

**FIGHTING ELDER FRAUD:
PROGRESS MADE, WORK TO BE DONE**

HEARING
BEFORE THE
SPECIAL COMMITTEE ON AGING
UNITED STATES SENATE
ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

WASHINGTON, DC

JANUARY 16, 2019

Serial No. 116-1

Printed for the use of the Special Committee on Aging



Available via the World Wide Web: <http://www.govinfo.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

46-920 PDF

WASHINGTON : 2022

SPECIAL COMMITTEE ON AGING

SUSAN M. COLLINS, Maine, *Chairman*

TIM SCOTT, South Carolina
RICHARD BURR, North Carolina
MARTHA McSALLY, Arizona
MARCO RUBIO, Florida
JOSH HAWLEY, Missouri
MIKE BRAUN, Indiana
RICK SCOTT, Florida

ROBERT P. CASEY, JR., Pennsylvania
KIRSTEN E. GILLIBRAND, New York
RICHARD BLUMENTHAL, Connecticut
ELIZABETH WARREN, Massachusetts
DOUG JONES, Alabama
KYRSTEN SINEMA, Arizona
JACKY ROSEN, Nevada

SARAH KHASAWINAH, *Majority Acting Staff Director*
KATHRYN MEVIS, *Minority Staff Director*

C O N T E N T S

	Page
Opening Statement of Senator Susan M. Collins, Chairman	1
Opening Statement of Senator Robert P. Casey, Jr., Ranking Member	3
SPECIAL GUEST SPEAKER	
Statement of Senator Jerry Moran, Chairman of the Committee on Commerce, Science, and Technology, Subcommittee on Manufacturing, Trade, and Consumer Protection	5
PANEL OF WITNESSES	
Erika Flavin, Daughter of Couple Scammed by Grandparents Scam, Willow Grove, Pennsylvania	6
Candice Simeoni, President and Founder of the York County Elder Abuse Task Force, and Law Enforcement Officer at Kennebunk Police Department, Kennebunk, Maine	7
The Honorable Derek Schmidt, Attorney General, State of Kansas, Topeka, Kansas	10
Judith Kozlowski, JD, Elder Justice Consultant and Subject Matter Expert, Washington, D.C.	12
APPENDIX	
PREPARED WITNESS STATEMENTS	
Erika Flavin, Daughter of Couple Scammed by Grandparents Scam, Willow Grove, Pennsylvania	39
Candice Simeoni, President and Founder of the York County Elder Abuse Task Force, and Law Enforcement Officer at the Kennebunk Police Department, Kennebunk, Maine	41
The Honorable Derek Schmidt, Attorney General, State of Kansas, Topeka, Kansas	45
Judith Kozlowski, JD, Elder Justice Consultant and Subject Matter Expert, Washington, D.C.	49
QUESTIONS FOR THE RECORD	
Candice Simeoni, President and Founder of the York County Elder Abuse Task Force, and Law Enforcement Officer at the Kennebunk Police Department, Kennebunk, Maine	55
The Honorable Derek Schmidt, Attorney General, State of Kansas, Topeka, Kansas	59
Judith Kozlowski, JD, Elder Justice Consultant and Subject Matter Expert, Washington, D.C.	61
STATEMENTS FOR THE RECORD	
Testimony of Thomas M. Flavin, Jr. and wife Elfriede Flavin, Effects of a Grandparents Scam	65
The Honorable Derek Schmidt, Attorney General, State of Kansas, Topeka, Kansas, Appendix A-C	67

FIGHTING ELDER FRAUD: PROGRESS MADE, WORK TO BE DONE

WEDNESDAY, JANUARY 16, 2019

U.S. SENATE,
SPECIAL COMMITTEE ON AGING,
Washington, DC.

The Committee met, pursuant to notice, at 9:34 a.m., in Room 562, Dirksen Senate Office Building, Hon. Susan M. Collins (Chairman of the Committee) presiding.

Present: Senators Collins, McSally, Rubio, Hawley, Braun, Rick Scott, Casey, Blumenthal, Jones, Sinema, and Rosen.

Also present: Senator Moran.

OPENING STATEMENT OF SENATOR SUSAN M. COLLINS, CHAIRMAN

The CHAIRMAN. The Committee will come to order.

Good morning. It is my pleasure to welcome back both new and returning members to the Committee. I am delighted that my friend and colleague Senator Casey will once again be serving as the Committee's Ranking Member, and I am thrilled that we have many new members joining the Committee this year, and we welcome them also.

This Congress, this Committee will continue to focus on key issues affecting American seniors: first, the high cost of prescription drugs; second, retirement security—making sure that our seniors have the financial resources that they need for their retirement and that they do not outlive their savings; third, greater investment in biomedical research for diseases like Alzheimer's and diabetes that disproportionately affect older Americans; and, fourth, stopping financial schemes and other scams targeting older Americans. In today's hearing, we will look at the progress being made to coordinate and strengthen the fight against these scams and explore what further steps could be taken to protect our Nation's seniors.

Combating this type of fraud has long been a focus of this Committee. In fact, this is the 22nd hearing that the Aging Committee has held during the past six years to examine scams affecting older Americans. Previously, we have highlighted the notorious IRS imposter scam, the Jamaican Lottery scheme, computer tech support fraud, grandparent scams, elder financial exploitation, identity theft, romance scams, and the "Drug Mule" scam—where seniors are tricked into unwittingly serving as drug couriers.

A number of critical points have emerged from our work. First, many scams are perpetrated by criminals operating from foreign

call centers, beyond the reach of state and local law enforcement and thousands of miles from the seniors whom they victimize. The criminal networks behind these scams typically maintain crews of “runners” within the United States to launder the money stolen from victims and send it overseas as quickly as possible, using wire transfers or gift cards. Fighting these scams requires a coordinated response led by the Federal Government, in close cooperation with state and local law enforcement, the private sector, and stakeholder organizations.

I am pleased to say that law enforcement has stepped up its efforts to combat these networks. A good example is the takedown of five call centers based in India and the arrests of their U.S. based co-conspirators in late 2016. The case against these fraudsters culminated last year in the sentencing of 24 individuals in the U.S. to prison terms, coupled with orders to pay hundreds of millions of dollars in restitution to their victims. This case illustrates the power of coordination: three federal agencies led the investigation, assisted by local law enforcement in four states, and more than a dozen U.S. Attorneys’ Offices around the country. A number of other federal and international agencies provided significant support.

Another excellent example of the value of coordination was the sweep of elder fraud cases last February—the largest of its kind in our Nation’s history. This sweep resulted in criminal charges against more than 200 defendants who had engaged in elder fraud schemes in which victims lost more than half a billion dollars. The sweep included cases in more than 50 districts and involved multiple federal, state, and international law enforcement agencies.

We have learned in our prior hearings that combating fraud is a lot like playing that frustrating game of “Whack-a-Mole.” Con artists are ruthless in their efforts to devise new schemes to defraud their victims. Although the scams we have examined differ in scope and structure, one factor is common to all: the fraudsters need to gain the trust and active cooperation of their victims. Without this, their schemes would fail. Oftentimes these criminals harass their victims into cooperating with them. Other times they seduce them into cooperating with them. That is why it is so important that seniors and the public at large recognize as quickly as possible the red flags that signal potential fraud. Coordinated efforts to educate the public to the scammers’ tactics are therefore critical, and that is one of the reasons that we have held this series of hearings.

Another key point that has emerged from our investigations is how much the scammers depend upon technologies like Caller ID “spoofing,” robocalling, wire transfers, and gift cards to perpetuate their schemes. This problem is only getting worse. Last year, the Federal Trade Commission logged an incredible 3.8 million complaints about robocalls, and some experts estimate that nearly half of all mobile phone calls will be fraudulent by the end of this year unless technology is deployed to identify and block those calls. This Committee has repeatedly stressed the need for regulators and the business community to work more aggressively to stop scammers from using inexpensive technology to facilitate their fraudulent schemes. There is a counter technology, and I find the lack of

progress in deploying this protective technology to be very troubling. This year we are going to redouble our efforts to ensure that this persistent problem is solved.

Today we also are releasing our updated 2019 Fraud Book. As we have done for the past several years, this book lists the top ten scams perpetrated against seniors that are reported to our Committee's Fraud Hotline. The book includes tips for recognizing, avoiding, and reporting these common scams. Once again, the IRS Impersonation Scam, in which a criminal calls an unsuspecting victim pretending to work for the IRS and claiming, wrongly, that the victim owes unpaid taxes and demanding payment immediately, is the number one most reported scam on our list.

Despite the work of this Committee and of our witnesses, far too many seniors are still losing money and, often, their retirement savings to con artists. Stopping these scam artists requires a coordinated response from all levels of government, from advocacy groups, from the private sector, but the fact remains that alert citizens are our number one defense. I am proud of the Committee's work to help seniors become more aware and more informed and to put those heartless, ruthless criminals on notice that they will be caught and brought to justice.

I very much appreciate the extraordinary group of witnesses that have joined us today, and I am now pleased to turn to our Ranking Member, Senator Casey, for his opening statement.

**OPENING STATEMENT OF SENATOR
ROBERT P. CASEY, JR., RANKING MEMBER**

Senator CHAIRMAN. Chairman Collins, thank you very much and thanks for having this hearing, and I want to thank our witnesses. This is a critically important issue that so many Americans talk to their elected representatives about, and it is critical that we continue our work on this issue.

We know that though underreporting causes experts to struggle to estimate the total financial impact of scams and financial abuse targeting seniors, we do know that it adds up to at least \$3 billion a year. This number is staggering, and that might be an understatement; but the impact a con artist, just one con artist, can have on the life and even the livelihood of a victim and their family is much, much worse than any number.

As we will hear today, some scammers are able to rip away tens of thousands of dollars from our loved ones, robbing them of their nest eggs and threatening their retirement security. This is why government officials at all levels, and our partners in the private sector must do everything we can to prevent scams before they happen.

Each one of us has had the experience of watching a parent or a relative age and, with that, the experience of worrying about their financial security, and so everyone who can play a role in stopping scams must play a role in this effort. Thankfully, we have had some good progress.

For example, in Pennsylvania the Attorney General, Josh Shapiro, recently announced a commitment from three major retailers to change their policies to protect consumers from scams. These retailers will reduce the total net worth of gift cards that can be pur-

chased in one visit. This is so important because, in growing numbers, con artists are asking for the barcode number on gift cards as a form of “payment.”

These retailers have also committed to increasing the training employees receive on how to spot a scam and how to stop it. The collaboration between Pennsylvania’s Attorney General and these companies is one that we should replicate.

I am proud today to reintroduce the Stop Senior Scams Act with Senator Moran, who joins us here today, and I am grateful to be working with Senator Jerry Moran on that effort. This bill will bring together the best minds from the public and the private sectors to develop solutions to ensure that seniors do not lose one more penny to a scam artist.

It is a common sense proposal. It has the support of organizations like AARP, Consumer Union, the National Retail Federation, Money Gram, and many more, and as we will hear today from Erika Flavin, the effect of scams on seniors’ lives is too great for us to not fight back.

Again, I want to thank Chairman Collins and the members of this Committee for being here today and to Chairman Collins, once again, for holding this hearing, and we look forward to hearing from our witnesses.

The CHAIRMAN. Thank you very much, Senator Casey.

We will now turn to our witnesses. First, I will defer to the Ranking Member to introduce our witness from the Commonwealth of Pennsylvania.

Senator CASEY. Thank you, Chairman Collins.

Erika Flavin is our witness from Willow Grove, Pennsylvania, in southeastern Pennsylvania. Erika will tell us about how her parents lost over \$80,000 to a grandparent scam.

Erika, we want to thank you for bringing this story to us. I was saying to you earlier as we were talking that I want you to convey our gratitude, not only mine but the gratitude of this Committee and well beyond this Committee, to you and your family and your parents for making it possible for us to learn from what happened. It has got to be very difficult to tell and retell this story, but it does help a lot of people when you do that, so please thank your parents and your family for that.

I also want to thank you for traveling here today, as is true of our other witnesses, to share this story and your willingness to shine a spotlight on harmful scams and the positive impact that will have on people’s lives and preventing other families from going through what your family experienced.

I also want to recognize your son, Timothy, who joins you here today.

Thank you again for being here. We look forward to your testimony.

The CHAIRMAN. Thank you very much.

I am now going to turn to a special guest for the Committee today, my friend and colleague Senator Jerry Moran of Kansas, who, as Chairman of the Senate Commerce Subcommittee on Consumer Protection, has also done a lot of work to combat scams targeting seniors, and I would invite him to introduce the witness from the State of Kansas.

**STATEMENT OF SENATOR JERRY MORAN, CHAIRMAN
OF THE COMMITTEE ON COMMERCE, SCIENCE, AND
TECHNOLOGY, SUBCOMMITTEE ON MANUFACTURING,
TRADE, AND CONSUMER PROTECTION**

Senator MORAN. Madam Chairwoman, thank you very much for the opportunity and the invitation to be here to introduce my Attorney General, the Attorney General of the State of Kansas. Before doing that, I thank you for hosting this hearing regarding elder fraud. Fighting elder fraud is a noble cause. I was thinking to say what a timely moment it is to have this hearing, but as I thought about those words, there is no time in which this issue unfortunately is not important, so there is no one moment. It is a constant battle that we face.

