lois Greisman, who has been Associate Director, Division of Marketing Practices at FTC Bureau of Consumer Protection. And again, for a long time, since 2006, previously heading the FTC's Division of Planning and Information. In this capacity, she managed the FTC's Identity Theft Program, the Consumer Response Center and supervised the implementation of the National Do Not Call Registry.

Ms. Greisman received a bachelor's degree from Brown University and a law degree from George Washington University. Welcome, and thank you for joining us today. Your complete written testimony will be included in the record, so hopefully you can keep your testimony to 10 minutes.

And let me see if I understand from my staff right. We will go with Mr. Horn first, and then you have a video that you want to show, and then your testimony. Is that right?

Ms. Greisman. Yes.

Chairman Grassley. Proceed, Mr. Horn.

TESTIMONY OF JOHN A. HORN, ACTING UNITED STATES ATTORNEY, NORTHERN DISTRICT OF GEORGIA, U.S. DEPARTMENT OF JUSTICE, ATLANTA, GA

Mr. Horn. Thank you, Chairman Grassley.

Chairman Grassley, Ranking Member Blumenthal and distinguished members of the Committee. Thank you for this opportunity to discuss the Department of Justice's efforts to protect older Americans from financial exploitation.

The Department is and always has been fully committed to combating the victimization of our seniors, in all its forms. My new role is further evidence of that resolve, as I am the First Chair of the Attorney General's Advisory Committee, Elder Justice Working Group.

The Working Group was set up this year to enhance the coordination of enforcement efforts among the U.S. Attorneys Offices and the sharing of information and outreach with the public and our many partners in this endeavor.

Today I would like to highlight three aspects of the Department's efforts to address elder financial exploitation. First, I will discuss our international coordination to prosecute and dismantle foreign schemes targeting older Americans.

Second, I will describe our efforts with our many partners here in the United States in enhancing our prosecution, training and outreach efforts. And finally, I will highlight some of the impactful work in this area that is being done by Federal prosecutors across the country.

On the first aspect, the Department is uniquely situated to respond to fraud schemes that originate overseas. And to this end, we work closely with law enforcement agencies in the countries in which many of these fraud schemes originate.

For example, the Department co-chairs the International Mass Marketing Fraud Working Group. This group includes other U.S. investigative and regulatory agencies, as well as representatives from the across the world. And the members of the group meet to improve intelligence sharing, to disrupt mass marketing schemes, and to increase the effectiveness of criminal and civil enforcement actions.

In just one recent example of cases that have arisen from this collaborative, the Department weeks ago coordinated a joint effort with Dutch authorities to foil an international mass mailing lottery scheme. This scheme involved direct mail solicitations that falsely claimed that the recipient had won or would soon win cash or valuable prizes. Victims mailed payments to the defendants, who were located and operating in the Netherlands.

Simultaneous U.S. and Dutch enforcement actions now prevent these defendants from continuing their victimization of U.S. citizens while the Dutch authorities are pursuing a concurrent investigation there.

Likewise, United States law enforcement has worked with our international partners to dismantle classic psychic schemes originating from France, lottery schemes from Jamaica. Since 2009, the Department of Justice has prosecuted nearly 100 defendants just linked to these Jamaican lottery schemes alone, and the defendants sentenced thus far will be serving collectively more than 125 years in prison.

Second, while international collaboration is important, the Department is enhancing our coordination and information sharing with State and local partners to address the many fraud schemes that originate within our own borders.

For example, in March the Department launched 10 Regional Elder Justice Task Forces, including one in my own district in Atlanta. And while these task forces were originally designed to create multi-disciplinary teams to bring fraud actions against nursing homes that are failing to provide adequate care, some of the task forces are already expanding to initiate criminal investigations of financial exploitation, as well as other forms of elder abuse.

In addition to the Elder Justice Task Forces, the Department has supported training for State and local judges, prosecutors, law enforcement, civil legal aid workers and others from around the country.

The Department is devoted and will continue to devote significant resources to developing training materials that build upon the significant experience and knowledge of State, local and Federal prosecutors, and then disseminate that information as widely as possible.

Finally, I would like to emphasize that much of the day-to-day prosecution in the U.S. Attorneys Offices around the country involve cases against fraudsters who are victimizing our elderly population. And just using my own district as an example, many of our economic crime matters involve elderly victims, even if the perpetrators did not necessarily intend to focus exclusively on the elderly.

Just as an example, last fall we indicted more than 50 inmates in Georgia prisons who were using contraband cell phones to call thousands of victims, many of whom were elderly. And they posed as deputy sheriffs and falsely claimed that they had warrants for the arrest of the victims for failing to show up for jury duty.

Also last year a Georgia judge sentenced Ephren Taylor to almost 20 years in prison for persuading church congregants from around the Southeast of the United States to divert more than $16 million of their IRA and retirement funds to his phony investments.

Cases like these are prosecuted every day in U.S. Attorneys Offices around the country, and the resulting convictions form the foundation of our ongoing effort to protect the elderly from this victimization.

So today I have highlighted just a few of the Department's many efforts to protect older Americans from financial exploitation. And while there is always more to be done, we have taken many important steps in the right direction.

So thank you for this opportunity to discuss the Department's efforts, and I look forward to answering any questions you may have.

Chairman Grassley. Thank you very much.

[The prepared statement of John Horn appears in the appendix.]

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Chairman Grassley. Now, you proceed as you desire, Ms. Greisman.

TESTIMONY OF LOIS C. GREISMAN, ASSOCIATE DIRECTOR, DIVISION OF MARKETING PRACTICES, BUREAU OF CONSUMER PROTECTION, U.S. FEDERAL TRADE COMMISSION, WASHINGTON, DC

Ms. Greisman. I would like to start with the video, please.

[Video begins.]

Dr. Carolyn Bowers, victim. I got my doctoral degree in early childhood education. My husband and I had a wonderful marriage, and I lost him in September of last year.

I got a call from someone who indicated he was from Medicare. They told me that they needed my Social Security number, they needed my bank account number for new Medicare cards. I told them I was not giving them the information and hung up the phone.

Tracey Thomas, FTC Attorney. There were thousands of consumers affected by this scam. They told consumers that if they did not provide this information, that they might lose their Medicare benefits, and they implied that that would happen pretty quickly.

Ms. Bowers. They called back and I continued to refuse to give them the information, but they would transfer me to someone else who would give me the same pitch they were giving me.

I just wanted them off the phone; I gave them the information they wanted.

Ms. Thomas. These telemarketers are professionals. They know what buttons to push. They know what to say to get people to provide their information. If you receive a call from a government agency, be very skeptical.

Government agencies do not call consumers to ask them for money. They do not call consumers to ask for personal information.

Ms. Bowers. I think it is very important that all of us continue to learn about scams.

Ms. Thomas. Because of consumer complaints like the one we received from Dr. Bowers, we were able to go into Federal court, get a freeze on the defendants' assets and shut the company down.

Ms. Bowers. I was so glad to even hear that they did win the case and shut the people down.

[Video ends.]

Chairman Grassley. I suppose the moral there is that most people are not that bold to not cooperate with them.

Ms. Greisman. That is correct. That is correct.

And good morning. Thank you, Chairman Grassley, members of the Committee. I am honored to appear before you on behalf of the Federal Trade Commission to discuss its work to protect older Americans from financial exploitation.

The video you just saw highlights two core aspects of our work in this area, law enforcement and consumer education.

We know, as you alluded to, that the economic injury inflicted by these frauds is significant -- hundreds of millions of dollars. And, as you indicated, billions. Equally harmful is the emotional toll taken when people lose their retirement savings or feel shamed from being duped.

I want to focus first on law enforcement. Aggressive law enforcement to combat fraud is a core element of the FTC's consumer protection mission. We see that certain types of scams specifically target seniors, such as the telemarketing scam you just saw, where imposters pose as affiliates of Medicare to gain access to seniors' bank accounts.

Other telemarketing scams, such as those involving the sale of medical alert devices, also appear to go after seniors. And while some scams directly seek to dupe older consumers, we also observe ones that are more likely to impact older Americans, and these include prize promotion and lottery schemes, health care-related cons such as those involving the sale of pills purporting to improve or stave off cognitive impairment, including Alzheimer's.