I also would like to thank the Ranking Member for his leadership, of course, on the Subcommittee, but also for him teaming up with me and our office, our team, as we pursue the Stop Senior Scams Act. It is designed to make certain that retailers, financial institutions, wire transfer companies, and others have the resources necessary to train their employees so we can stop fraud as it is occurring on their premises, and Bob, it has been a pleasure to work with you on this and other issues in the U.S. Senate.

My primary mission of the morning is to welcome and to thank the Attorney General of Kansas, Derek Schmidt, who comes here not just as the Attorney General—that is an honor in and of itself—but comes as an advocate on behalf of Kansas seniors and, in fact, American seniors. He is the immediate past president of the National Association of Attorneys General, and his initiative during his tenure in that position was titled, “Protecting America’s Seniors: Attorneys General of the United States Against Elder Abuse.” As our Attorney General, he has been responsible for significant and important initiatives. He combined within his department and created an entity called “Fraud and Abuse Litigation Division,” in which there is a focus on elder abuse, and it houses our statutory Abuse, Neglect, and Exploitation Unit.

Derek is a former Senate staffer, was a Senate staffer before I was a Senator, where he worked for United States Senator Nancy Kassebaum, someone who remains highly regarded and revered on this and other issues in Kansas and across the country.

Attorney General, thank you for your service to the people of the State of Kansas, and thank you for sharing today your knowledge and information and advice and suggestions to the U.S. Senate.

The CHAIRMAN. Thank you very much, Senator Moran.

I am delighted that from the great State of Maine we will hear today from Candice Simeoni. She is the president and founder of the York County Elder Abuse Task Force, and she works as a law enforcement officer at the Kennebunk Police Department in Kennebunk, Maine. In 2018, Officer Simeoni worked on an astonishing 77 elder justice cases, including three that have been referred to the local district attorney. She has really been such a leader in this area in the State of Maine. I wish we could clone her and put her in every community in the state and in the country, and we thank you for being here today.

Our next and final witness this morning, we will be hearing from Judith Kozlowski. She serves as an expert consultant on elder jus-

tice matters within the Department of Justice, and she told me this morning that she last testified on this very issue 25 years ago, so it shows how dedicated she has been, and it also shows that this has been a problem for a very long time, and I think it is now getting the attention that it deserves. She will provide insight into how the Federal Government fosters coordination among federal agencies to better protect seniors from scammers.

I thank you all for joining us, and we will start with Ms. Flavin.

**STATEMENT OF ERIKA FLAVIN, DAUGHTER OF
COUPLE SCAMMED BY GRANDPARENT SCAM,
WILLOW GROVE, PENNSYLVANIA**

Ms. FLAVIN. Good morning. I would first like to thank Ranking Member Senator Casey and Madam Chairperson Senator Collins for inviting me to speak regarding the recent scam that was perpetrated on my parents.

Over the course of their lifetime, my parents have held a variety of jobs. My father worked several jobs throughout his career and was also a member of the Army Reserve. My mother worked in a variety of light manufacturing jobs and later served as a teacher's aide.

Unfortunately, last year my parents became victims of the grandparent scam. My parents were contacted on the 17th of September by a supposed lawyer representing their grandson, my nephew, who had allegedly been involved in a car accident in Tennessee, was in jail for a DUI, and needed \$10,000 cash for bail. My parents withdrew \$10,000 and mailed the money as instructed.

On the 19th of September, the supposed lawyer told my parents that my nephew had been re-arrested on charges of vehicular manslaughter due to the loss of a fetus in the accident of the car that he allegedly hit. This time his bail was now \$50,000. They withdrew \$40,000 more. This time my father had to sign a document that he was not being taken advantage of, but the bank asked no further questions. They were told to wrap the money in carbon paper so that it would look like a book before mailing it.

On the 21st of September, that lawyer told my parents that the charges against my nephew would be reduced and he would be able to go free if damages were paid for the balance of what insurance did not cover. This amount was \$30,544. They again mailed the money as they were told and were also told that they would receive the bail money back that they had put up, a total of \$50,000.

During some of these calls, my parents spoke to someone claiming to be my nephew, but who said he sounded different because of a broken nose from the alleged car accident he was in.

On the 28th of September, they received one final phone call from the phony lawyer asking for another \$20,000. The phony lawyer said he needed a \$20,000 retainer for successfully defending my nephew. My parents refused to send any more money and decided that my nephew's parents should be the one to retain him as an attorney. When they did not get the bail money back, they contacted my sister and quickly learned that my nephew was where he was supposed to be, in college.

It was then that my parents knew that they had been scammed. My parents contacted local law enforcement to file a police report, but assumed they were not getting back any of their money.

Financially, my parents gave away \$80,544. This was most of my father's Thrift Savings Plan retirement account. This was money that was supposed to be used to help with those life expenses one incurs as they age. Between their Social Security and pension, their living expenses are covered, but there is little to no money for any large emergency. My father spoke to the banker afterwards, and the banker admitted that he thought something was going on, but he was not allowed to say anything.

I disagree. The banker does not have the right to stop my father from taking out his money. Banks can be a first line of defense in helping educate seniors about these types of scams.

The emotional wreckage that this whole thing provoked is far worse. My mother is in a constant state of anxiety and feels that she is a bad grandmother because she did not recognize that the voice was not her grandson's. My father has flashbacks to a time when his family had to put up their house for bail when his younger brother was arrested.

My siblings and I were heartbroken that our parents went through this all alone since they were originally told that they were under a gag order and wanted to respect their grandson's wishes not to share this with their mother.

I also understand that my parents may not have understood or recognized potential signs of the scams due to them being so devoted to their grandchildren. I would again like to thank my parents for giving me permission to tell their story in the hope that it can help someone else.

In the words of my father, "We are bent. We are not broken. We will survive this incident. In a way it feels like a sad death in the family. If you are not busy, thoughts creep into your head. Why? How could people do this to other people? I gave away \$80,544. How could I be so stupid? An incident or an innocent conversation can set off feelings of sadness bordering on depression. You have to fight it and not let it get you down. We realize we will never see the money. We still have a mortgage, two 10-year-old cars, two cats, and our family."

Thank you again, Senator Casey and Senator Collins, for inviting me here to tell my parents' story.

The CHAIRMAN. Thank you so much for your courage in coming forward. That is just heartbreaking, but my hope is that others who hear this testimony will be more on guard when they get similar calls because of the courage of your parents and you in telling your story. We will have additional questions for you later.

I am now going to call upon Officer Simeoni. Before I do, I want to recognize that there is another member of the York County Task Force who is with us today, Karen Dillon, who works at the local hospital, and we talked this morning about how health care workers can play a role in identifying fraud or exploitation or abuse.

Officer Simeoni.

**STATEMENT OF CANDICE SIMEONI, PRESIDENT
AND FOUNDER OF THE YORK COUNTY ELDER ABUSE
TASK FORCE, AND LAW ENFORCEMENT OFFICER AT
THE KENNEBUNK POLICE DEPARTMENT, KENNEBUNK, MAINE**

Ms. SIMEONI. Chairman Collins, Ranking Member Casey, and Members of the Committee, I am humbled and honored to be here

before you today. Thank you for the opportunity and for your commitment to protecting our older Americans. I am the founder and the president of the York County Elder Abuse Task Force. I am also a law enforcement officer at the Kennebunk Police Department.

Over my law enforcement career, I have had the opportunity to complete extensive training in the field of elder abuse. I am proud to have been part of numerous advances in combating elder abuse over the past 15 years. I have a true passion for being the voice for our vulnerable populations, primarily our elderly and those with disabilities. I hear heartbreaking stories like Mrs. Flavin's parents all the time, and I respect her courage to be here today. In fact, last year I worked on over 70 elder justice related cases ranging from simple scams to the loss of entire estates.

I started the York County Elder Abuse Task Force in 2005. Once I realized the multidisciplinary approach was so vital to protecting our elders, I knew I had to make it happen. My very first cases were incredibly difficult. I had so many questions. Within my profession, I could not find those answers, so I started visiting others who I thought could help me with the victims in my cases. The majority did not understand what elder abuse even was. It was a goal of mine to educate not only myself but as many others as possible. In doing so, I built credibility, sparked some passion in others, and developed an incredibly solid task force with a group of professionals that I can count on when I need help. I realized that the initial goal for these cases should not be about prosecution. Instead, it should be about preventing further victimization as much as possible and then work to develop a case.

The York County Elder Abuse Task Force is a group of committed professionals from many different fields. We come together to share our knowledge and skills, to serve as a resource to educate the public. We rely on each other to remedy our cases as effectively as we can and count on our skills to be an asset to victims and witnesses alike. The county of York is our primary focus, but making an impact nationally is our goal.

The most important goal for the task force is education. We vow to educate ourselves as much as possible so that we can be an asset to others. The group conducts mobile awareness discussions and presentations throughout our county and in our entire state. We coordinate "Senior Safety Road Shows" where we give 30-minute talks on current scams in their particular areas. We encourage local law enforcement and town/general assistance representatives to attend with us as we meet residents of their community.

In addition, I instruct the elder abuse segment at the Maine Criminal Justice Academy for all cadets that become law enforcement officers in the State of Maine. We host a very successful conference focused on the importance of the multidisciplinary approach to elder abuse. I started this event 11 years ago. This to us is an example of building credibility and exemplifying the multidisciplinary mind set. At this year's conference, we were pleased to be joined by the newly appointed Elder Justice Coordinator at the U.S. Department of Justice. We distributed copies of this Committee's Fraud Book to more than 100 attendees.

I recognized the need for a specialized focus on our elder population the very first year I became a law enforcement officer. While dealing with a personal case involving my own grandfather, I also recognized the vulnerability of the community that I worked in. The York County coastline is inundated with retirees and many elders living alone. As a matter of fact, according to the 2017 U.S. Census data, the State of Maine is the oldest state in our Nation still. The population of Maine over the age of 65 is nearly 20 percent. In Kennebunk, that same population is over 35 percent. With this knowledge, it is our duty to act.

Traditionally, law enforcement has dealt with crime committed by and against the younger population. This population shift and the increase in crime targeted specifically against older Americans requires the development of specialized services to address elderly victims of crime.

Fraud through the mail is fascinating to me—and not in a good way. One piece to the multidisciplinary approach for me has been my work with the U.S. Postal Investigators. I have learned a great deal from them. Seeing international scammers make our domestic elders unknowing vessels of fraud is heartbreaking. Innocent U.S. elders losing everything and taking other unsuspected victims along is devastating.

The investigations are time-consuming, the resources are limited, and the law protecting this population from crime is not simple to prove. We need to move forward now with protecting our elders. The State of Maine would be an incredible place to start these greater initiatives. Together we could pave the way to be an example for other states to follow. I encourage this Committee to consider two strategies that would help professionals like me help our elders.

One, I believe the statute needs to be modified or changed to protect victims even when they do not believe that they are victims. With reactive elder abuse, there is little hope for recovery because of the devastating effects of these situations. Those of us on the front line need to be more proactive to inform our elders, but we also need help lifting the limitations of the current law when we do have to react. Many of the cases that I see stall at the victims themselves. They do not want to recognize that they are, in fact, a victim. They cannot comprehend why someone would manipulate them or prey on their innocence. Their abuser is often considered charismatic and comforting, something that some elders have not felt in a very long time. Second, I encourage the development of specialized law enforcement positions in each state. Elder exploitation investigation teams, much like the Drug Enforcement Agency units with the ability to arrest, see cases from start to finish, they need to work with multiple organizations and send solid messages to all of our residents about the seriousness of our efforts while directing messages directly to those who are targeting our elders.

I am so grateful to be among all of you today, and I truly hope you understand the hope that you not only give to me but to our older Americans. Chairman Collins and Ranking Member Casey have been so instrumental in recognizing the importance of this and tackling this catastrophe. Chairman Collins has been noted in

many of my annual conferences that my task force holds and even contributed a wonderful keynote video in 2017. She gives me hope, and this Committee gives me hope.

Thank you all for your hard work in publishing the Fraud Books. They are available at our conferences every year. It is time to bring knowledge and new initiatives to the forefront, to send messages that this epidemic is hidden no longer.

I have been working really hard in my state for many years, and I am at a point where I need help on the federal level. I hope that we can work together toward fighting this “touchy subject,” this “hidden epidemic,” so that the statistics do not increase the way that they are predicted to do.

Again, I thank you and I look forward to answering any questions that you may have.

The CHAIRMAN. Thank you very much not only for your testimony but for your passion for this cause and your leadership.

Attorney General Schmidt.

**STATEMENT OF THE HONORABLE DEREK SCHMIDT,
ATTORNEY GENERAL, STATE OF KANSAS, TOPEKA, KANSAS**

Mr. SCHMIDT. Chairman Collins, Ranking Member Casey, thank you very much. I appreciate the opportunity to be here today. You have my written testimony, and if it is agreeable, I will let it speak for itself and perhaps just talk with the Committee about some of the highlights in my oral presentation.

A couple of points. This is a subject matter for me personally that, through no strength of my own, became an interest of mine early in my law enforcement career. I was an Assistant Attorney General 20 years ago now. I was assigned to the Consumer Protection Division, something I had, candidly, never thought about doing when I first took the job, and because of that was exposed to a variety of scams and rip-offs particularly of elder Kansans, and it is the sort of thing that makes your blood boil once you see it and inspires you to try to do more, so it is an area we have tried to focus on throughout my career at the Kansas AG’s office and the international association, as Senator Moran mentioned, this past year.

I usually tell folks that when you cut through all the numbers and the analysis from the smart folks, for me there are three factors that have converged that make this a timely topic that will remain timely throughout all of our public service.