Other scammers were telemarketers impersonating companies such as Dell or Microsoft to purport to identify serious, if not dire, problems on their computer which in fact do not exist, and then offer, for a fee, to provide technical support to fix those problems. These are the technical, or tech support, scams.

On the law enforcement front, the FTC also has taken action against money transfer services commonly used in scams targeting older consumers, again involving lottery and prize promotion schemes, the grandparent scam, among many others.

Crooks prefer these anonymous payment methods. In 2009, the Commission charged that MoneyGram allowed telemarketers to bilk U.S. consumers out of tens of millions of dollars, using its money transfer system. It led to a settlement with the FTC in which MoneyGram agreed to pay $18 million in restitution.

The FTC is currently investigating whether Western Union has used effective procedures to stop consumers from sending funds to perpetrators of fraud, both here in the U.S. and abroad, using its network.

As a civil law enforcement agency, the FTC regularly collaborates with criminal and foreign law enforcement agencies to combat fraud, including scams affecting the elderly.

Just last year we sued a company that allegedly ran a global sweepstakes scam that targeted senior citizens, and criminal authorities filed a companion case indicting four individuals in connection with a sweepstakes operation.

Fraud respects no borders, and on the international front, we partner with many foreign agencies to combat scams that impact the elderly. In particular, we coordinate with extensive Federal and foreign counterparts to combat telemarketing frauds coming out of Jamaica and India. And, I would like to add, the Department of Justice has been a steadfast colleague in all of this work.

Shifting now to consumer education, our signature project, it is called Pass It On, is a campaign designed to respect the life experiences and wisdom of older, active consumers and literally to arm them with the information they may need so that they can pass on that information to friends and families who might need it.

The materials cover a broad range of topics, including of course the lottery and sweepstakes scams, health care scams, schemes involving veterans, benefit charity fraud, and identity theft, all of which are available in both English and Spanish.

In 2016 alone, we added new materials on specific imposter scams -- the IRS scam that you mentioned, tech support scams, grandparent scams and romance scams.

The video you watched is part of a video series that the FTC has created to encourage people to talk about the frauds they experience.

People who talk about a suspected fraud, we find, are much less likely to incur a financial loss and they are also able to help their friends and families avoid scams. This is a core part of our educational message.

The Commission will continue to use all the tools at its disposal to tackle and prevent frauds that harm older Americans.

And I look forwrad to your questions. Thank you.

Chairman Grassley. Thank you.

[The prepared statement of Lois C. Greisman appears in the appendix.]

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Chairman Grassley. If I could have a conversation with Senator Tillis, we are going to have a vote soon. I will start asking questions, and if -- just as soon as that light goes off, I will quit asking questions, if you would like to use your five minutes. And then if I do not get back, you would have to temporarily recess the meeting. Is that all right with you?

Senator Tillis. Certainly, Mr. Chair.

Chairman Grassley. All right.

For both of you, maybe to chime in on this. It is about hearing more about specific challenges that make it difficult for both of you to fight back against elder exploitation at the Federal level here.

Can you please speak to any challenges that your agencies have identified, including any challenges that undermine more effective enforcement and consumer education, and what specific strategies have your agencies pursued to overcome these challenges?

Mr. Horn. I would be happy to start, Senator.

In terms of specific challenges or hurdles that we are facing, they tend to be the traditional hurdles in an enforcement context in just keeping up with the ingenuity of the --

Chairman Grassley. Can I stop you just a minute?

Mr. Horn. Yes, sir.

Chairman Grassley. I will read your answer for the record -- the light just went on. I will go vote -- so that you can answer me and then Senator Tillis will take over. And then hopefully we can keep it going. If we cannot -- now that you are here, maybe we can keep it going.

Senator Klobuchar. Now that I am here, everything will work out well.

[Laughter].

Chairman Grassley. Continue with your answer, and then Senator Tillis will --

Mr. Horn. Yes, sir.

You know, there is always the enforcement challenge of keeping up with the ingenuity of the criminals and making sure that you are trying to keep up with the latest trends and getting the information that you need to respond to the complaints.

As it has been indicated, this type of exploitation of elders is not reported frequently enough. So what we are doing, in addition, is recognizing that we are not going to simply prosecute and jail our way out of this problem. At the Department of Justice level, we are engaging actively in outreach education with our State and local partners.

We have launched the Elder Justice website, which we are using as sort of a clearinghouse of a lot of the information that we have for victims. It has got information on there for victims; it has got information on there for State and local prosecutors, for aging service providers and researchers. And we are hoping, in the next rollout of that website in the fall, to also have an active compendium of the latest fraud schemes that we are seeing.

In addition, we are doing training, not just of law enforcement, but we are doing training of aging-service providers. We are reaching out to provide funding for AmeriCorps volunteers, including 60 attorneys and paralegals that are providing services to constituents specific to the elder population, and we are also doing outreach in the U.S. Attorneys Offices themselves.

For example, in Minnesota they do presentations in assisted living facilities specifically. In Wyoming and Colorado, they host the Rocky Mountain Fraud Summit every year, which has a specific component of elder financial exploitation injustice. And in my own district, we participate in health summits and programs and participate in an at-risk-adult-abuse working group with the attorney general's office.

So it is keeping up with the ingenuity, but also looking at it in a broader way.

Senator Tillis. [Presiding.] Thank you, Mr. Horn. I think that when the Chairman returns, he is going to continue his questioning.

And Ms. Greisman, you testified before the Select Committee on Aging, and I appreciate the work you are doing. We have had a couple of hearings on aging, and it is really despicable what these people are doing.

Mr. Horn, I only regret that they have only been put away collectively for 125 years. I would like to also hope that in these sentences there is at least some form of restitution requirement so that we can make their lives as miserable as they are making the lives of many seniors. And I could think of a lot of worse things I would like to have happen to them, but I will stop there.

One question I have with these, the hearings that we have had on aging, I think there is great work going on in terms of education and trying to inform people, like the lady who was in the video, to do everything they can to resist the temptation to please the person at the other end of the line by giving them information or to just get them off the line. That is really, I think, the emotions that are going on.

Has there been any work or any recommendations that would require legislative action that is seeking to provide you with more prosecutorial tools? That is one.

The other one is, in the same way that financial networks now have advanced capabilities to predict a potentially fraudulent use of someone's credit card, is there anything that we are doing to try and connect the dots so that someone can be alerted to the fact that there is a suspect activity that is going on?

And it is more than just what you would find by finding a credit card that has been used in an odd location for that customer. But is there any work being done there and, if so, is there legislative action that we need to take to provide those tools?

Mr. Horn. Senator Tillis, thank you for the invitation for suggesting legislative activities, or actions. I am not -- with respect to specific legislative tools, I would like to refer you back to our Office of

Legislative Affairs and let them talk to you specifically, since I do not want to advocate.

But in terms of what you are talking about, about the financial information, one thing that is interesting just in my own district, we are meeting with some of the companies that process credit card transactions, on an informal basis, but just to share information, to have them share information about some of the things that they are seeing, where they are actively monitoring and looking for trends that are indicative of fraud.

So there are those meetings happening in my district on an informal level. I assume that with things like the Elder Justice Task Forces and the working group that we have with the -- we are able to take some of those best practices and pull them out and make them more institutionalized within the U.S. Attorneys Offices throughout the country.

Senator Tillis. And Ms. Greisman, do you have anything to add?

Ms. Greisman. Yes, in terms of an alert system, the FTC runs the Consumer Sentinel Network, which is a database of -- in 2015 it received 2.5 million complaints from consumers. And it provides a mechanism that law enforcement can access this database, mine it, identify trends, do searches -- it can search by age if the consumer complainant has provided age -- and it provides a ready tool for law enforcement at the State and Federal level.

Senator Tillis. The one testimony -- I do not know if it was during the two-panel hearing that we -- one of a couple of panels we have had on this sort of abuse. Nut one thing occurred to me that was this one story, a man who testified who was from the Charlotte area, from North Carolina, where some thief had convinced him that if he got off the phone, that he had a warrant for his arrest, that if he did not go immediately to a drugstore and take out a series of $500 gift cards and then provide the gift card redemption information over the phone, if he broke contact, then he was potentially going to be arrested.

So my thought process was, is there something that we could reach out to the financial services community and say, it is an odd fraudulent -- if you see someone using a card, even if they are keying in their PIN, but all of a sudden they are buying a series of 10 -- in this case, I think it was 10 $500 cards for a total of $5,000, that there is some way that the industry could work more closely?

I think what you are suggesting is more likely to predict a pattern of fraudulent behavior so that you can then go and delve further into it.

This is more real-time prevention, versus how to get at it on a basis where there are probably a lot of victims that you are talking to, to figure out what the patterns really represented.

Ms. Greisman. I am very familiar with the type of scam you just described.

Most of those transactions are by cash, so dealing with the credit card companies is not going to be effective in that context.

However, what we have done is reached out to the retailers. And we did this extensively in connection with our work with MoneyGram and Western Union, so that at the point of purchase there are both consumer ed materials and the salespeople are trained to ask questions; did somebody call you and say they are from the IRS?

Senator Tillis. Well, I would like to -- I do not want to take more time, and allow Senator Klobuchar to ask her question, because we are in the middle of a vote.

But anything that we can do to take a proactive approach to engage industry in a lean way that provides us with more information, provides more information for prosecution, we would really like to work with you all to do that.

Senator Klobuchar?

Senator Klobuchar. Thank you so much, Senator Tillis. Thank you to both of you.

I am a former prosecutor, headed up a 400-person office, and I actually established a senior victim prosecution unit in two ways. One was what we were seeing in some physical abuse, but the other was a lot of the white-collar cases.

And I will never forget, we had one defendant who they found in his car the Yellow Pages, and he had circled -- he was a thief and he had circled all the senior apartment buildings that he could find. So we know that people are targeting seniors, especially on the internet. We also know we are seeing an aging of the senior population, a doubling of the senior population in the next decade or so.

I used to call it the Senior Tsunami, the Silver Tsunami, but then people told me that was too negative, from the senior community. So I now call it the Silver Surge. It is a nice way to put it.

So one of the bills that we have introduced, Senator Cornyn and I introduced the Court-Appointed Guardian Accountability and Senior Protection Act. And this is to increase accountability and oversight of guardians. Most guardians are great, of course, but we have had some bad apples, and States just vary. Minnesota currently requires background checks for all court-appointed guardians.

And I guess I would ask you, Mr. Horn, how do measures like these help to guard against elder financial abuse? What our bill does is kind of set some best practices. We are concerned some states do not even have background checks, and we have had some major rip-offs, people that go into this guardianship area just because they want to rip people off.

So just your thoughts on this.

Mr. Horn. Senator, I think that anything that can be done to enhance the integrity of the service providers who are providing direct services to seniors would be incredibly beneficial.

We have an active case right now in Georgia involving a lawyer who was stealing from -- he was the conservator, or the trustee of the funds of the senior that he was hired by, and stole money from her.

So it is certainly anecdotally true that the access that somebody has to a vulnerable person like that sometimes creates an irresistible risk. And for them to take advantage of it is truly tragic.

So anything that can be done to strengthen the integrity of the people who are in that kind of contact with the seniors would be beneficial.

Senator Klobuchar. Thank you very much. Is that the Sally Yates district, or is that the other district in Georgia?

Mr. Horn. It is still pretty much considered Sally Yates'.

[Laughter].

Senator Klobuchar. Well, I meant you are in the district that she used to head up.

Mr. Horn. Yes. Absolutely.

Senator Klobuchar. Very cool.

All right. Ms. Greisman, the bipartisan Senior Fraud Protection Act that I introduced with Senator Collins, and it asks the FTC to distribute materials to seniors or families and caregivers to explain this process for contacting law enforcement, how are these types of educational efforts important?

Ms. Greisman. Oh, they are critical, and it is a core part of the FTC's consumer protection mission. We -- I had referred earlier to Pass It On, which is our signature consumer ed piece geared toward active older Americans.

We do outreach in any number of ways at the grassroots level, through common-ground conferences. We have held 30 in the past couple of years. And those involve state law enforcers, aging organizations and also legal services providers. We also engage in Webinars throughout the country, again, many targeted at older consumers. In December we will be holding a workshop looking at the changing demographics in the country, and one focus there will be on the aging of consumers.

Senator Klobuchar. Very good. I did that when I was in office, a prosecutor. We went all over the state with

AARP and some of the other senior groups.

Because it is really astounding what people do not know and how they can be targeted, whether it is phone call scams with people saying they are with law enforcement and they need their information. That is a very common one. Or whether it is on the internet, and now we have more and more seniors using the internet and even easier to target.

So thank you for your work. We look forward to working with both of you. Thanks.

Senator Tillis. Well, I am going to exercise the jurisdiction of the chair and ask a few more questions, at the risk of missing a vote. But hopefully the Cloakroom knows that I am here.

I am kind of curious about -- and first, I want to thank Senator Klobuchar for her leadership on the bill with Senator Cornyn. I appreciate anybody that makes this a priority, and I appreciate her leadership.

I am trying to -- back in North Carolina, we had a problem with chop shops. How would chop shops have anything to do with -- chop shops are when they chop up a car and sell it for parts for more than it is worth as a car.

And we decided to clamp down on it. We decided to define the criminal enterprise. I am not an attorney and I am not a prosecutor, so just bear with me if I misstate.

But we decided to define as a criminal enterprise anybody who is involved in it. And in fact, if the building owner knew or should have known that this was a fraudulent activity going in yet they were operating out of the basement of their house, basically defining the criminal enterprise of this fraud activity, then by gosh you are all potentially going to be prosecuted and many of you are going to have your assets seized.

Do we have that sort of capability with these sorts of activities?

Mr. Horn. Senator, certainly if the case can be charged as something like mail fraud scheme, that is generally a conspiracy. So anybody, if the evidence supports it, who is shown to voluntarily have joined into the conspiracy, they would be subject to criminal culpability and charging as well.

I mean, there is a number of different statutory tools that would involve --

Senator Tillis. Are there more that would be helpful?

Mr. Horn. I am sorry?

Senator Tillis. Are there more that would be helpful?

Mr. Horn. Your Honor -- I am sorry. Senator, I cannot think of any specifically at the moment. Again, if I could take that question back to our legislative affairs people and have them --

Senator Tillis. I hope you would, because if you think about the criminal enterprise, they are technology-rich. So they have got a phone switch or they have got IP-based systems where they can do all the spoofing for their caller ID and everything else. They have got a business enterprise there that, in some cases, it would be innocent. They would buy technology and implement it -- so you can only seize the asset that they purchased.

But in any way we could make this very difficult for them to set up shop and to the extent that we need to change the laws to do that, I for one would be a big proponent of it.

Ms. Greisman, do you have anything to add?

Ms. Greisman. In our civil law enforcement, we regularly look to see those who have facilitated or assisted in the enterprise that has defrauded consumers.

So, you mentioned the telemarketing context. We will look at the entities that blast out the robo-calls which -- millions and millions every hour. And we do look at the entities that provide the lead lists that the telemarketers use in placing their calls, and we will look at the entities that provide fulfillment and see what they knew and whether --

Senator Tillis. Or what they should have known.

Ms. Greisman. Or what they should have known, exactly, and whether they should be held civilly responsible. In fact, we have sued many entities under that approach.

Senator Tillis. Good. Those are the sorts of things that, to the extent we can provide more tools and make it really, really miserable for them to make the lives of seniors miserable, I want to do everything I can to do that.

Mr. Horn, did you have something to add?

Mr. Horn. I do not want to interrupt you, Senator, by any means. But I -- you asked that question about the warrant-for-the-arrest scam specifically. And if I could just have a second, that essentially there is a very good chance that that phone call to your constituent in Charlotte came from a prisoner in the Georgia prisons.

And that is our case in that indictment that we have, what the prisoners would do, would instruct the victims to go and get a vanilla card or a green-dot card and then they would transfer it to another one and then another one with the intent of trying to hide it.