The first factor is simply the number of Americans over the age of 65. Whatever the current accurate numbers are, I know I have looked at data sets that show that between 1900 and 2010—so a century and a decade—the number of Americans in that age group grew from around five million to around 40 million. I think we are around 50 million today if I am not mistaken. That is also a larger percentage of the population, not merely a larger number. We went from about three percent to about 12 percent, and we have somewhere in the range of 10,000 Americans a day turning age 65, and that is going to remain true for at least the next decade, for the foreseeable future, so the “target population,” for lack of a better term, is growing and is going to continue to grow.

The second factor is perhaps a softer factor, but I think it is real. It certainly is in my experience. Because of the generation we are

talking about, there are certain generational characteristics that tend to create vulnerabilities. Some are—you know, some are my mom. She will not hang up the phone without explaining to somebody why she is going to hang up the phone. She feels a need to be polite, and that is not unique to her. It is a reality. Some is loneliness. That was mentioned, I believe, by you, Chairman, in your opening, and that is certainly true. We see those cases time and time again where somebody falls victim because they know something is amiss but at least somebody is talking to them on the phone or somebody is engaging them in conversation, and they will take the financial risk in order to have somebody who will actually talk with them, and to some extent, of course, it is physiological. There are certain changes that often are associated with aging that can make somebody more vulnerable to scams, so that is the second factor: greater number of people with a greater vulnerability.

The third factor is one we do not talk about as much, which is simply the money. The median household wealth of an American family with at least one member age 65 and older today is somewhere in the range of \$240,000. That is the most wealthy, on average, demographic age-wise in the United States; and at risk of overstating the case, because we are in the richest country in the history of the world, it is probably the most wealth concentrated in any age-based demographic in the history of the world, so you have more targets, perceived and in reality, more vulnerable with more money than ever before. It should not be surprising that the problem is exploding and is going to continue to.

I'm going to mention just a few particulars that my testimony highlights, things I think we could do, concrete steps. They are not panaceas, but I think they are worth focusing on.

First is on the robocall side. We are not going to fix this problem without the tech companies being our partners. We simply are not. The volume is too large. The inability to find these folks halfway around the world, calling in with virtually free calls over fiber, is too great. We are going to have to shut them down in the first instance, or we are not going to make material progress.

We have tried from the Attorney General community side. We have an ongoing working group with the tech companies. We are not techies; they are not law enforcers. We are trying to at least talk the same language so that we can help encourage changes that enable them to not only make available but promote to their users, particularly their elder users, simple technologies that can actually shut this stuff down before the phone actually rings.

Second is education and outreach. I realize it is a soft commentary and we all say it, but it is absolutely true. If people do not tell the stories, if pride gets in the way and we are unable to share, "This happened to me, to my neighbor, to a friend at church, to somebody I work with, to somebody at the local nursing home," it is so easy to believe it does not happen here, and the reality is it is widespread, and I will guarantee it has happened to either somebody—for everybody in this room, it has either happened to you or to a loved one or to someone you have known, and I suspect we all know that. We have got to tell the stories, and we have got to educate on ways to spot and avoid.

Third, that federal and state partnership that you mentioned, Chairman, is absolutely critical. I offer a suggestion in my testimony on a model we have looked at in Kansas. I would be glad to share more about that later, if you would like, but it is a very simple concept on how we can partner with some of the regional offices of some of the federal law enforcement agencies to try to improve prosecution of cases that, because of thresholds and caseloads, are unlikely to receive the attention of the U.S. attorneys' offices, not through any fault of the U.S. attorneys, simply because of volume and prioritization.

Fourth, I mentioned a bill. I will not dwell on it here, but there is a bill in the House that I testified on last year that would alter federal law restriction on the scope of use for our Medicaid Fraud Control Units. Essentially, it would remove a barrier in federal law to allow us to use those existing federal and state assets to go after more patient abuse, not just fraud on the taxpayers and the system, but more patient abuse, losses to individuals. I think it makes eminent sense. It got out of House Energy and Commerce on a voice vote. It has bipartisan sponsorship in the House, but I am not aware if it has gotten much attention in the Senate yet, and I would just bring that to your attention.

Finally, it is not in my written testimony, but I would close by underscoring what Officer Simeoni said. We have also concluded that the multidisciplinary team approach is absolutely indispensable at the local and state level to being able to address this problem in a systematic manner, and anything we can do to assist in the development and support of those MDTs would be very much welcomed, and I thank you for the opportunity to testify today.

The CHAIRMAN. Thank you so much for your excellent suggestions.

Ms. Kozlowski.

**STATEMENT OF JUDITH KOZLOWSKI, JD, ELDER
JUSTICE CONSULTANT AND SUBJECT MATTER EXPERT,
WASHINGTON, D.C.**

Ms. KOZLOWSKI. My great thanks to the Committee for allowing me this opportunity to share with you this morning some of my experiences and observations in the field of elder abuse and financial exploitation. I have worked in this field a very long time. I have had lots of different jobs, but always focused on trying to think about how we can better approach systemically the issue of elder abuse and financial exploitation. We have made a lot of progress, particularly in the federal area, in this area, but as we know, there is a growing problem and a growing demographic.

Whenever I do this work, though, I always think of my Uncle Howard who was a small business man and a World War II veteran. He also had Alzheimer's disease, and during that time, he was targeted by an investment scam in Southern California, which was cleverly targeted at the entire Leisure World where he lived. He lost nearly everything. He had pennies on the dollar when everything was done, and my aunt was forced to place him in a public facility during the last year of his life. She was his business partner. She was legally blind, and she took three buses each way, each day during his last year to visit him. That was not the life they

planned for, and that was not the life that they deserved. I have met many victims over the course of my prosecutorial career who have been in similar situations, but because my Uncle Howard was my very favorite, I always remember him.

I started my career in the district attorney's office in New York County, and I still carry with me many of the lessons I learned there as a prosecutor. I moved to the Securities and Exchange Commission where I worked on investment frauds, particularly small offerings and penny stock frauds. This was my introduction to the devastation suffered by older victims of financial fraud and it cemented my prosecutorial commitment to these cases. As my career has continued, as a federal prosecutor in the Southern District of Florida and here in the District of Columbia, also at the Financial Industry Regulatory Authority and the CFPB, and as a senior adviser at the Administration for Community Living, also as a consultant at HHS, and now back again as a consultant with the Department of Justice, I have learned so much more about the issues of cognition and the social challenges and the work that is necessary beyond law enforcement and the complexity of supporting older adults, the necessity that we have, as everyone here has said, of multidisciplinary action. It is hard to age, and it is also hard for us to address those issues without including a multidisciplinary approach.

One of the most effective multidisciplinary changes that the Federal Government has made was to create and stand up the Elder Justice Coordinating Council. It is a 12 member agency group with a working group of staff members from those agencies that worked on eight recommendations to help guide and create an architecture to build a federal response to elder abuse and financial exploitation, and I must tell you, when many of those federal agencies first started, they looked around and wondered, well, we do not do anything in aging, we do not have aging in our title, we could not possibly belong here, and over time I cannot tell you how many more committed people we have in the field of aging from that very moment. There are many agencies that have added components of those agencies to the EJCC, and together many great things have occurred in the collaboration of members of the committee and other people and agencies, nonprofits and private sector have been brought into the conversation, but let me highlight just a few things for you.

In working through the EJCC, we were able to produce the Inter-agency Guidance on Privacy and Reporting Financial Abuse for Older Adults. We also helped build the Department of Justice's Web site with robust financial exploitation resources. Resources every member of the Council has contributed to building that Web site to be able to make it a premier place for information and training across the Nation at both the state and local level as well as for federal initiatives.

There have been collaborations now between the Postal Inspection Service, the Administration for Community Living, and many of its resources, the Department of Justice, and the Corporation for National and Community Service.

I cannot tell you how many federal initiatives about elder abuse and financial exploitation have come out of conversations and

meetings which had people in the room who had simply never thought about these issues. With that new understanding, there has been a strong federal commitment to addressing the issue of elder abuse and financial exploitation. The EJCC has also been able to leverage its membership for extraordinary dissemination of materials. The Pass It On Campaign from the Federal Trade Commission is one, and the Fiduciary Guide to Managing Someone Else's Money from the Consumer Financial Protection Bureau is another. It has also been instrumental in discussing what kinds of innovation and research grants might be available to be given. Training has become part of the work of this particular group, and especially cross-disciplinary training. We are no longer only training just law enforcement agents. There are many professionals in the room who can learn from law enforcement, but law enforcement can also learn from them as well, including civil legal services. This work is critical. When an older adult's life is upended because of financial exploitation, their life is devastated. There are many civil and legal aspects to the recovery of that person.

Let me also just briefly talk about the Elder Abuse Prosecution and Protection Act that was passed last year. By putting together an Elder Justice Coordinator in every federal judicial district and requiring FBI training, it has moved the field. We do not have the caseload numbers yet, but I can tell you, I just know that knowing that there is someone in the U.S. attorney's office makes all the difference in the world. The FBI's commitment to training has been really extraordinary, including victim witness advocates, neuroscientists, and elder abuse experts in their training. Requiring community outreach in that statute has been really important as we build more multidisciplinary work within the field.

One of the other initiatives I would like to talk about that came out of also working together with local groups has been something from the International Association of Chiefs of Police who just finished putting together roll call videos on elder abuse. These videos can be used and downloaded from their Web site for all 30,000 members of the IACP. They really focus on the issue that the local police officers can be there and are critical to this work.

My cases, as I did them, I could not do them without multidisciplinary work; I could not do them without cooperation. I will only mention one case to the Committee where we had four federal law enforcement agencies, we had three local police departments, we executed search warrants in four different states. I had cooperation of financial institutions. We seized cars and homes. We did search warrants, but we could not do that without federal and state and local cooperation. It is the way—it is not only the way of the future; it is the way of now. It is the way we get these cases done, particularly large scams.

We have mentioned education this morning, and I would like to say that I think public awareness is key. Getting the information out is really, really important, and we could also do more in producing PSAs. There was one done at the Attorney General's office in the State of New York this year on the grandparent scam. Dr. Ruth Westheimer also was part of that because she was, in fact, a victim. She wanted to participate to get that message out to others. In that, teenagers talk directly to the camera to their grand-

parents to say, "Do not do it. I love you. Do not send your money. Call me first. Please, call me first."

I have also learned that in many of the tribal communities, that intergenerational approach has been extraordinarily successful in this particular field, and I urge that education, particularly also financial literacy education and multigenerational approaches, be part of what we do.

Financial services has been key in growing the field. The SeniorSafe Act, as we mentioned earlier, was part of that. NASAA's model rule, adopted now in 19 states, about to be adopted, I think, this year in at least five or six more, and the Securities Industry and Financial Markets Association has a working group on senior investors, bringing together on a regular basis those members in that field, holds regional meetings and produced a magnificent handbook for investors and brokers. FINRA rules of the trusted contact and transactional hold have changed the world, and I cannot say enough about how important it has been for the financial services industry, writ large, to be part of this effort, and not only reactive after something has happened but preventative. They have every interest in keeping those assets in their institutions. We need to continue to encourage better training for tellers and for supervisors.

We have mentioned a little bit about technology this morning, a whole field we have not even really explored, but has all kinds of potential in preventative use against frauds. We also have to remember while these tech frauds get lots of publicity sometimes, it is really about 20 percent of where elder abuse and financial exploitation lie. Most of our seniors are victimized by trusted people and by family members. I believe we will also need to think about this in future initiatives in order to be able to focus on that as well.

Whenever I do this work, I come back to two things. The highest risk factors are social isolation, which goes to everything we have talked about today, you know, certainly as you said that alert citizens are our number one defense. There is no question that that is the case, and cognitive impairment, we do not know enough about what happens with an aging brain, and we still need to know that as well.

We are woefully behind in collecting any kind of usable data. That is a subject for an entire hearing, in my view, but there have been beginnings.

I am sorry I went way over my time. I apologize to the Committee for that, but I thank you very much.

The CHAIRMAN. Thank you. Your testimony was fascinating.

Ms. Flavin, I want to take off where the witness just concluded when she talked about the necessity for cooperation from financial institutions. I thought it was heartbreaking when you described your father going to the bank, making three huge withdrawals that were not consistent with his pattern. The first one, no one asked any questions. The second one, he was asked to sign a statement, but no one really engaged him and asked him, "What is it going for?" Or, "Do you really want to do this?" Those kinds of questions.

I do want to give you a little good news on that front, and that is, a bill that I authored last year with former Senator Claire McCaskill became law. It is called "SeniorSafe." We got the idea

from the State of Maine, and what it does is it encourages banks, credit unions, and other financial institutions to train their employees to ask more questions, and it also says that if they report a suspicious transaction to the appropriate authorities, they are not violating bank privacy laws.

Do you think that that law would have been helpful in your father's case?

Ms. FLAVIN. Absolutely. When I was asked to testify and got the green light to post that I was going to be here on Facebook today, I sent it out to my co-workers. As a compliance specialist, that is my job, to look into new rules, regulations, and to make sure people are educated.

I had one person come up to me and say, "My parents were victims of the grandparent scam as well." They got \$1,500 the first time, and they were sending it through an electronic money sending agency, and when they were asked for more money, they went back to the same place, got the same employee, and that employee took it upon themselves to go, "Are you sure that this is what you want to do? This sounds like it might be a scam."