And so what I would like to say is, in answer to your question, we are reaching out to the financial service providers, the companies that provide those cards, to work together in developing the intel to identify and prevent those kinds of frauds. But hopefully, our case will help to alleviate that problem.

Senator Tillis. Well, thank you. I hope you and anybody else that is paying attention to this hearing spend a lot of time figuring out what other tools we can do.

We are already in North Carolina trying to crack down and create -- that prevent cell phones from being used in our prisons. That is one thing that we can do to at least eliminate that percentage of it.

But here are a lot of snakes and bad people out there that have never been in prison that are making millions of dollars off of seniors, and we need to find them and imprison them and make their lives miserable.

And with that, we are going to stand in recess.

[Whereupon, at 10:49 a.m. the hearing was recessed.]

AFTER RECESS

[10:50 a.m.]

Chairman Grassley. I do not know what members are going to come here. I want to finish my round of questioning, and then if other members do not show up, I will release you and call the second panel. But since we had this vote, you may expect some members to ask questions in writing, so we would appreciate your response to that.

I am going to go back to Mr. Horn. We all know that data can be helpful to better understand and respond to our problem. Accordingly, I recently sent a letter to the Justice Department to find out more about its efforts, including its data collection and enforcement activities to respond to elder financial exploitation.

But in its response to me last week, the Justice Department noted that it, quote, "does not collect data on the prevalence of elder financial exploitation nationwide," end of quote. The Department also said that its own case management system, quote, "cannot provide statistical information about the number of cases prosecuted for elder financial exploitation," end quote.

So if you can tell me -- and maybe in your position it is difficult for you to speak for the Department -- but why is the Department not collecting data and would that type of information not be helpful to the Department and to the whole Federal government's broader efforts to combat elder financial exploitation?

Mr. Horn. Absolutely, Senator. In my capacity as U.S Attorney in the Northern District of Georgia, as an example for why that kind of data is not collected specifically as to cases where the elderly are the victim population affected, a couple of things.

One is the tracking system that the Department uses is a statute-based system. So there is a number of statutes that would apply to be able to charge a case that involves the elderly victim population, whether it is a mail fraud statute or whether it is another kind of statute.

Just as an example, the case that I was describing earlier where the jury duty scam that affects -- that has a fair number of elderly victims in that victim pool, that is a public -- we consider that case a public corruption case in our district because it involves the contraband cell phones and potential involvement by the prison guards. So it is true that we do not collect that data.

I think one of the things that we are looking at in the Elder Justice Working Group through the AGAC is we share the recognition that that data could be helpful. So we will be looking at ways that we can do better at tracking cases that involve the elderly.

One thing that we have done -- it is not a perfect system, but we have institutionally done surveys of the U.S. Attorneys Offices to self-report cases that involve the elderly victim population. We have done searches of press release databases and things like that, so we have been able to compile a pool of over 200 cases that we have done in the past few years that do have substantial impact on the elderly. But it is not a perfect system, and that, I agree, is something that we will be looking at.

Chairman Grassley. Are you able to use any data that is already being collected by others such as state governments, as an example?

Mr. Horn. I am not aware, Senator, of state governments that are collecting it. We work very closely with the Attorney General's Office in Georgia. That is something I will take back.

We work with them on several working groups that have impact on the elderly or at-risk populations, so certainly that is something that I will be asking, but I am not aware specifically.

One thing that we have relied on is the Sentinel database that the FTC maintains, which we have found to be, through some of the enhancements, much more effective in allowing us to do queries of it that have been helpful to us.

Chairman Grassley. This will probably have to be my last question and, again, addressed to Mr. Horn.

Senior citizens who experience abuse at the hands of a relative or caregivers may need help finding a new place to stay. They may need an attorney's help in seeking a restraining order, recovery of stolen property, or fighting an eviction. They also may need the advice of how to seek restitution and victim compensation.

Why has the Justice Department not finalized regulations, it is my understanding, that were originally proposed in 2013 that would clarify the eligibility of elder abuse victims for crime victims' compensation. And since they have not, do you have any idea what date will this Victims of Crime Act regulation be finalized and submitted to OMB for permanent approval?

Mr. Horn. Senator, I actually have no personal familiarity with that regulation. I will be more than happy to take that question back.

I can tell you that in addition to whatever that regulation may require, we are actively looking at victim services as a component to what we are doing in the elder services area.

Just as an example, we have partnered with the National Center for Victims of Crime to -- when there are victims of these types of offenses -- to help them to find the resources that they need, whatever those resources are.

Chairman Grassley. Do you know whether the Justice Department collects data indicating what percentage of the Crime Victims Fund goes towards assisting elder abuse victims and, if so, what information could you share on that subject?

Mr. Horn. Again, Senator, I am sorry but I do not have any personal -- but I would be more than happy to take that question back.

Chairman Grassley. All right. Well then, I suppose my next question kind of depends upon whether or not that regulation would go through. But it does beg the question of whether Congress should emend the Victims of Crime Act to ensure that elder abuse victims are entitled to more compensation under the Crime Victims Fund or whether that statute is already clear on that matter, just awaiting that regulation.

Mr. Horn. Senator, again, I am sorry. I do not have -- I am not as familiar with that regulation. We do -- in all of our cases, I can assure you, that we bring in the U.S. Attorneys Office is restitution and forfeiture and collection of any funds that can be made available to the victims of the crime.

We actually have separate attorneys who their sole function is to look for those resources, do what they need to do in civil actions to bring those resources into the pool and make sure they get to the victims.

Chairman Grassley. Ms. Greisman, I said I had one last question, but I also have one for you.

Iowa is very rural, so let me ask you about how best -- senior citizens, we can protect them in rural communities from scams. We need to ensure that support and resources are available, not just in urban areas but for these individuals as well.

Could you describe any specific consumer education strategies that FTC is taking to connect with seniors living in rural communities and what specific challenges are there in ensuring the message gets out to them?

And I do not mean to imply that you ought to have a separate one, but if you do I would like to have you explain it.

Ms. Greisman. Thank you. In the first instance, we would urge you to provide a link to that video on your own website and to the Pass It On materials that I referred to earlier.

I mentioned before that we have done many common-ground conferences throughout the country, 30 in the past couple of years. And in setting these up, we work with, among others, aging organizations, legal service providers, really in an effort to reach grassroots and communities throughout the country.

We do that as well as part of our Every Community Initiative. I know that we have worked more closely with the Iowa Attorney General. I know also we have reached out to aging organizations in the State of Iowa to ensure that our consumer ed message is distributed as broadly as possible.

Chairman Grassley. All right. Are you aware of any evidence indicating that seniors in rural areas might be more targeted, and more frequently by scammers than those living in -- areas, and would it surprise you if they were in fact targeted more frequently?

Ms. Greisman. To my knowledge, I am not aware of any evidence or even anecdotal information that would indicate that they are targeted disproportionately to others.

Chairman Grassley. Both. I cut you off --

Ms. Greisman. I was just going to say, in a lot of, for example, the telemarketing scams that we see, they are blasting out millions and millions of calls to consumers across the country. Unfortunately, they do not care where their victims live.

Chairman Grassley. All right. Well, listen, thank you very much. We appreciate very much your testimony on this very important issue, and I will call the second panel now.

Ms. Greisman. Thank you.

Mr. Horn. Thank you, Senator.

Chairman Grassley. Thank you both.

We start out with Joe Marquart, Cedar Falls, Iowa, which is my address, but I live eight miles from there. He is a member of the AARP, Iowa Executive Council, as well as a volunteer with the AARP Fraud Watch Network, so he would be up on these issues very much.

And he must be appreciated, because he is stepping in at the last minute today on behalf of Karla Sibert. Karla, as I told you, had to go to the hospital.

Next, Nancy Shaffer. And Senator Blumenthal has referred to Nancy. She is a State Long-Term Care Ombudsman from Connecticut. She is a member of the Long-Term Care Advisory Council, the Connecticut Elder Action Network and the National Association of State Ombudsmen Program. Ms. Shaffer holds a bachelor degree in sociology and a master's degree in human development.

And then Donna Harvey served as Director of the Iowa Department of Aging since 2011, previously director of the Hawkeye Valley Area Agency on Aging where I first got acquainted with her. She also currently represents Iowa's Treasurer of the National Association of Area Agencies on Aging.

Ms. Harvey completed training in human service specialists through Ellsworth Community College and received a degree in human services management, Upper Iowa University.

So welcome and thank all of you for being here, taking time out of your busy schedule to come and tell us about your experiences on this issue.

And we will start with Joe.

TESTIMONY OF JOSEPH MARQUART, MEMBER, AARP IOWA EXECUTIVE COUNCIL, AARP FRAUD WATCH NETWORK VOLUNTEER, CEDAR FALLS, IA

Mr. Marquart. Good morning, Chairman Grassley. My name is Joe Marquart. I am a volunteer member of the AARP Iowa Executive Council and an AARP Fraud Watch Network volunteer.

As you know, AARP is a nonpartisan, nonprofit organization with nearly 38 million members nationwide and 369,000 members in Iowa.

AARP helps individuals protect themselves and their families from fraud and scams by sharing important information through our Fraud Watch Network, which is a free resource that is available to everyone.

It was through one of our Fraud Watch Network events nearly two years ago that we met Karla Sibert, a hard-working Iowan whose parents were financially exploited by a telemarketing company.

Karla was scheduled to testify today, but she had to have an emergency appendectomy Monday evening, and the Committee has graciously invited AARP to tell her story.

The good news is that Karla is back home and on the mend. The bad news is what happened to her parents, and it is all too common.

In April 2014, Karla’s mother became seriously ill.

Karla's mother is the primary caregiver for Karla's father, who has dementia. As Karla cared for her mother in the hospital and worried about her father at home, she took a call on her mother's cell phone from a salesman who was interested in sending her mother more health supplements.

Through that phone call, Karla discovered that a company named Leading Health Source had been selling her mother thousands of dollars of supplements -- in fact, more than $44,000 worth. Karla was shocked and heartbroken, because she knew her parents could never afford that debt.

While still in the hospital, Karla asked her mother about the outrageous credit card charges, and Karla heard a very common story. A man would call her and persuade her that she would feel better with their products, and she started buying their product supplements, eventually giving them access to all of her credit cards.

Karla's mother believed she had spent only $500 on the supplements. One card that Leading Health Source got a hold of had not been used in nine years and had a limit of $15,000 on it. Yet seven charges went through in 15 days for more than $21,000 worth of supplements.

Leading Health Source took complete advantage of Karla's parents, preying on their poor health and gullibility.

As Karla said in her written statement, "My parents were hardworking people. They are just middle-class, Midwestern folks who wanted a good life for themselves and their children. What happened to them is just wrong." Fortunately, Karla had a power of attorney for her parents, and she was able to use it to help them.

With the help of the Office of the Iowa Attorney General and through her own dogged determination, Karla's parents were able to get all of their money back and Leading Health Source is no longer allowed to market supplements in Iowa.

Too frequently at the Fraud Watch Workshops AARP Iowa hosts, we hear stories like the one that happened to Karla's parents. We also hear from younger boomers and Gen X participants that they are not so much concerned about being a target of fraud themselves, but they are very concerned for their parents and older loved ones.

Through our Fraud Watch Network, we are helping Iowans to stay one step ahead of the crooks. Those who engage in our workshops learn about tools scammers use to defraud consumers, how to increase cybersecurity to protect against identity theft and online scams, and the most common frauds in their area.

If a legal remedy is needed, we link them to state government resources through the enforcement arms of the Iowa Attorney General and the Iowa Insurance Division.

I hope in my reading of Karla's story you can imagine the heartbreak, the fear, the anger, the frustration that she went through. And had she been here personally, I know that she would have been able to convey that to you.

Thank you again, Senator Grassley, for inviting us to speak on Karla's behalf and about the prevalence and serious consequences of financial abuse targeted toward seniors in Iowa and throughout the United States.

Chairman Grassley. Thank you, Joe.

[The prepared statement of Joseph Marquart appears in the appendix.]

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Chairman Grassley. Ms. Shaffer.

TESTIMONY OF NANCY SHAFFER, CONNECTICUT STATE LONG TERM CARE OMBUDSMAN, STATE OF CONNECTICUT, SOUTH WINDSOR, CT

Ms. Shaffer. Good morning, Chairman Grassley, Ranking Member Blumenthal and distinguished members of the Committee, my name is Nancy Shaffer and I am honored to be the Connecticut State Long-Term Care Ombudsman.

The Connecticut Long-Term Care Ombudsman Program provides advocacy services to residents in long-term care facilities, assisted living facilities, residential care homes and the nursing homes, the skilled nursing facilities. So the focus of my testimony will be about those individuals. I also serve as the Co-Chair of the Coalition for Connecticut, for Elder Justice in Connecticut.

I do want to thank Senator Blumenthal for his very kind words. He has graciously participated in all three of the annual symposiums that we have held in Connecticut for the Coalition for Elder Justice. He has been very supportive of that.

And thank you, Senator Grassley, for your efforts and your commitment to this very important subject.

Financial exploitation of older adults is real; it is prevalent in American society and it takes a costly toll, as we have just heard, both emotionally and physically, on its victims. And it takes a toll on society as a whole.

Exploitation often leaves an elder depleted of resources and dependent on State resources for their long-term care needs in the last years of their life, leaving the State responsible and a burden of cost to that State.

The effects of financial exploitation on individuals are significant, and they can be often life-changing. Individuals frequently suffer, as Senator Grassley mentioned, personal degradation, depression, isolation and fear. Some have called this a silent epidemic.

As a State Ombudsman, it is my responsibility to be a voice for those residents and to tell their stories to you, the policymakers and legislators, so that we can hopefully improve the quality of their lives over time.

Examples of abuse and misuse of an elder’s funds abound in Connecticut and, I suspect, across the country. And we are hearing those today. I have a number of case examples in my written testimony, but I did want to highlight a couple that I think are pertinent and especially important in terms of individuals who reside in particularly skilled nursing facilities, at least in our state, if not elsewhere.

We had an individual, a Connecticut resident, who was admitted to a nursing home for short-term rehabilitation. While she was there, her daughter, who is also her power of attorney, essentially gutted her home and sold very valuable property, allegedly approximately $700,000 in total.

It was not until the nursing home was ready to discharge the resident home that they discovered all this, and of course the home was uninhabitable. The daughter had no plans to make any renovations to the home and could not show any resources available in order to renovate that home so that it could be inhabitable again. And that resident ended up having to stay at the nursing home.

We see a lot of power of attorney misuse and abuse, and I think that that is something that happens, is brought to our attention after the fact and there is very little that we can do about it at that point.

One of the situations was a grandson. He convinced his grandmother -- he was her POA -- to allow him life use of her home, and then he further convinced her to allow him access to her safety deposit box. When she confronted him about taking the money from the safety deposit box, he admitted her to a nursing home.

In this situation, as discussed in earlier testimony and the Senator’s comments, this lady was too afraid to bring charges or to even bring this up to law enforcement. Her husband, in fact, had been a town official and she was devastated and did not want to bring any further shame to her family.

Those kinds of power-of-attorney abuses really do abound, and we do not know about them until they are done, and not a lot in terms of the resident's care can be done at that point.

Another situation was a Connecticut residential care home, and this home was fined $1,000 and was placed on probation for two years after one of its owners was accused of stealing funds from two of the residents.

The owner was charged with multiple levels of larceny. She was charged with two counts of issuing bad checks, auto teller fraud, and identification theft. And she ultimately did go to jail.

Around the country, the Office of the Long-Term Care Ombudsman receives complaints from nursing home residents, but even from nursing home staff about financial exploitation. There are some sad examples of long-term care employees who exploit their positions of authority for personal gain.

You may be familiar; there is an ability for residents to put into their own account what is called either a personal needs account or a resident trust account. And people in the business office have access to those, and in numbers of cases, it has been discovered that individuals have for years abused those funds in the tens of thousands of dollars, and gone undetected.

Our licensure and certification agencies are responsible on their annual review to review those records, but these individuals are not forensic auditors. They do not have those kinds of skills and they certainly are not able in the same way to detect the kind of abuse that may be happening as someone who is more well trained.