Having somebody come up to my parents after they had, you know, contributed \$80,000 to a con artist is disheartening, especially when the banker says he could not do that, but he suspected something was going on. It is a smaller bank, and that may be a resource issue for them, but absolutely, having better education especially for smaller banks would have absolutely helped them.

The CHAIRMAN. Thank you.

Officer Simeoni, you handled an extraordinary number of cases last year, more than 75 cases, and you are also very active in educating seniors. You also are very well known in your community in York County, so I think people perhaps feel more comfortable in reporting what is happening, but I want to hear from you. Why don't you think that more seniors come forward?

Ms. SIMEONI. Sure, so we know that 90 percent of all suspects actually are those who the elder loves or considers family members, so it is very difficult for an elder to come to somebody, a face that they do not really know, and tattle on the people who they love the most in this world, so that is very difficult for them.

We also know that, as we get older, we fear the loss of our independence, and we know also that cognitive impairment comes into play, and so it is a great fear for our elders to come forward to say that, "Maybe I am losing some independence." They think that maybe they will end up in a nursing home, and so that is a fear that we all can get from victims, that they did not want to tell because they were afraid someone was going to think they were having some cognitive issues.

The last thing is that victims do not believe that somebody could really manipulate them to the point where they would take all of their money, so again, it is a generational thing that we talked about earlier, that they cannot believe that somebody would prey on their vulnerabilities and take advantage of them the way that they are doing right now.

The CHAIRMAN. The Attorney General made a point about seniors being too polite on the phone, and we see that in Maine all the time, so particularly if they are living alone, they are lonely or iso-

lated, and someone calls them up and is a total con man and tries to take them into their confidence, and they are reluctant, they feel it is rude to just hang up the phone.

What we are thinking of is coming up with a card that would list things you could say, and one of the worst things to say is, "I am busy right now, but could you call back later?" Believe me, they will, and yet that is a common way to get out of a conversation for people.

Do you have any suggestions to seniors on what they should say when they suspect that on the other end of the line is a scammer?

Ms. SIMEONI. Sure, so I wish I could talk to every elder and let them know that it is OK to hang up and it is OK to protect yourselves in the way where you just hang up the phone. If it happens to be a grandparent scam or somebody who they think they may know, it is OK to hang up and call the number that they know will connect them.

We do have a hard time with that, and we have actually, as a task force, we have come up with those, and we give them to elders with the File for Life paperwork, when we have interactions with them, but we noticed that it is not always a charismatic voice on the other line. Actually, I just learned that last night in Kennebunk somebody fell victim to a scam because they felt harassed. They forwarded almost \$5,000 to a routing number that they do not even know who it is attached to because of the fear of intimidation, so we not only see the charismatic, loving voice; we also get that intimidation and harassment that just says, you know, "I will give you some money so you will stop."

The CHAIRMAN. Thank you very much.

Senator Casey?

Senator CASEY. Thanks so much.

I will start with Erika Flavin about the story you told in the testimony. At one point in your testimony, you talked about, I think I am quoting directly from the testimony, "While a banker does not have the right to stop my father from taking out his money, I fail to see how a bank representative going up to someone" and talking to them about it, that that should not be allowed. We worry that that kind of education or that kind of alert is sometimes not possible.

The legislation Jerry Moran and I are reintroducing has as its foundation an advisory committee that would ensure that banks and other businesses have both information and tools so they can train their employees.

Do you think if that were in place, do you think it is less likely that your family would have had this horrific experience? What do you think about that as an idea?

Ms. FLAVIN. I think it is an excellent idea. I think a lot of it depends on the words that are used. I am sure that if somebody had come up to my father in the bank and said, you know, "We are noticing that you are taking out these large amounts of money. Can you just sit with me a moment so that I can share some information about scams that are targeting people in general, not just seniors." I think if it had been worded like that, my father definitely would have sat down and listened. My father is a talker. He loves

to talk to people, and he would have been very receptive to that type of conversation.

Senator CASEY. We are hoping that we can have better training. That is one way to engage in preventative activities.

I was struck as well by the language in your testimony or the references in your testimony to the emotion of this. You said at one point—I think it is page 3—that, “Even sadder . . . there is nothing to protect them or anyone from these ‘emotional’ transactions.”

Ms. FLAVIN. Correct.

Senator CASEY. Then you talk about the aftermath when you refer on the next page to the emotional wreckage. That is why it is so difficult for people to understand how this can happen. It is very easy when you are looking in the rearview mirror in the light of recollection or in the light of kind of Monday morning quarterbacking that somehow people should have been aware. Probably the most pernicious part of this, at least initially, other than the actual theft, is the playing upon emotion, and it is very hard for anyone after the fact to recreate that emotional moment, and that is why I have always said this can happen to anyone at any age in any circumstance, any level of education, because we are all likely to be duped if we have an emotional stake in the crime where people are using that emotion.

I hope that you will continue to tell us what you hope we would do by way of legislation or policy based upon your own family’s experience, and we are just—I know it is difficult for your parents, your family, to understand this, but little by little we hope that burden they have been carrying around will be lifted as they begin to help and have already helped people around the country.

With the passage of time and with the prevention—I wish we could show them every person who was helped by their courage, by their coming forward. It would have been easier for them to say, “It is bad enough that we were ripped off. Let us just keep quiet about it and move on.” So please convey to them our thanks.

I know I am almost out of time, but I will just quickly present a question to Attorney General Schmidt. Thank you for your testimony and the substantial experience you bring to these issues, and I know you have done some work—a lot of work on robocalls, and you have been engaged in the fight against these robocalls.

How do you think we can tackle that problem? And do you think there is a need to fight this problem more internationally, and any suggestions you have for that?

Mr. SCHMIDT. Well, Senator Casey, I think maybe just a couple of thoughts on that.

One, the vast, vast majority of these calls originate offshore, virtually all of them. As I always tell constituents who express distress to me with some frequency, “I am on the no-call list, but I am getting more calls than ever”—I am sure you have heard that repeatedly, and it is certainly true. I usually tell them, you know, “You are not going to believe this, but the no-call list actually works. It actually prevents law-abiding telemarketers from calling you if they are disqualified from calling as a general matter, and if they do not, we can find them and punish them and stop the behavior.”

The problem is that the explosion in volume is by crooks who are offshore, beyond the reach of state and local law enforcement in almost every case, and so we have to—we have no choice. We must work and rely upon our federal partners in any enforcement action, which is only conceivably possible in the minority of cases where somebody can actually find who is doing the calling. Senator Collins in her opening referenced the enforcement action in South Asia in 2016. That is a prime example of success that we are all thrilled with. Of course, as soon as those folks were gone, others flooded back into the marketplace.

We will, in my view, never solve this problem on the enforcement end. We must continue enforcement, but that will not fix it. It has to be prevention, and of course, it is the rise in whenever that was, the 1990's or—I am not a historian, I am not a techie, but whenever fiber connected us with the rest of the world in a way that it had not before, and so it became possible to make virtually free VOIP calls or other calls, if you have a laptop and access to the Internet from anywhere in the world, into every living room in the United States, when that became possible, this problem exploded, and in my view, it will only be when the technology that enabled it is countered by a technological antidote that is simple to use, effective, and readily available to consumers that we will have meaningful blocking, and that requires the telecom companies be—and they are, but that is why, you know, I do not think there is a solution here without an ongoing conversation with the folks that provide the telecom services.

Senator CASEY. Thank you.

The CHAIRMAN. Thank you very much.

I want to explain to our new members that we call on people based on first-come/first-served as far as appearance after the gavel has fallen, and many of you arrived at the same time, so then we go by seniority on the Committee, and applying that complicated formula, Senator McSally would be the next questioner.

Senator MCSALLY. Thank you, Madam Chair. I really appreciate it, and thanks to all of you for your testimony, and Ms. Flavin, thanks for telling your story.

We all, I think, with our parents or those we know who are older, think of our own experiences. I think of my Mom coming from, “You have to answer the phone, you have to talk to whoever calls.” We have now trained her where she does not answer the phone. If she does not know the number, she knows to hang up, and so, again, we all have our personal experiences with that.

Education is so important and having a team of people around you to help prevent. We have got a scam squad in Pima County where you have got seniors working with the sheriff's department trying to teach each other and help each other and encourage that training, and we have seen really strong results from that. I held a forum when I was in the House in my district to have more education, so education is key. You have all talked about it.

Ms. Simeoni, Maine has a lot of rural areas, just like in Arizona. We have so many of our seniors that are out in rural or tribal areas and not connected anywhere, so the challenge of education and getting to them in these rural areas, can you speak to that and any initiatives that could partner with you in Arizona?

Ms. SIMEONI. Yes, absolutely. I think about this a lot. When we place flyers everywhere saying, "Come to our senior scam road shows," or "Come to our education," we get a great group, but it is really not the group that we need to reach.

I really think about this a lot, and I am actually teaming up with a local videographer, and even if you are in rural wherever, you still have—we call it the "Local Channel 5." It is a local channel on your TV that just kind of goes on and on and on, and I have noticed as a responder on the front line, even going to medical calls, that for some reason is always on an elder's TV when I respond, and so for me, I think maybe delivering a message through that vessel would be really good, because it is not going to be the people who come to my forums or the ones that would listen to us about elder abuse. It is the ones that we need to indirectly contact, and I think that would be a great way, public service announcements, but make them human. You know, make them from that area with contact numbers from that area. I think that would be a really good avenue to explore.

Senator MCSALLY. Great. Thank you.

Attorney General Schmidt, Attorney General Brnovich in Arizona, they have been doing some great work related to the senior scams. Governor Ducey yesterday announced in his state that 100,000 people will move to Arizona this year, which is great news. I mean, we want more people to come and participate and live in our great state. Many of them are seniors. We have a growing senior population, 17 percent right now. It will grow to 21 percent by 2050.

As you are seeing and partnering with the Federal Government, are you seeing that they are kind of getting out in front of the demographic shifts and are going to make sure the resources are there for the communities that are growing senior communities? And how is that partnership going?

Mr. SCHMIDT. Senator, respectfully, I hope that not too many of those 100,000 were Kansans before they became Arizonans. Obviously, the demographic dynamics are different in different states, and to your point, you know, I certainly cannot speak from a global perspective. I can tell you our experience from a Kansas perspective, and that is that the federal agencies have on the whole been receptive and open. They have wanted to be helpful. They have done the right things when asked—sometimes not expeditiously, but they have done the right things when asked.

At the end of the day, the vast, vast majority of this subject matter, to the extent it is dealt with by the law enforcement community, must be dealt with by state and local authorities, because the nature of the crimes are state and local crimes, and the vast—it does not matter how many federal resources you put in. Ultimately, there are going to be more state and local bodies than there are federal bodies, and that is particularly true the more rural you get, because the federal agencies tend to be housed in the more populous cities in, I think, every state, and certainly in ours.

The answer to your question is, I think, yes, there is a receptivity and an openness and a willingness, but there is also an inherent understanding of the limits on the Federal Government's role. Where we maybe have some room for growth is on building some

of those partnerships where it is not just that we do more through the Federal Government. It is that the Federal Government helps us do more through the state and local authorities.

Senator MCSALLY. Great. A last quick question. You mentioned one piece of legislation in the House to remove a barrier. Are there any other legislative barriers that you see that we could address?

Mr. SCHMIDT. Well, I will bet there are, but that is the one, that is the only one I will bring to your attention because it is the one I am conversant in and focused on. I really think it is kind of a no-brainer, but maybe I am wrong on that.

Senator MCSALLY. Ms. Kozlowski, do you know of any other federal barriers to improving in this area?

Ms. KOZLOWSKI. I do not.

Senator MCSALLY. Great. Thank you. I yield back.

The CHAIRMAN. Thank you.

Senator Rosen, welcome.

Senator ROSEN. Thank you, and I thank Senator Collins and Senator Casey and, of course, the panelists for sharing these personal and heartbreaking stories. It is really important that we bring them to light.

I met with my Nevada Legal Aid just last week, and, of course, in Nevada we have a large senior population that could be a target, and we know that fraud against seniors is on the rise.

I left my job to be a caregiver for both my parents and in-laws. That experience taught me all too well about how vulnerable our seniors are. My own father-in-law was contacted one day by a big-box retailer to come pick up his purchase for \$5,000 worth of computer equipment. The fraudster was not so smart and realized my father-in-law had a rewards account when they tried to use my father's name, so instead they used the phone number from the account, and my father went down to this big-box store, and was able to cancel the fraudulent charge. We determined that the fraudulent charge was probably made by someone who skimmed information from my father's doctor's office.

I know we have talked about reaching out, and educating, but how do we do this: public service announcements, television, digital, mail? But how do we stop the fraud? We talk about the banks, the employees noticing things. How do we educate people, big-box retailers and our doctors' offices so that the employees know that they should be careful when handling sensitive personal information, such as the information used in my own father-in-law's case to perpetrate fraud against his identity?

Ms. FLAVIN. If I may, I found that when my father went to speak to the banker afterwards and the banker had a lack of knowledge about laws that were already on the books that would have allowed him to have that conversation with my father. I think at the core of it, though, is that we are the village that needs to protect the elders, and even if that law was not in place, I am kind of shocked that nobody said anything to my dad about, "This just seems kind of off. Let us help you. Is there somebody else that we could contact for you to confirm that all of this is truly going on?"

My father was told at the beginning of all of this that there was a gag order. His lack of knowledge about how the criminal justice system works certainly worked against him.

Senator ROSEN. Do you think it would be helpful to expand the reach of people who are able to talk to our seniors from banks to our retailers perhaps, especially our doctors' offices?

Ms. FLAVIN. Absolutely.

Ms. SIMEONI. I believe we need to humanize this a little bit more. We talk about education, and education sometimes is in forms of lectures, but I think it is more effective when it comes in the form of stories, you know, reaching out, touching the heart. These are real-life stories, for me real Mainers being victims. I think it kind of puts you in part of—we call it the “big puzzle.” You are a piece of the puzzle now. You understand this. You feel it. You have the heart. Now let us do something about it.

I think lectures are good, do not get me wrong, but I think humanizing it, you know, telling a story, is really more effective, whether it is the UPS worker or law enforcement officers.

Senator ROSEN. Right.

Ms. KOZLOWSKI. I always think about this in terms of who touches the life of an older adult.

Senator ROSEN. That is what I am——

Ms. KOZLOWSKI. I, too, left work to take care of my parents when they were in their nineties. My dad just turned 98 on Saturday. I always think about that. Who else? Who are we missing? Who is not here?

Senator ROSEN. The Postal Service.

Ms. KOZLOWSKI. The Postal Service is phenomenal, and letter carriers report all the time.

Senator ROSEN. All the time.

Ms. KOZLOWSKI. I cannot sing their praises high enough, but who else? I mean, we have got EMTs who are now beginning to be trained. We have—doctors' offices are a wonderful venue because so much information is available there, so much information to be used in a not very good way for older adults.

Senator ROSEN. Right.

Ms. KOZLOWSKI. Also, it is also a place where older adults go.

Senator ROSEN. A lot.

Ms. KOZLOWSKI. They talk to their doctor. Maybe they do not talk to the doctor because the doctor has the golden stethoscope, but they might talk to the nurse. You might learn something that would be important in that person's life.

There have also been initiatives in faith communities because older adults generally still go to church or some form of worship. There has been some training with clergy because it is another place that touches the life of an older adult, and I think as we look at training and we talk about a larger conversation, we always have to keep those ideas in mind. I certainly did with my parents and continue to now.

Senator ROSEN. Thank you. I appreciate that.

Thank you.

The CHAIRMAN. Thank you.

Senator Braun, welcome.

Senator BRAUN. Thank you. It is good to be on the Committee. Not only this subject, but the cost of health care and other things are very important. I heard Senator Casey mention, as I stepped

back in, about getting bank employees and others to kind of be a heads-up.

I look at the different ways that these scams are so unbelievably complex and creative and ingenious, but you really do not perpetrate it until the money transfers, and when I look at an electronic wire transfer or certified check, that is, you know, kind of something that is complicated even when you want to do it. When it comes to credit cards and debit cards and so forth, it seems like that might be an easier way to, you know, consummate the scam.

What are you finding among banks, number one, especially as it would apply to wire transfers, which is you have got to go through a protocol that is fairly complicated to do one even when I would initiate one myself? And it seems like that is where you would get larger amounts. Tell me something, whoever would have the information, where are you seeing banks when it comes to their helping prevent this at the final stage?

Ms. KOZLOWSKI. I can address that briefly. There are some really robust, ongoing training programs right now. There is one that will be rolling out I think this year from AARP called "BankSafe" that will be available to banks to even download from the AARP Web site, the BankSafe Web site. That I think will help, you know, transform training for tellers and supervisors, but when I think about this issue, I always think about the supervisors. I think about that with regard to securities transactions as well. It is great to train the front line, but that supervisor better be involved, too, and have some accountability for whatever else happens. I know that there is also bank training that has been rolled out by the American Bankers Association as well.

I think that there are—the red flags are also something that should be on the desk of everyone who works in a financial institution—however we want to formulate them on elder abuse and financial exploitation, but as soon as that happens, that wire transfer becomes infinitely more difficult to execute.

Senator BRAUN. I am thinking more along the lines of an algorithm or a mechanical system that would not rely on training, you know, where that final moment there is something that, you know, sets off a red flag to where you cannot, you know, consummate the whole transaction.

Ms. KOZLOWSKI. I know that there has been some serious interest in looking at this. My personal view has always been if we can stop credit card transactions, we must be able to stop money leaving older adults' accounts. We can do it in any number of ways, and I have talked to many people about that. It is a big project, to be sure, but I still think there is a technological solution to that.

There is a small company called "EverSafe" that has a series of alerts which can alert you or family members if there is some unusual transaction that has occurred across all kinds of financial accounts.

I think the technology is there. I think we have to figure out what would be the best public and private partnerships to have for it to go forward, but I certainly believe it is there.

Senator BRAUN. One final question. When it comes to credit card companies, they have got a more robust fraud detection component to their business. Are they catching most of these when they do

occur through a—is there any type of statistic or any information on how much is actually thwarted or prevented?

Ms. KOZLOWSKI. Not to my knowledge, sir.

Senator BRAUN. Okay. Thank you.

The CHAIRMAN. Thank you.

Senator Jones?

Senator JONES. Thank you, Chairman Collins, and thank you for having this hearing, you and Ranking Member Casey, and I also want to lend my welcome to all the new members. You know, Chairman Collins, looking around, this Aging Committee may have the youngest Senators here in terms of seniority.

You know, we have got a number of former prosecutors that are on this Committee, and so I have been especially interested in listening to the federal and state partnerships. We have got state prosecutors. We have got federal prosecutors, and I think all of us have found that that has been a tremendous advantage in our respective offices.

I would like to talk a little bit, and, Officer Simeoni, you mentioned a little more help from the Federal Government. Attorney General Schmidt, you have mentioned the collaborative effort with HHS, and by the way, you and I might want to do some comparative DNA based on your conversations about your mother and hanging up. We may be long-lost siblings, so I get that. I understand and I have witnessed that firsthand, but could you initially talk a little bit about your federal and state partnership and how you think that can be improved, encouraged, what we can do from here? Then maybe, Officer Simeoni or Ms. Kozlowski, if you have any suggestions of what Congress can do, because those partnerships are incredibly informative, and while most of these cases may be state cases because of the individual amounts, there is still a lot of federal jurisdiction with wire fraud, mail fraud, those kind of things.

I will just let you all take it from there.

Mr. SCHMIDT. Senator, thank you, and I would be happy to share a little bit on that. I have been in office—I have been there eight years now. I had been in office maybe two or three years. I was relatively new, and I was approached by a fairly young man who was a federal employee, worked with HHS OIG. He had recently been transferred at that point into the Kansas City regional office. He had been I think in Illinois before, and I do not know where he is now. He is no longer in Kansas City, and we have lost touch, but he looked me up, and he said, “Here is the deal.” He said, “When I was in Illinois, we got frustrated that we would find”—“we would be out investigating whatever it is we investigated at HHS OIG, and we would come across these cases of home health care fraud in the Medicaid program, usually billing for services just not provided, billing for hours that the PCA did not show up, so not close calls, but sometimes we would find”—“for big losses, no problem, we will get them prosecuted, but sometimes it would be a thousand bucks, two thousand bucks, three thousand bucks, and we just could not get the attention of the U.S. Attorney’s Office, not because they did not want to, but because they are up to the eyeballs in everything else.”

He said, "We have done the work. We have got the case. I cannot get anyone to prosecute it." In that case, they could not get the local DAs to prosecute it because it is the Medicaid program, and it just—you know, so they wound up partnering, he told me, in Illinois for a sweep, and he proposed we do the same in Kansas, and I said yes, so here is what we did. My only condition was—I would be thrilled to partner with you and do those cases. I do not care how small they are; we will do them. My only condition is I want to do them in state court under state law. I do not want to have to retrain my people. I do not want to have to march into federal court for a \$1,000 case in state court. It is just easier. We are accustomed to it. He said, "Deal." They worked up—we did this sweep. HHS OIG out of Kansas City, agents worked up—I think it was around a dozen, give or take, home health fraud cases. We called it "Operation No Show." The fun part of any law enforcement operation is naming it, right? These were all people that billed for services they just did not show up to provide. They were pretty straightforward. We presented them as Medicaid fraud criminal cases under the state Medicaid fraud statute, and we prosecuted them all in state court, and we won them all but one. One did not go as well, but the rest of them went very well, and it was a fantastic partnership. We were thrilled because we were able to do more cases. I had prosecution capacity. My bottleneck was on the investigation side. He was thrilled because his agents who had done work were able to finish it off and see it through, and it was the right outcome for everybody.

We have not replicated that since he left on the Medicaid fraud side, but it is just—I have thought of that ever since and thought that is an ideal model, I think, in other areas, so you know, I have mentioned it a time or two. I had this discussion with then Attorney General Sessions at the news conference you mentioned when we announced the sweep a year or two ago. I forget exactly when it was. He seemed intrigued, but obviously he is no longer around to follow through. I had the discussion with Mr. Cottrell, the Postal Inspector. He is no longer around. I had it last week with Mr. Barksdale, I think the interim or deputy or acting Postal Inspector. He is intrigued. I plan to call him and follow-up. This was a good model.

Senator JONES. It works.

Mr. SCHMIDT. It works.

Senator JONES. Anybody else want to briefly, before—you know, what specifically we might in federal court do?

Ms. SIMEONI. Yes, so sure, real quick. When I started my career, we played what was called "Pass the Case." We are bound by jurisdictions, so municipal officers generally take cases in their municipal bounds. If it crosses the federal threshold, we would just pass the case. Now we actually work together. I work often with the U.S. Postal Investigators, some FBI agents, and we work together on these cases, so I have already seen a really good change. I think we are moving in the right direction. I do not think we have to make huge, drastic changes. I think if we focus on the multidisciplinary approach, we continue to work together as a team, I think we are going to be very, very successful.

Senator JONES. All right.

Ms. KOZLOWSKI. I agree, and I would like to underscore what Attorney General Schmidt said. I am a big believer in using the regional offices of the Federal Government to be enfolded in this work. We have regional offices all over the country. Oftentimes we only look at the federal office that is located in Washington to do these cases. I think there are lots of good people that work in those regional offices that bring to these cases a regional aspect, and I think that we could incorporate them more in this work with the state work and similar kinds.

Senator JONES. Thank you.

Madam Chairman, one quick observation, because we have talked a lot and I have heard a lot today, too, about outreach and community outreach, and the one thing I would encourage, as we have discussed, the population is getting older, more people are turning age 65 every day, and so that outreach needs to be done early for people down the road, whether it is financial literacy or being aware. We cannot do a lot about the cognitive decline that we see in our elders, but we can at least maybe, as those hit age 65, arm them with better information going forward.

Thank you all for being here and for the work you do.

The CHAIRMAN. Thank you.

Senator Scott, welcome to the Committee.

Senator RICK SCOTT. Thank you. First off, it is great to be here. Thank you for the opportunity, and thank you for your hard work. I look forward to looking at the bill you proposed.

Florida is a state with a lot of seniors, and we are getting more every year. When Senator McSally was here, I was going to remind her that Florida will add about 400,000 people this year, and a lot of them are going to be seniors. It is a great place to retire and enjoy life.

First off, Ms. Flavin, my heart goes out to you for what happened to your family. Unfortunately, you hear stories like that all across the country. We hear a lot in Florida. We have been blessed—in my years as governor, I had an attorney general that was very focused on this. Attorney General Bondi was very aggressive at prosecuting scam artists, and we were able to get a lot of legislation passed, and I know she worked with you, Attorney General Schmidt.

All of you, it looks like you have done a great job trying to do this. What is the best way to find best practices and share them at all different levels, whether it is the federal level, the state level, or at the local level, so we can make sure we are finding the best ideas and getting them around the country, so we can put a stop to this. Everything we can to stop this.

Mr. SCHMIDT. Senator, I will take a crack at that. I do not know if it is the best way, but we have struggled with that question on our watch, and I will tell you where we have come down.

One of the challenges on the education, the dissemination of information, whatever tool, method, target audience you use, one of the challenges is everybody agrees that it is a good idea and, therefore, everybody wants to do it, and there is nothing wrong with that. I am not trying to discourage it on the whole, but sometimes the messages become either conflicting or, even if they are harmonious, if you are the victim of one of these scams or rip-offs and

you are trying to figure out what to do, you do not want to sit there and sort through a stack of possible people to contact and ask for help. That becomes intimidating and distressing in and of itself.

One of the things we have done in Kansas—and I do not claim credit for it—we stole the idea, shamelessly, from Arkansas. The former attorney general of Arkansas had started it up. They actually paid a market research firm several years back, before I was in office, to figure out in Arkansas why they were getting fewer requests for assistance at their attorney general's Consumer Protection Division than the demographics and size of the state would suggest they should be receiving, and the answer came back, perhaps not surprisingly, because people, when they have been ripped off, do not want to sit in their living room and practice law and they are intimidated. The AG's Web site is talking about statutes and duties and all this stuff. It looks governmental. They do not know if it is a securities issue or insurance fraud or general consumer fraud. Do I call the local police? Do I call 911? Do I call the FBI? Do I call the FTC? What do I do? People would just throw their hands up and not ask for help, and so they rebranded in Arkansas. I do not know if they are still doing this or not. They just rebranded their Consumer Protection Division at the AG's office. They called it "Got Your Back Arkansas." We stole that from them, but we had enough pride not to just say, "Got Your Back Kansas." So we are "In Your Corner Kansas," and ours is still going, and it has been fantastic. It is a branded Web site. I use it on all of our consumer protection and elder abuse outreach efforts around the state, whether I am doing it or staff is. We use it in talking with other agencies in the state: Come along and be part of the In Your Corner Kansas conversation, and the message is simple: If you have been ripped off and you are victimized, contact us. We are in your corner, Kansas, and we will either help you or we will get you to the people who can. Let us practice law or navigate the bureaucracy.