So one conversation I would suggest is maybe to talk about independent audits that could be mandated of the homes, so that that could be managed in a better way.

I wanted to mention to you our Coalition for Elder Justice in Connecticut. In 2014, Governor Dannel Malloy issued an executive order which was really the basis for the Coalition.

The Coalition's mission is to prevent elder abuse and protect the rights, independence, security and well-being of vulnerable elders. And it is modeled after the Federal Elder Justice Coordinating Council.

Over the past three years, the Coalition has brought together State agencies, private entities, including medical and other health-related associations, academic institutions, business and banking organizations, law enforcement, Chief State's Attorneys Office, and we have done much in the way of joining collaboratively to strengthen and improve the programs and services available to elder abuse victims and also to train, for instance, law enforcement.

Our partners at AARP have been just amazing. They have -- their Fraud Watch Program that they have reached thousands and thousands of Connecticut citizens to talk with them about that.

We have also gleaned best practices from some of our grassroots multi-disciplinary initiatives that are combating elder abuse in all its forms, and they bring to us some very sad examples of community abuse that they worked with on a multi-disciplinary basis.

I do want to thank you for this opportunity. It has been an honor to be here today, and your commitment is a shining example of what we need to do for our elders, I think. Kathy Greenlee at the Department of Health and Human Services, over her tenure, has done so much to advocate for the long-term care consumers.

And one of the things I admire so much about Kathy is that in each of her speeches she talks about elder abuse. And one of the things that she says is, "I am personally and professionally committed to combating elder abuse. What about you?" And I think that is a very pertinent question. How can we, and what can we do?

Some of the challenges I think are -- Senator Tillis really alluded to about early detection and being able to initiate the training for our bank tellers in Connecticut has been really helpful, because I think it is the first responders that are going to be the best early detectors when fraud is happening, and individuals are being exploited.

Thank you so much.

Chairman Grassley. Thank you, Ms. Shaffer.

[The prepared statement of Ms. Shaffer appears in the appendix.]

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Ms. Shaffer. Thank you.

Chairman Grassley. Donna?

TESTIMONY OF DONNA K. HARVEY, DIRECTOR, IOWA DEPARTMENT ON AGING, DES MOINES, IA

Ms. Harvey. Good morning, Senator Grassley and other distinguished members of the Committee. It is my great honor to be here to speak on behalf of the many vulnerable older individuals that are affected by this growing issue. And I want to thank you for tackling it and your ongoing work. I think it is very honorable that you are taking this on seriously.

As you have heard from the Senator, I have been in this network for 33 years, and so it is an endless job and I am sorry to hear that we continue to have to have these issues, and they are growing. But I think together we can make an impact.

I have been honored to work as part of the Branstad and Reynolds Administration in Iowa, along with the Commission on Aging. The staff of the Department on Aging are a series of various agencies on aging across Iowa and the nation and our many aging network partners, including the AARP that is here with us today, and it is something that we work on every day.

I have provided some testimony of three different scenarios that we have in the State of Iowa. The first one is an older woman who was actually acquainted, a guardian conservatorship that took advantage of that relationship, ended up in a long-term care facility, was going to be discharged for lack of payment and we had our long-term care ombudsman step in and assist with that, and then actually legal steps were taken to end that conservator guardianship. But much like the story you told, she had already lost a lot of her assets and had a long-term impact.

Number two is part of the sweetheart scams. So an individual who was widowed that developed a relationship online and ended up that there was a cost involved with that of many thousand dollars as she continued through that relationship.

But what I would like to share with you today is a case that I actually was very involved in. The Insurance Commission, actually, has been holding some fraud awareness seminars around the State of Iowa as well as the AARP. And when I attended on behalf of the Department to talk about the importance of conservator guardianship and power of attorney and how you have to be very careful. As one individual said, that can be dynamite in the hands of the wrong individual.

I was asked to sit with a family that was very distraught. They actually reside very close to us, Senator, in Northeast Iowa.

And they were quite concerned about their mother, who seven years ago had announced to them she was so excited because she had won a lottery and she could not wait till she could take them on trips and pay all their debts and really ensure a great life for them. But she had to take some steps and has been corresponding with them.

As the family became more involved, she became more isolated from the family. She changed bank accounts from the local bank that asked a question and as we know, in small rural communities, sometimes we know a lot about what goes on in neighborhoods.

So every time they started questioning, the individual on the other end of the phone told her to end those conversations. So, for instances, the telephone bills, she asked her to please destroy those the moment that she opened them because what was soon discovered is these calls were being made to Jamaica and she was receiving calls from Jamaica every day.

And so through a series of interventions, I connected them with the Attorney General's Office, who then involved the Department of Criminal Investigation, a DCI officer. We worked with the local county sheriff who knew the family quite well and went and spoke. But Mom denied it every step of the way.

And only when there was an intervention of everybody at the same time with this individual did she finally admit that she had been scammed, and at some point finally said the only person I confessed this to was the priest during my confessional time.

And so I think that is represented of what we are seeing, is that it is a very embarrassing admittance. They need a safe place to share it. Family is not always the best to do that.

And so I think as we look at it, we know that 3.5 to 5.6 percent of older Americans are involved in financial exploitation. In Iowa, which is very small, as we know, that is over 17,000 individuals and upwards of 28,000 that are being affected by financial exploitation. So we certainly have our work cut out for us as we move forward.

We have made some recommendations in our final report. We are actually involved in a VAWA grant, Violence Against Women Act, and some VOCA grants. As you have related, how are all those connected?

We ask individuals, older individuals, particularly home-delivered meal or Meals on Wheels recipients, how would you like to learn about how you can protect yourself?

The primary thing they would like is a toll-free line where they are comfortable making the call without anybody having an opinion and not a local appearance with that and television commercials.

So while we heard about the connection to the website, we find that many older persons do not rely on websites as a way to get information. And so I thought I would share with you that is what our consumers are saying back home. And I will relate to an issue of whether or not rural families are more connected.

What I can tell you is that we do not know that it is a connection with where you live; it is a connection with where you are isolated. So I think all of us would agree, if you do not have a strong family and neighbor commitment in a rural area you are more isolated and therefore, more vulnerable to these kinds of opportunities to financially exploit those older individuals.

So with that, I would like to say very much how much I appreciate the opportunity to speak and I look forward to the questions.

[The prepared statement of Donna K. Harvey appears in the appendix.]

/COMMITTEE INSERT

Chairman Grassley. I would like to have all three of you respond to this one. Tell me about any specific challenges that may be making it difficult to fight back against elder financial exploitation and what specific strategies should be pursued to overcome these challenges.

Would you like to start out, Ms. Shaffer?

Ms. Shaffer. Sure. So I think, as I mentioned earlier, that early detection is such a significant issue. So often as ombudsmen we do not know about the issue until it has already happened. And now we are in a what-to-do-next and how to advocate, as Donna said, for that resident to remain at the nursing home, if that is the plan, and what the resident would like to do.

In my written testimony, I did provide you some comments from Paul Greenwood, Attorney Greenwood, the District Attorney from San Diego. And one of the things that he talks about -- and this is a challenge, I think, that we just -- there are many perspectives about some of these issues.

He would like to see victims not have a choice as to whether or not to press charges. As ombudsman, that is not a stance that we can take. Our mission is to work at the direction of the resident, and if they say no, they do not want to take any further steps, unfortunately, even though we may feel passionately that this was such a wrong situation it should be pursued, that is not our decision to make.

I think giving law enforcement more tools, more preliminary kinds of assistance, how to identify it as it is happening, I think that is an important piece. I think that we see more situations, not just the power of attorney, but family members who have become dependent upon the elder's income for themselves, and/or they are feeling that inheritance is theirs and it is -- they are ready for it, they need it right now.

So I do not know what the answer to that is, but I think that is a challenge that we find often. We will get calls that a resident is in a nursing home, the nursing home is not being paid and it oftentimes, unfortunately, is the family has learned to -- or become dependent upon that additional income from the elder and they are not forthcoming in paying the nursing home.

I do not know if that answers your question completely. I think there are so many things that enter into it.