To back that up, to your question, we also have what we call now a "Senior Consumer Protection Advisory Council." I am about to overhaul it and make it more of a broader Elder Justice Advisory Council. We have quarterbacked it at the AG's office. We invited in the players, and we are sitting down now and saying, all right, we have got this Web site, we have got this branding, we have got this one-stop outreach. Everybody needs to be on the same page. What do we need on there? What do we need to know for your agency, for your private entity? How do we get people properly connected? What is the right subject matter? What is the right content? And so far it is working I think reasonably well, and we have seen our numbers go up in requests for assistance, which I think is a good thing.

Senator RICK SCOTT. Anybody else?

Ms. SIMEONI. I think when delivering a message, it really has to be unique to the area, so what may work in the State of Maine may not work in a different state, so I think it just needs to be a vessel of people, a multidisciplinary team who understands the geographic area of the message that needs to be delivered, and that does not only mean elders. It means professionals, so what I mean by that is peer lectures or peer stories.

I know for me in the law enforcement community, I am more receptive to other law enforcement officers educating me, and so also with elders, I know me going to speak to an elder, we may not have a lot of similarities, but if I could bring somebody along who may be of the same age, they may reach that message a little bit better than I could.

I think it has to be unique, and I think people need to really study and have passion for their specific areas and deliver the message that they think would be well received in that particular area, so I think it is all different.

Senator RICK SCOTT. Thank you.

The CHAIRMAN. Thank you very much.

Senator Sinema, welcome to the Committee.

Senator SINEMA. Thank you so much, Chairman Collins and Ranking Member Casey. It is an honor to be a member of the Special Committee on Aging, and Chairman Collins, in particular, it is a pleasure to continue doing the work that we have been doing together to protect seniors from financial fraud. I was proud last year to lead the SeniorSafe Act in the House, and I am so grateful for your effort to lead that bipartisan effort through the Senate. I also want to thank Ranking Member Casey for his support of that very important law.

As we have heard today, criminals are relentless in targeting vulnerable senior citizens, and that is why the SeniorSafe Act which we passed last year is so critical. It empowers people in financial institutions to report those exact suspected instances of elder financial abuse and fraud, and it helps law enforcement track down the criminals who target those vulnerable seniors.

The law was modeled after a highly successful effort, of course, in Maine, the SeniorSafe Program, that innovatively brought together the regulators, financial firms, and legal organizations, so we did the same in Arizona, bringing together IRS experts and advocates to help teach seniors in the greater Phoenix community how to recognize and report frauds and scams, scams like one that targeted a 91-year-old woman in Tucson. This woman had two caregivers that she trusted, but they exploited her. They got access to her banking information, and they stole her identity. They stole nearly \$200,000 from this 91-year-old woman by obtaining credit cards in her name. They gave themselves very large holiday bonuses, and they even convinced her to sell her home, and had the employees at her bank been trained to recognize the pattern of suspicious charges and been able to report that to authorities, we believe the criminals probably would not have been able to victimize this woman for two years.

We know that financial crime is a growing crisis in our country, and it certainly is a crisis in Arizona, which welcomes retirees from across the United States.

Just in 2018 alone, the Arizona Department of Economic Security received over 31,000 reports of potential abuse or fraud involving senior citizens. As we know, that represents probably only a fraction of the crimes that occurred, and that is completely unacceptable, so these are people who have worked hard their entire lives, they have raised their families, many of them have served our

country in the military, and they should get to enjoy their golden years with dignity.

According to the AARP, one in five Arizona seniors are victimized by financial fraud every single year, and as we have heard today, often the seniors are afraid or perhaps embarrassed to report when they have been defrauded. Sometimes they may not even be aware or do not want to recognize that they have been victimized.

What I would like to do is start with my first question for Ms. Kozlowski. Your testimony mentioned that the financial services and tech industries have been strong partners in the fight against elder financial exploitation, so building on the passage of our law last year, the SeniorSafe Act, where are there current gaps in prevention, detection, and enforcement actions to address financial fraud that are disguised as legitimate transactions?

Ms. KOZLOWSKI. I think there are—having done this work for so long, I am always encouraged, surprised, and disappointed at the enthusiasm for entrepreneurship of the people who want to take other people's money, so I do not know that I could give you a particular area because I think what has happened is that by bringing together so many people in the—especially the broker-dealer community, investment adviser community, I think that there has been such heightened awareness in that particular sector that I do not think that unusual scams coming to a particular account are not going to be noticed.

If you are a person who has invested in a particular way over a long period of time and suddenly you are coming to your adviser or your broker and saying, "No, no, I really want to buy those individual airplanes that fly at 50 feet above because I am sick and tired of the bad traffic," the investment adviser is going to say, like, "No, we are not going to be doing that." They have new tools. They have a trusted contact to say, "Is there something wrong with Uncle Fred? Has something changed? Do we need to address this further? Or we can just stop that transaction until we find out what on earth is going on." That has been huge, absolutely huge.

I think that we also see that just having investment advisers be required to meet with their clients once a year is also something, and bringing in that trusted contact, not just for older Americans and older adults, but for anybody. I always use in my discussions the car accident. You know, you are in a car—that does not discriminate on age. That could happen to anybody at any moment. You should be prepared for that.

In banking, I think that there are gaps in training. There are always going to be the people that did not get that particular web training. I think there is such movement, particularly, and cooperation in financial services. There are going to be transactions by type. I am sorry, I could not describe that right now, but I see such a huge change, and there is also a very effective business case to keep the asset in the institution, and I think that that is being realized.

Senator SINEMA. Thank you so much.

Thank you, Madam Chair.

The CHAIRMAN. Thank you. Last, but certainly not least, I am very pleased to welcome Senator Hawley to the Committee.

Senator HAWLEY. Thank you very much, Madam Chair. Thank you for your leadership on this Committee and on this set of issues. Ranking Member Casey, thank you as well, and thanks to all of the witnesses for being here today.

I come to this job new, of course, but what I was doing just before this, as the chief law enforcement officer of my state—nice to see you, Attorney General Schmidt, former colleague. I was Attorney General of the State of Missouri, and I can say, having read your testimony and listened to you today, the problems that you are describing and have encountered firsthand is one, I am sorry to say, that is not unfamiliar to the State of Missouri where we see rampant scamming, elder abuse and fraud. This past year, we recovered, I think it was, \$13 million in scams that we reversed and were able to get restitution for, for consumers in the State of Missouri, much of that dealing with seniors, dealing with elders, so it is a rampant, rampant problem.

We try to be as aggressive as we can in the attorney general's office and have had some success there, and I am delighted to have read your testimony and heard from you today. Thank you for what you are doing working on this serious problem.

Ms. Flavin—am I saying that right, by the way?

Ms. FLAVIN. Flavin.

Senator HAWLEY. Flavin, yes. Can I just start with you just to ask you to describe a little bit more about your family's story? It strikes me that the people who victimized your parents did something awful, and they made them feel that they could not talk about a family crisis with their children, and this emotional manipulation, can you just tell us, like what was that like as a family? Why is this emotional manipulation so effective sometimes, unfortunately, and also devastating as a family?

Ms. FLAVIN. Very much so. When my father was—well, when my parents were originally contacted, the phony lawyers kept saying that they would only talk to my parents at the same time, so they were able to convince and create this emotional connection between both of them as opposed to trying to play off one or the other.

At the start of this, my father was told that he was now under a court gag order, so the only person he could discuss this with was the phony attorney, and their lack of how the criminal justice system works I think was a huge factor in this scam being allowed to be perpetrated against them.

I was well aware of the grandparent scam, and I know if my parents had called me and said, "Hey, we got this phone call, and I am really concerned about it, from this lawyer in Tennessee about Michael Ryan." And I am going, "No, do not send them any money. It is a scam." I knew that. I was aware of it because of an AARP article that they ran last year, and I had even gone up to them when I went to visit in May, and I said, "Listen, if you ever get a phone call about my son and he is in jail, it is OK to hang up and let him sit." I am not winning any mother of the year award, but I would know that it was a scam.

My father is acting under the impression that he has this court gag order so he cannot tell anybody, and my whole response when I first found out about it was actually through a posting on Facebook that my nephew, the alleged DUT'er, posted on there, I

am, like, “We are a family, and I do not care if there is a gag order. No judge is going to put you in jail for violating that type of gag order.” You know, no reasonable person. I said, “We are a family, so not only do we get to enjoy the benefits of going through all the good stuff; you get to go through all the bad stuff, too, because that is what a family is.”

As a result of this, speaking of family, there is a piece of property that my parents have owned for four generations. My grandfather purchased this lakefront property when my father was about 15 years old. My father helped put up the little shack that my grandfather made out of pallets or scavenged wood. My parents bought it from them, I think, when I was 15 or 16, so my grandfather has used it. My father has used it. I have used it. My son has used it. This property now has to be sold to make up for that deficit. To me that is the killer, that right there.

Senator HAWLEY. Yes. Thank you for being here today and for being willing to share your family’s story.

Ms. FLAVIN. Thank you for inviting me.

Senator HAWLEY. Thank you.

Attorney General Schmidt, just in the few moments that I have remaining here, you have talked a bit about the Fraud and Abuse Litigation Division that you started in Kansas. Would you just say—talk to us a little bit about some of the lessons learned from that, what you have found that has been successful? You know, what are things that perhaps you did not expect that you have found that have worked well? And what might that say to other law enforcement agents at the local, state, or federal level about tackling this problem?

Mr. SCHMIDT. Sure, Senator. As you well know, and the Committee knows, every state is different in our structure for criminal investigation and prosecution. Kansas is—and I think the plurality or majority of states, but certainly not everybody does it this way, but we are—I do not have original criminal jurisdiction in most cases. There are a few exceptions, Medicaid fraud and a couple of others, but generally speaking, we are—a local DA, local county attorney, they have got to ask us for help and invite us in, and that is relevant to this discussion.

You know, we have limited resources like everybody else. We looked at what we were being asked to help with, and we focused our training capacity building on homicide, child sex crimes, major drug crimes, cartel type stuff or big manufacturing cases, and some public misconduct, corruption type cases that are awkward to handle locally. That is our core. That is where we put our primary resources.

We discovered over time we were being asked with great frequency by county and district attorneys—mostly the county attorneys in the small and mid-size jurisdictions because the big jurisdictions tend to have sufficiently robust resources. We were being asked to help with elder abuse cases, sometimes physical or sexual abuse, but often financial abuse, usually fiduciary or trusted individual abuse, but sometimes just random scam stuff, and we were turning them down because we did not have the resources. We were up to our eyeballs in all those other violent crimes I men-

tioned, and we did not have to take them because they are local, and that is the kind of stuff that leaves you sleepless at night.

We finally figured out, after a lot of trial and error that I will spare you unless you are just fascinated by it, it is impossible, at least in Kansas, for me to put that type of financial crimes, elder abuse crimes capacity in my regular Criminal Division because I will always make the choice to take the next homicide, not the next \$20,000 elder abuse case. That is the right choice, but it leaves you where you started, so we had to spin it off. We broke it out, created a separate Criminal Division dedicated only to financial crimes and elder abuse of any sort, had to figure out how to pay for it, and for us it was not an option at that point in time to just go ask for new money, and I am not even sure that was the right thing.

We persuaded our legislature to overhaul our insurance fraud statutes and our securities fraud statutes and an existing statute on the abuse, neglect, and exploitation of vulnerable populations, pool some money out of those that was already in the system, and require that those cases all get referred to us for prosecution, and my argument was the whole is greater than the sum of the parts. A lot of fraud on elders is insurance related or securities related anyway—not all of it, but a lot, so there is a logic, and you give me that, I will do those cases, and with the capacity that is left we will do more run-of-the-mill elder abuse cases, and we are doing them.

We have been doing this about two years now. We have gone from zero capacity to, I think, I now have four prosecutors and we are trying to add a fifth. I have three sworn officers; we are trying to add another; and I have some other clerical folks, and essentially, we view that unit, that division—it is a criminal prosecution unit, first and foremost, but it is also now the focal point in Kansas in the criminal justice system for driving the conversation, best practices, sharing experiences on the elder abuse side.

We are stealing ideas from Johnson County, Kansas City, and from Wichita that have robust capacity, and we are trying to push them out into the western part of the state and the southeast where our help is more needed, and it has been a very, very good conduit.

Senator HAWLEY. Thank you for your leadership.

Thank you, Madam Chair.

The CHAIRMAN. Thank you very much.

I want to thank all of the witnesses for being here today and for doing an extraordinary job both on the front lines but also in advancing our understanding of this problem.

Officer Simeoni mentioned that telling a story is often the most effective way to connect with people, so in my closing remarks, I want to tell a story.

Probably five or six years ago, I received an e-mail that appeared to be from my nephew. It had the correct e-mail address from him—it turned out his account had been hacked—and it said, “Dear Aunt Susan, I am abroad. I have been robbed and mugged, and all of my money has been taken. My airline ticket is gone, and I cannot get back to the United States. Could you please wire me some money to the Western Union office?”

I guess I am not as kind as Ms. Flavin's parents, fortunately. I thought it was real. It sounded like him. It was from his e-mail address. It sounded just like him. He called me "Aunt Susan," and it was signed, "Love, Mark."