Chairman Grassley.   But it is very helpful.

Now I will ask Donna and Joe to add whatever they want to add.

Ms. Harvey.   Absolutely. I would say some of the main barriers I see is the lack of education of law enforcement and judges on what to look for and how to detect potential abuse that is occurring and then what to do with that.

The other thing I would say is we all get busy doing our business within our own silo, our own system, and oftentimes forget to constantly sit down and see who else is working on this topic so that we are aligning and not working against or trying to catch up.

So I think there is that awareness of who else is tackling this topic and how might we work more effectively across. We try to do that all the time in Iowa, but no matter how many meetings we hold, we find out somebody else is doing that.

I think we need to be looking more closely at the power of attorney-guardianship issue and how can we protect individuals from themselves, and also educate those individuals that have been charged to fulfill those roles to understand what exactly does that mean, and what power or lack thereof do you have when you assume those roles. So we see a lot of violation that gives somebody an authorized feeling of power to make all decisions for an individual -- not the very finite pieces of that.

And last -- and I am going to echo what Nancy said -- it is very difficult for all of us to have the opportunity to support an individual in continuing to make bad choices. The family I spoke about, that was the first thing I said to the family members. You are going to have to be ready to maybe accept the fact that Mom is allowed to make bad choices and bad decisions, and there is not much we can do as long as she believes that she is taking all the appropriate steps.

So I think that is what is going to be some of the barriers as we move forward.

Chairman Grassley. Joe, do you have anything to add?

Mr. Marquart. I would echo what has already been said. I do think that education is extremely important. The old rule of thumb is that you have to teach by saying the same message three different ways for the adult learner to get that message across.

I think the collaboration that we have seen -- in Iowa we have worked with the Insurance Commission, the Attorney General's Office, Partners on Aging, the Senior Health Insurance Program -- those collaborations which we have all talked about before broadens our base in terms of those who we can reach, how we can get the message out. And it was actually through that collaboration that we were able to assist Karla.

Chairman Grassley. I have used my five minutes. I will call on Senator Blumenthal.

But before he does, I have groups, different groups come out to talk to us frequently from Iowa. And so I had a financial advisers group out.

And I have not read this piece of legislation, but one of three or four or five important pieces of legislation they were asking us to consider is if they knew about this financial exploitation of people that evidently they cannot report it and if they reported it they could be sued, if they were trying to intervene. And this would allow them to have a sort of safe harbor if they were in good faith trying to help somebody from being financially exploited.

I have not looked at that legislation, but it sounds to me like something we ought to be looking at.

Senator Blumenthal.

Senator Blumenthal. I agree with you, Mr. Chairman. I would like to yield to my colleague from Minnesota, Senator Franken.

Senator Franken. I would like to thank Senator Blumenthal and thank you, Mr. Chairman, for this Committee.

I think you are talking about the Senior Safe Act.

Chairman Grassley. I believe -- that is what it is called?

Senator Franken. Yes, which is -- I actually wanted to ask about that.

Chairman Grassley. Do you think it is a good -- I have not read it. Do you think it is a good piece of legislation?

Senator Franken. Yes. I want to ask them about it. I do not know if you guys have read it, but let me ask you about it.

According to the Commerce Commissioner in Minnesota, Mike Rothman, older Americans are defrauded out of nearly $3 billion a year. And one way -- and this is in this Act, that we can put a stop to this is to make sure that financial professionals who notice suspicious transactions like someone writing a big check to a known scam artist can report those concerns to authorities to investigate.

And right now our financial privacy laws often make that hard or impossible to report concerns like that. This is not in this Committee's jurisdiction, but I hope all my colleagues will join me in supporting this, this Senior Safe Act, which Senator Collins and Senator McCaskill have worked together on.

It would make sure that financial professionals like bank employees and investment advisers get the training they need to spot elder abuses and know how to report those transactions to authorities.

Ms. Shaffer and Ms. Harvey, you have not looked at this bill, but can you tell me if you think it would be helpful to make sure that financial professionals do not have their hands tied when they see a senior's retirement account being exploited?

Ms. Harvey. Absolutely. And Senator Franken, I listen to what you are talking about and I look back at a program that was around probably in the early 1980s where we trained utility workers to be gatekeepers. So it gave them a safety net if they saw something wrong with an elder living by themselves that they had the right to report that without any kind of ramifications, and it worked extremely well. And we still utilize that program.

I see this comparable to that, and I know when in Iowa we looked at some legislation. The banking industry came to us and said, well, we would like to be able to do that, but there is a Federal law that would not allow us to really report anything that we see that does not make sense to us.

So I will look at that bill and be happy to give feedback on that, as we see that it would be appropriate.

So thank you.

Ms. Shaffer. So in Connecticut we have recently expanded our definitions of mandated reporters. So that has been very helpful -- and I think that a continuous look at what and how we can continue to expand that.

And again, I think that training for first responders is so important, and if they are mandated reporters, how helpful that is in order to get that initial reaction and movement forward.

Senator Franken. All right. In this case, they are allowed to report. I am not sure they are mandated. And thank you for being here today and for the very important work that you do.

Ms. Shaffer, as you are aware, the decision to admit yourself or a loved one to a long-term care facility is quite possibly one of the hardest decisions that a person ever makes. And during this process, prospective residents and their families are thinking about one's health, well-being and quality of life, but it is hard for me to believe that every family or prospective resident would think to ask about a facility's workforce screening requirements. Rather, I would imagine that many families assume a facility has a robust process to secure quality employees.

Unfortunately, as many examples in your testimony demonstrate, this isn't always the case. Can you explain where screening processes are most often deficient and what best practices you have seen to strengthen screening for employees?

Ms. Shaffer. Specific to skilled nursing facilities?

Senator Franken. Yes.

Ms. Shaffer. I can to some degree speak to that.

I think what happens is that we do have mandatory background checks, but oftentimes when there is an allegation of abuse or neglect or exploitation in the nursing home, that individual who is being accused is probably going to be temporarily let go. And so oftentimes we find they never come back, and nothing ever evolves in terms of investigating that case as diligently as it probably should be, and if that staff member does not get put on a registry of having been an abuser, they likely can go to another nursing home and work.

And so I think that that is a real flaw in our system, at least in Connecticut. I do not know about other states. But being able to continue that investigation until it is complete and then determine that outcome, and if it is against the individual, ensure that proper steps are taken so that they do not have that opportunity to do that bad act again any place else.

Senator Franken. Thank you. And I would imagine that the nature of the abuse also would be something that should be noted.

Ms. Shaffer. If I could, another flaw -- I could kind of go on a little while here, but another flaw is that nursing homes and, for that matter, assisted living facilities and residential care homes as well, they are self-reporting and abuse and neglect. So it is their perception of what happened, rather than what may have actually happened. And that is not always the case; I do not mean to disparage nursing homes.

But it is a flaw in the system that they are self-reporting that allegation. Whether or not it bears fruit and is determined to be true or not, sometimes we see that the perspective as it is written out in the report is not always as it has been reported to us by a family member or by that resident.

Senator Franken. Thank you.

Thank you, Senator Blumenthal, for yielding.

Thank you, Mr. Chairman.

Senator Blumenthal. Thank you. Thanks, Senator Franken.

Again, thank you all for being here, and I apologize that I was stuck on the floor in the midst of a vote that was very important to our state in Connecticut, affecting the status of Puerto Rico.

I was really impressed by your testimony, Ms. Shaffer. My favorite part was that the average life expectancy in Connecticut is 80.8 years old, very encouraging to both of us.

And we welcome you, Senator Grassley, any time you want to move to Connecticut.

[Laughter].

But you are so young at heart and in spirit and in physical stamina, that you are nowhere near that age.

But I also was impressed by the point that you made, which struck me, as a former prosecutor, that seniors are often asked by law enforcement officials whether they want to, in quotes, “press charges,” which puts them in an impossible position. Because very often, they are choosing to press charges against a family member or a caregiver or, even in an institution, someone whom they may have come to know.

So is the major remedy for that issue more education and training of the prosecutors, or do you think there is some other step that can be taken?