I sent back an e-mail that said, "Mark, you should go to the American embassy for help," rather than, fortunately, wiring him money, because he had mentioned that his passport was stolen as well, and then I started thinking about it. I got a reply that said, "Oh, Aunt Susan, I really need to get home. I have been all beaten up," you know, really laying on a sad story, and then I called his father, and I said, "Do you realize Mark is in trouble?" It turned out Mark was at work and was not overseas on vacation, was not in trouble at all.

I can see, because of my own experience, how easily you could be drawn into the horrible situation that Ms. Flavin's parents experienced, and because I was aware as a public official that the American embassy truly was the right place for him to go for help, I did not wire that money, and frankly, I probably would have called his parents and told them to wire the money, but it shows how clever these criminals are and how relentless they are and how the ability to use the VOIP phone system can make them target people from faraway call centers in India, in other places, and the ability to use the Internet to send e-mails, a common scam that we have seen seniors fall prey to, is they will get an alert on their computer saying that it has been infected with a virus and that if they just provide their password and their other personal information, they will fix it for \$56. Well, of course, there is no virus. Not only are they out the \$56 but they have inadvertently given the con artist access to their bank accounts and to other sensitive information that they have on their computers.

This does require a coordinated approach to prevent seniors from being swindled out of their life savings, and I am so grateful for the work that all of you are doing. There are just too many cases of this happening and causing not only financial harm but embarrassment and shame, and our seniors should not be subjected to that. It is just outrageously wrong.

I thank you all for what you are doing to combat these fraudsters who often are part of international cartels and, more tragically, in many cases are trusted ones known to the seniors. Those are the hardest ones of all, when it is a family member or a trusted guardian or other person, attorney, financial adviser, even a pastor in York County, who rips off a vulnerable senior, so we are determined to be just as relentless as these con artists are in going after this problem.

Finally, I want to respond to the attorney general's comment about the robocalls and the harassment that so many seniors are enduring. I really think that the telecommunications companies have got to step up to the plate. There is new technology that can be deployed, and we are going to have a future hearing in which we bring them in to talk about that technology. We are working with the FCC as well, and they have taken some recent action this past fall, but way more can be done to protect seniors so that they know where the call is coming from, to crack down on the spoofing, to track the call from its origination, the true origination, not what

it says. In one tragic case we had of a senior who was ripped off in Portland, the call said the "Portland Police Department" on the Caller ID, and that is why the senior turned over money for taxes that he did not owe.

We really need to use every tool that we have available, and your being here today is so important in this fight, and I am so grateful to each of and every one of you for being here.

Committee members—we had great attendance today—have until Friday, January 25th, to submit additional questions for the record, so you may find additional questions coming your way. Please do not hesitate, if you have further suggestions for us, to reach out to us. We are really always eager to hear from you. Thank you so much for being here.

Senator Casey?

Senator CASEY. Thank you, Chairman Collins, for having this hearing. I want to thank our witnesses for their testimony. I think it is true of all of us when we say that no one should ever fear answering the telephone. Our loved ones should not have to fear that a con artist might be lurking on the other end of the receiver, and daughters like Erika should not have to fear receiving a call from their parents that a lifetime of savings has been lost to a thief.

The work of this Committee to bring together experts, law enforcement officials, and representatives of the private sector is a step in the right direction, but, of course, we have to do more. That is why I am committed to ensuring that the legislation that Senator Moran and I have becomes law, the Stop Senior Scams Act, and to take other actions as well.

I will continue to work with Chairman Collins, as we have worked together for the last number of years, and other colleagues on this Committee and throughout the Senate to do everything we can to stop these crimes.

Thank you, Madam Chair.

The CHAIRMAN. Thank you very much. I would note that Senator Klobuchar and I also have a bill, and I hope we can merge our bills and get it enacted into law during this Congress.

Again, one final plug for our new Fraud Book. Shortly—well, in a few weeks—we will have thousands of copies available that we can distribute all over the country and in the hopes of helping our seniors.

Thank you very much for your participation. This hearing is now adjourned.

[Whereupon, at 11:31 a.m., the Committee was adjourned.]

APPENDIX

Prepared Witness Statements

**Prepared Statement of Erika Flavin, Daughter of
Couple Scammed by Grandparents Scam,
Willow Grove, Pennsylvania**

I would like to take this opportunity to thank Ranking Member Senator Casey and Madame Chairperson Senator Collins for inviting me to speak regarding the recent scam that was perpetrated on my parents. Before I start, I would just like to give you a bit of background about my parents. My father, Thomas Michael Flavin Jr. was born May 30, 1942 to Thomas Michael Flavin Sr. and Thelma Elizabeth Flavin (nee Pharoah). My grandparents were born around 1920 and were young children when the Great Depression started, and my father was born about six and a half months after Pearl Harbor. My grandfather spent time on Okinawa after the worst of the fighting was over. My grandmother, Tilly, to her friends and family, was a stay at home mother who, along with my grandfather, (affectionately known as Zeke to family and friends) raised five children. My father was the oldest, in order after him, was a brother Timothy, a set of twin sisters, Sally and Susan, and the baby of the family, Joseph. Timothy and Joseph are deceased. By all accounts, my father had a typical blue-collar upbringing in the town he still resides in to this day.

My mother, Elfriede Erika Flavin (nee Glasner) was born December 14, 1940 in Munich, Germany. My mother was one of eight children born of Johanna and Karl Glasner. Her siblings are (in order of birth) Kurt, Johanna, Inge, Lisa, Karl, and twin brothers. Kurt, Karl, Lisa and her twin brothers are all deceased. My mother doesn't talk much about what it was like growing up in post WWII Germany but two stories she has shared indicated a home that contained an abusive, alcoholic father and serious poverty. Her father and her brother Karl committed suicide. Needless to say, her upbringing and life was difficult.

My father graduated high school in 1960 and joined the Army shortly after. He was sent to Munich, Germany and met my mother through his roommate who happened to be dating my aunt Lisa. My mother gave birth to my older brother in 1962 and made her way to America to join my father, all the while pregnant with me. My sister would join our family in 1965.

My parents did a variety of jobs. My father worked as a hospital orderly before he discovered that the sight of blood made him queasy. He also worked as a machinist making snow plows, a production worker in a brewery and last as an administrative clerk for the local Army Reserve Center in town.

During this time, he was also a member of the Army Reserve. My mother worked in a variety of light manufacturing jobs. First making the old mercury thermometers, and then making motors for small hand tools like drills and saws. After she sustained a work-related injury, she was medically retired and did substitute work as a teacher's aide working with special needs children.

Growing up in our house was, what I would consider to be a typical blue-collar upbringing. We always had a roof over our heads, nutritious food, and clothing for all seasons. Our family vacations were simple and most of our summers were spent at my grandparent's cottage, which my parents purchased from them years later.

I first found out about my parents being scammed through a Facebook post from my nephew, who just happened to be "the grandson" in this story.

In a nutshell my parents were contacted by someone claiming to be a lawyer representing their grandson. Their grandson had been involved in a DUI that resulted in an accident. He was being held in a jail in Tennessee and according to this phony lawyer, my nephew was begging my parents to post bail for him so he could get out of jail. When my parents agreed to send the money, the phony lawyer told them they were under a gag order and could not share this information with anyone. When all was said and done, over the course of three phone calls, my parents sent the phony lawyer money for bail and to pay for damages that their grandson had allegedly caused. My parents withdrew cash each time and sent it to one address in Upper Darby, PA and two addresses in New York City. When my parents were contacted a fourth time for money, for a retainer, they told the phony lawyer that there was no more money to give and that he would have to contact my nephew's parents to arrange for money for a retainer. That was the last they heard from him. When they did not get the money back that they had put up for their grandson's bail, they contacted my sister. She quickly called her son and put him and my parents in a three way conversation. Their grandson was exactly where he was supposed to be, studying at his college in Buffalo. It was then that my parents knew they had been scammed.

My parents contacted local law enforcement to file a police report, but they knew that there was no way that they were getting back any of their money.

I would like to tell you now about how this crime has affected my family. Financially, my parents are now out \$80,544. This was the majority of my father's Thrift Saving Plan. This was money that was supposed to be used to help with those necessary life expenses one incurs as they age. For example, hiring someone to come and help them open up the cottage annually, home and vehicle repairs, etc. Between their social security and pension, their day to day living expenses are covered. I'm grateful that they did not take out any loans or second mortgages on their home to pay for the money they sent.

Even sadder still, there is nothing to protect them or anyone from these emotional transactions. As long as they have the collateral and a good credit rating, there is nothing stopping a bank from underwriting these types of loans that could potentially imperil their financial safety. My father had to sign a document at his bank stating that he was making this withdrawal under his own power and wasn't being coerced in any way. My father also spoke to the banker afterwards and the banker admitted that he thought something was going on, but he was not allowed to say anything. I disagree vehemently.

While the banker does not have the right to stop my father from taking out his money, I fail to see how a bank representative going up to someone and stating "We see that you have made some very large cash withdrawals and we are concerned. We would like to take a few minutes to share with you some information about scams that are targeting the senior population". I'm pretty sure that had that happened in my parent's case, my parents would have thought twice about what they were doing.

The emotional wreckage that this whole thing provoked is, to me, far worse. My mother is in a constant state of anxiety and feels that she is a bad grandmother because she failed to recognize that the voice on the other end of the phone was not her grandson but some imposter who was telling them the change in his voice was due to his broken nose from the accident. My father has flashbacks to a time when his younger brother was arrested, and his parents put up their house for bail and had to pay a lawyer \$20-30K to defend him. I can't imagine that was easy money to come by in the early 1960's for a blue-collar family. Both feel utterly humiliated and embarrassed about being taken advantage of like this. The local news station did a short piece about them and they did not want to appear on camera but gave a telephone interview. Even though they are embarrassed and humiliated, they felt that getting this information out there was even more important. I am here because they felt that this story was one that needed to be told in order to create protections for seniors who are targeted by these scams.

I cannot speak as to what exactly went through the minds of us three kids, but I can say that we were all very sad that our parents had to go through this all alone. Remember, they were told that they were under a gag order and they believed it. Their grandson asked them not to tell his mother (their youngest daughter) and they wanted to respect his wishes. I also understand that many people in my parents' generation do not understand the evil that can be wrought via the Internet and social media. In my parent's case, it never occurred to them that the person on the other end of the phone was not who they claimed to be. I was visiting them when the local detective stopped by to take their statement. I overheard my parents explaining what happened and it was all I could do to not scream, "NO, it doesn't happen like that." It breaks my heart that the faith and trust that my parents placed in people was taken advantage of in such a despicable manner. My father, as a hobby, writes fan fiction based on his interest in space travel. He's a pretty good writer but this incident has really traumatized him emotionally. I am attaching his written testimony at the end of this document, typos and all, to show just how much this affected him.

In closing, I would again like to thank Senator Casey for inviting me to tell this story and my parents for giving me permission to share their story in the hope that it can help someone else.

**Prepared Statement of Candice Simeoni,
President and Founder of York County Elder
Abuse Task Force, and Law Enforcement Officer
at the Kennebunk Police Department**

Chairman Collins, Ranking Member Casey, and Members of the Committee: I am humbled and honored to be here before you today. Thank you for the opportunity and for your commitment to protecting older Americans. I am the founder and president of the York County Elder Abuse Task Force in Maine. I am also a law enforcement officer at the Kennebunk Police Department.

I hear heartbreaking stories like Ms. Flavin's parents all the time. In fact, last year I worked on well over 70 elder justice related cases alone ranging from unsuccessful scams to the theft of an entire widowed elders life savings. These cases were across the State of Maine.

I am the founder and president of the York County Elder Abuse Task Force in Maine. I am also a law enforcement officer at the Kennebunk Police Department.

Over my law enforcement career, I have had the opportunity to complete extensive training in the field of Elder Abuse, Domestic Violence and Victim Assistance. I am proud to have been part of numerous advances in combating Elder Abuse over the past 15 years.

By working on criminal matters and spending time with victims, I have established successful community policing approaches in defense of the ever increasing crimes against our elders. My work has been featured on nationally recognized media productions. I sat on the board that guided the nation's first transitional housing facility for victims of elder abuse; Martha's Cottage. I am proud to lead the many successes generated from the York County Elder Abuse Task Force. I have a true passion for being the voice for our vulnerable populations: primarily our elderly and those with disabilities. I have researched and worked proactively in the fight against elder exploitation, speaking nationally about my proactive approaches with challenging elder abuse topics in today's society. Much of my national presentations are based on encouraging the initiation of multidisciplinary teams. I have worked on the front line investigating elder exploitation cases for much of my career; I have seen the eyes of the victims, felt the pain in their words and have carried with me the frustration of my limitation to help.

I started the York County Elder Abuse Task Force in 2005. Once I realize that a multidisciplinary approach was so vital to protect our elders, I knew I had to make it happen. My very first cases were incredibly difficult and I had so many questions. Within my profession, I could not find the answers, so I started visiting others who I thought could help me with the victims in my elder exploitation cases. The majority did not understand what Elder Abuse even was. It became a goal of mine to educate not only myself but as many others as possible. In doing so I built credibility, sparked some passion in others and developed an incredibly solid task force with a group of professionals I could count on when I needed help. I realized that the initial goal for these cases should not be prosecution; yet about preventing further victimization as much as possible and then looking to build a potential case.