Ms. Shaffer. That is a tough question. I think that it involves better training and maybe sensitivity on the part of law enforcement, those first responders. But then through the continuum with the prosecutors as well.

But I think it is a real tough situation if you have a parent whose son has exploited their funds, how does that parent go about doing that? That is a real tough situation.

Senator Blumenthal. Which was the case for Mr. Matava, for example, when he was exploited by his own son. But he had the courage to come forward and talk about it.

And the reason I think it is so important is that, as you say, the real deterrent here very often is criminal prosecution. A civil fine against a nursing home or even a civil penalty against an individual lacks the real deterrent power of a criminal prosecution. And we need to regard these kinds of crimes as in fact crimes, rather than just some sort of misguided misuse of funds that are held in common when, in fact, they belong to the senior citizen, not to the family member or the caregiver or the institution. And I share your view that they ought to be prosecuted.

And also -- I do not mean to put you on the spot now, or any of the other witnesses who are here, because I invite them to respond to this question -- you emphasize the importance of an inclusive definition of financial exploitation. And I wonder whether you have thought about how that might be done.

Obviously, financial exploitation involves unauthorized use of credit cards, bank accounts -- as you say, identity theft, undue influence and just outright stealing. So how would you define abuse so as to embrace all of these different forms of financial exploitation?

Ms. Shaffer. I think it requires really identifying the very many sources that that could take, whatever form, perpetrator. That undue influence is such a nebulous concept, and likely very hard to prove.

But emphasizing those sort of nebulous kinds of things so that prosecutors could have some parameters, maybe broader parameters to make their case, I think it would be helpful.

I think, knowing that we have nursing home staff who -- and other staff; again, I am not trying to disparage nursing homes specifically -- but we have at times cell phones that are used inappropriately by staff, or the egregious cases of the misuse of resident trust funds, those kinds of things.

So I think really encompassing just a whole range of perpetrators and those bad acts would be helpful.

Senator Blumenthal. Very good.

Any of -- Mr. Marquart or Ms. Harvey, do you have anything to add on that question?

Ms. Harvey. The only thing I would say is that I think the definition is going to be key but very difficult. And yesterday we met with staff and just tried to think about what those parameters might be, and I think at some point we have to decide what are the most critical and tackle those and keep looking.

And I would like to just share something that Senator Ernst said as a reminder to me yesterday, when she was a State Senator, worked with Governor Branstad to hold an Elder Abuse Summit. And the Department of Human Services, which oversees the APS Program in Iowa, that director has been there for quite some time. And he said, "I am now understanding and feeling like elder abuse is where child abuse was 30 years ago. We have a lot of work, a lot of defining, a lot of cleanup to do.

And I think that is reassuring, but it is also a challenge that it is time we rise to the opportunity to look at that.

And I would also like to tell you that Iowa ranks number one in the percentage of people 85 and older, so I think the Senator is in a good location as well.

[Laughter].

Senator Blumenthal. Well, in my retirement, I am moving to Iowa.

Ms. Harvey. Great.

Senator Blumenthal. My family was from Nebraska originally, so maybe some of it has rubbed off.

Ms. Harvey. Perfect.

Senator Blumenthal. Your point about child abuse leads to my next question, and let me first ask Ms. Shaffer.

You mentioned that Connecticut has added some mandatory reporters, which has been so important in child abuse, mandatory reporting of child abuse. Who now is a mandatory reporter, under Connecticut law?

Ms. Shaffer. All staff who work in any of the institutions that are under the jurisdiction of the ombudsman program, emergency responders, hospital staff, people who work in senior centers. It is pretty inclusive. Those who come into contact with an elder are oftentimes going to be mandatory reporters.

Senator Blumenthal. But financial institutions are not?

Ms. Schaffer. I am sorry -- yes. Financial bankers have become -- to the best of my knowledge, I believe they are, yes.

Senator Blumenthal. Because they really can see very close and personal when a senior's bank account is being depleted or in some other way they are being victims of theft.

Ms. Schaffer. Yes.

Senator Blumenthal. Is that true, to your knowledge, in other states?

Ms. Schaffer. I do not know. I do not know what their mandatory reporting standards are.

Senator Blumenthal. Ms. Harvey, in Iowa?

Ms. Harvey. In Iowa, that is not true. We would align almost exactly with anybody who has direct contact with an older person that is dependent for care, whether it is in their home or in a community-based setting, would be mandatory reporters as well as medical professionals. But no one in the finance industry would be a mandatory reporter.

Ms. Schaffer. I think, if I may, some of the issues are around if a home care agency, for instance, is licensed or unlicensed, and we have a lot of unlicensed home care agencies in the state, as I would imagine most states do. Thus individuals are probably not going to be and are not subject to the background checks that the licensed organizations are subject to.

Senator Blumenthal. So home care workers are not required to undergo --

Ms. Shaffer. They are, if they are a licensed -- I do not believe they are if it is an unlicensed agency.

Senator Blumenthal. If they are unlicensed, right. As I recall, we worked hard to get background checks on the licensed home care workers, but the unlicensed are still a loophole.

Ms. Shaffer. Right.

Senator Blumenthal. Well, one area where I think, Mr. Chairman, we might want to focus our work is on the mandatory reporting. I do not know that the Federal government can require states to require mandatory reporting, but maybe we can provide some encouragement, because obviously Iowa does a good job of it and Connecticut, and maybe we can take some of their best practices and expand them and encourage their states to do so.

I was interested, Ms. Harvey, in your remark about utility workers. Now, are they mandatory reporters?

Ms. Harvey. No. They are trained to call the Area Agency on Aging when they notice some change in behavior. We also have that with postal carriers. If mail is not picked up, then they notify the Area Agency. So it is an ongoing training, but it is a less-invasive approach to really get people connected with services before they are in crisis.

Senator Blumenthal. Right. Excellent idea, though, because they are literally in somebody's home. And they can see what is going on, if there are instances of abuse, particularly physical abuse.

Ms. Harvey. Absolutely. Right.

Senator Blumenthal. Well, I want to thank you for your excellent testimony.

Mr. Marquart, do you think this mandatory elder-fraud reporting requirement should be expanded?

Mr. Marquart. I am here as a volunteer. I can get our national association to respond back to you.

Senator Blumenthal. That would be great.

Mr. Marquart. As a private citizen, I certainly do.

Senator Blumenthal. Thank you.

Thanks, Mr. Chairman.

Chairman Grassley. You bet. I am just going to have one question, and then we will have to adjourn. And it is for Donna. You can maybe help us in regard to how the Federal government is doing versus the states.

The Iowa Department of Aging, how are you working with the Federal government to combat this problem? Do you feel that the Federal government's efforts are effective? And this is probably the most important part of the question. Is there a need for stronger coordination between states and the Federal government?

Ms. Harvey. I think it is easier to start with your last question and say, absolutely. I think, as I shared earlier, we all get busy doing our work and we do not share. So, for instance, I learned about the Federal Trade Commission's marketing and I actually have three of their packets to take back home. But I was not aware of that before I came here.

So I think, yes, we need to work more collaboratively. I would say the Administration on Aging, again under Assistant Secretary Greenlee, has taken elder abuse as a very high priority within her tenure in the office, and so she is constantly trying to reach across the aisle. That information gets shared, but I would say even within her role she is not always aware of what all the other departments are doing.

So the more we can reach across the better, and then certainly the more we push it down to the states, I think, we can have a much better impact.

And as you probably know, in the Northern District they are one of 10 districts that are working on elder abuse. And again, it is focused primarily with nursing homes, but we are hoping that will give us an opportunity to bring more Federal partners to the tab le in Iowa with some of our work as well.

Chairman Grassley. Thank you.

Before we adjourn, I have got some letters that we are going to put in the record, without objection.

[The letters appear in the appendix.]

/COMMITTEE INSERT

Chairman Grassley. And the record will stay open for about a week for members to insert questions to both panels. And we thank you very much for your participation, and we will have to keep working together because my mother went through this in the late 1960s and, quite frankly, it is going to go on as long as people fine they are smarter to keep ahead of the law. There are always people like that.

Thank you very much.

[Whereupon at 11:47 a.m. the Committee was adjourned.]

C O N T E N T S