The York County Elder Abuse Task Force is a group of committed professionals from many fields, including but not limited to law enforcement, social services, legal services, government employees and financial institutions. We come together to share our knowledge and skills, to serve as a resource to educate the public about elder abuse, and ultimately eliminate it as a problem in York County, Maine. We have developed an unbreakable bond and sense of respect for each of our differing professions. We rely on each other to remedy our cases as affectively as we can and count on our skills to be an asset to victims and witnesses alike. The county of York is our primary focus but making an impact nationally is our goal.

We as a task force have been able to be a part of and developed many innovative and nationally recognized activities surrounding our elders. I have found that talking directly about elder abuse is not a well received topic and so I strive to find indirect ways to approach the topic.

With this in mind we have developed initiatives to include the "Wishing Well". This is a project which grants our local elders a wish of their lifetime. President George W. Bush, Sr. was instrumental in the success of one of our recipients: Project 41. At the time of the nomination: Maine's oldest resident, Millie Rennie 106, dreamed of meeting the former president for as long as she could remember. Together, with collaborative efforts from various people and organizations, we made that dream a reality. One of the most important goals in the fight to eradicate the exploitation of our elders is for professionals and community members to grow a keen understanding of each other and expand our resource pool to reach a common

goal. We find innovative ways to do so. This is an example of an indirect effort with the focus on our elders' best interest to build credibility, trust and hope.

I believe reaching as many facets of our community is vital in advancing ahead of the exploitation of our elders. One way we have learned to reach our younger generation is by sponsoring a scholarship for graduating seniors. The project is based on a winning essay involving a theme of elder abuse. This idea has now been used statewide.

The most important goal for my task force is education. We vow to educate ourselves as much as we are able so that we can be an asset to others. The group conducts mobile awareness discussions and presentations throughout the county and state. We coordinate "Senior Safety Road Shows" where we give 30 minute talks on current scams in their particular area. We encourage local law enforcement and town/general assistance representatives to attend with us as we meet residents of their community. Also along the education goal, we have produced a training video for agencies to use in our absence. The video is of an abused elder who tells her story. While she is talking, what she is really thinking/feeling is written on the screen. This piece shows the complexity of these cases and reveals the unspoken real story of one elder's journey.

We host a very successful annual conference focused on the importance of multidisciplinary approaches to elder abuse. We started this event 11 years ago. This, to us, is an example of building credibility and exemplifying the multidisciplinary approach mindset. At this year's annual conference we were pleased to be joined by the newly appointed Elder Justice Coordinator at the US Department of Justice and we distributed copies of this Committee's Fraud Book to the more than 100 attendees.

One last note about education effort is that I instruct the Elder Abuse segment at the Maine Criminal Justice Academy for all cadets that become law enforcement officers in the State of Maine.

I recognized the need for a specialized focus for our elder population the first year I became a law enforcement officer. While dealing with a personal case involving my grandfather, I also recognized the vulnerability of the community I worked in. The York County coastline is inundated with retirees and many elders living alone.

As a matter of fact, according to 2017 US Census data, the State of Maine is still the oldest state in our Nation. The population of Maine over the age of 65 is nearly 20 percent. In Kennebunk, that same population is over 35 percent. With this knowledge, it is our duty to act. We have an obligation to do what we can.

As people live longer, they also face more problems with chronic illness and disabilities. One in four elderly persons live alone and are among the most vulnerable and impoverished groups in Maine. Although many are considered asset rich, they are liquid money poor and are easy victims of scams promising the receipt of large incomes.

The change in the composition of our population since I started my career and the steep number of our elder population has had and will continue to have important implications for our law enforcement community. The number of elderly victims entering the criminal justice system can be expected to increase significantly. We are already falling well behind.

Traditionally, law enforcement has dealt with crime committed by and against a younger population. This population shift and the increase in crime targeted specifically against older persons, requires the development of specialized services to address elderly victims of crime.

Based on statistics gathered by the National Center on Elder Abuse, it is estimated that for each case of elder abuse, neglect, exploitation, or self-neglect reported to authorities, about five more go unreported. That doesn't even include the highest incidence of elder abuse which is financial exploitation.

Current estimates put the overall reporting of financial exploitation at only 1 in 25 cases, suggesting that there may be at least 5 million financial abuse victims each year. Elder abuse has no boundaries.

There are an estimated 5 million victims of elder abuse each year in our Nation; 12,000 of those are believed to be Maine seniors, who are abused often at the hand of their loved ones, the people they trust most in the world. This is a serious underestimate of the problem. As a matter of fact, it is estimated that 84 percent of all elder abuse cases go unreported.

The U.S. Department of Justice publication "The Elder Justice Roadmap" (Connolly, M.T., Brandl, B., & Breckman, R. (2014)) states that experts have reported that knowledge about elder abuse lags as much as two decades behind the fields of child abuse and domestic violence. The need for more research is urgent and it is an area that calls out for a coordinated, systematic approach that includes policy makers, researchers and funders.

In that same publication, it is suggested that financial exploitation causes large economic losses for businesses, families, elders, and government programs. It also increases reliance on federal health care programs such as Medicaid.

Fraud through the mail is fascinating to me, and not in a good way. One piece to the multidisciplinary approach for me has been my work with the US Postal Investigators. I have learned a great deal from them. Seeing international scammers make our domestic elders unknowing vessels of fraud is heartbreaking! Innocent U.S. elders losing everything and taking other unsuspected victims along with them is devastating.

The underreporting is astounding and is immense. The main reason is because victims are often afraid of retaliation; they feel dependent upon the abuser or have grown an admiration of them. I am working on current cases where elders fall victim to the “new best friend”, sometimes they have never even met them. They are “friends” that they have developed over the phone or through the mail. People in positions of power can be very convincing and capitalize on elder’s vulnerabilities. A good example of this is the Maine pastor who is pending trial for exploiting a dependant elder. Through investigating this case and all the others, I gain motivation to do what I can to expose this epidemic even more, to spread more awareness and education. If these victims knew more about Elder Abuse prior to falling victim, could we have saved them from this abuse?

At the end of life, at a time when elders should be receiving gratitude and support for the contributions they have made to their families and their communities, the typical victim of elder abuse is suffering alone, afraid to disclose the shame and disgrace of the abuse and fearful that speaking out will cause an even worse consequence. Four in five abusers are family members. Most are substance abusers. Many snap under the stress of care giving. Whatever the reason, whatever the form of Elder Abuse, it hurts.

A cause of the underreporting of this crime lies among all of us. It is too easy to turn away. The investigations are very time consuming, the resources are sparse and the law protecting this population from crime is not simple to prove.

We need to move forward now with protecting our elders. The State of Maine would be an incredible place to start greater initiatives. Together we could pave the way to being the example for other states to follow. I encourage this committee to consider two strategies that would help professionals like me, help our elders:

(1) Along with reaching out to all elders through education, statute needs to be modified or changed to protect victims even when they don’t believe that they are in fact a victim. With reactive elder abuse, there is little hope of recovery because of the devastating effects of these situations. Those of us on the front line need to be more proactive to inform elders but we also need help lifting the limitations of the current law when we react. Many of the cases that I see stall at the victim themselves. They don’t want to recognize that they are in fact a victim. They can’t comprehend why someone would manipulate them or prey on their innocence. Their abuser is often considered charismatic and comforting; something that some elders haven’t felt in a very long time. The abusers are taking everything; not just financially but also their dignity and independence too. If we do not stop this, perpetrators will find more victims. Our elders are being scammed out of their lifelong homes. They are losing all that they have saved to not only international scam artists but now by domestic ones who have learned tricks from overseas.

If we don’t work together on this level now, we have failed what should be our most respected generation. Think of it as we are rejecting the values taught to us by our elders, the values that define us, have created us ... have protected us ... The tragedy of elder abuse is a reflection upon all of us and the values that define us.

(2) I encourage the development of specialized law enforcement positions in each state. Elder Exploitation Investigation teams, much like Drug Enforcement Agency units with the ability to arrest and see cases from start to finish would be something to seriously consider. Most of these cases cross town lines and involved an incredible amount of foot work before developing a case. Municipal officers are limited by jurisdictions. They are also responsible for working on every type of crime and rarely have opportunities to gather knowledge on isolated crimes, like elder abuse/exploitation. The abuse of our elders is significant and increasing. Even though the statistics are deceiving, they are still devastating.

I suggest that this unit shall be both proactive and reactive. They should be sponsored by their law enforcement agencies (just like the structure of the MDEA) and contracted to the unit. They need to work with multiple organizations and send solid messages to all our residents about the seriousness of their efforts all while ending very strong messages to those who are targeting our elders.

We know that if we remove one side of the crime triangle (ability/opportunity/desire), a crime will not likely be committed, so by removing the 'desire' side will make it collapse. Much like the Hidden Camera project my task force and I developed. If a suspect thinks they will be caught, the desire will likely be diminished. I have found by just posting information about my Hidden Camera project in suspected areas, crime has significantly decreased.

Its time to bring knowledge and new initiatives to the forefront to send a message that this epidemic is not hidden any longer.

I have been working hard in my state for years and I am at a point where I need help at the federal level. I hope we can work toward fighting this "touchy subject"; "The hidden epidemic", so that the statistics do not increase the way they are predicted to.

I am so grateful to be among all of you today and I truly hope you understand the hope you give to not only me but to our elder population. Chairman Collins and Ranking Member Casey have been instrumental in recognizing the importance of tackling this catastrophe. Chairman Collins has been noted in many of the annual conferences that my task force holds, and even contributed a wonderful video keynote in 2017. She gives me hope. This committee also gives me hope. Thank all of you, for your work in publishing the annual Fraud publication. They are available at our conference every year.

George Orwell once made the statement: Democracy isn't about talking pretty or playing paddy cakes all day, it is about telling the truth and the truth is sometimes ugly, often times people do not want to hear it, but we are going to tell it here and we are going to expose the people that feel that can profit from the misery of others and operate in the darkness with immunity.

We will fight this fight with tears, suffering also with facts, statistics and truth and we are going to fight it one battle at a time and we are not going to be intimidated into silence or will we ever turn away".

Again, I thank you and look forward to answering any questions you may have.

**Prepared Statement of the Honorable Derek Schmidt,
Attorney General, State of Kansas, Topeka, KS**

Chairman Collins, Ranking Member Casey and Members of the Committee: Thank you for the invitation to testify before the committee on the ongoing efforts being made by state attorneys general, in conjunction with our federal, state and local partners, to combat the growing problem of elder abuse, particularly from scams and rip-offs. I appreciate and commend the committee for holding this hearing to highlight this work and to further the discussion on what more we can do to strengthen these efforts.

I am the Attorney General for the State of Kansas, a statewide, elected constitutional officer of our state. I have served in this capacity since January 2011. As Kansas attorney general, I have made a priority of building capacity and focusing resources on fraud and abuse investigations and prosecutions, including those involving older Kansans.

Policy of the National Association of Attorneys General

I also am the immediate past president of the National Association of Attorneys General (NAAG), the nonpartisan association that represents all 56 state, territory and District of Columbia attorneys general in the United States. During my year as NAAG president in 2017–2018, I led our Presidential Initiative titled: “Protecting America’s Seniors: Attorneys General United Against Elder Abuse.” As part of that initiative, our organization worked in a bipartisan, or nonpartisan, manner to gather information, hear from experts and practitioners, and help build capacity to prevent and combat elder abuse throughout the country and in our respective jurisdictions. One culmination of the year was a national summit on the subject, which I hosted in Manhattan, Kansas, in April 2018. Information from that summit is available on the NAAG website at <https://www.naag.org/meetings-trainings/video-and-other-av-archive/2018-Presidential-initiative-summit.php>.

Another ongoing outcome from our yearlong focus on elder abuse was the formation of a new committee within NAAG focused on elder justice issues. It is clear the need for this focus will last for years into the future. I am proud to co-chair that committee along with Oregon Attorney General Ellen Rosenblum.

My testimony today will contain references to certain letters, signed by a supermajority of NAAG members, which under our procedures reflect an official policy position of NAAG. Thus, to the extent my testimony today reflects the content of those NAAG letters, it constitutes the views of the National Association of Attorneys General; to the extent I testify to matters outside those letters, my testimony constitutes only my views as Attorney General for the State of Kansas.

Growing Senior Population Requires Added Focus

Between 1900 and 2010, the number of Americans age 65 and older grew from fewer than 5 million to more than 40 million, according to the U.S. Census Bureau. Over the same time, the portion of the population in that age bracket rose from about 3 percent to more than 12 percent. As the baby boomers continue into retirement, roughly 10,000 Americans turn age 65 each day, and that trend is expected to continue for the next decade.

By one estimate, only one in every 24 cases of elder abuse is detected or reported. Despite that underreporting, statistically one in every 10 Americans age 65 or older who lives at home will become a victim of abuse. The types of abuse this includes span the full spectrum from consumer fraud to financial abuse to physical and sexual abuse, all of which can disproportionately target elder victims.

Another pertinent factor, less discussed, is that the median net worth of a U.S. household with at least one resident age 65 or older now exceeds \$240,000—the most of any age group in the United States. Thus, at precisely the time the population of older Americans is growing rapidly, that same population—which includes many members made vulnerable by characteristics and changes often associated with aging—controls more wealth than ever before, so it should not be surprising that fraudsters and scam artists are targeting older Americans more than ever before. They target older Americans for the same reason Willie Sutton robbed banks: Because that’s where the money is.

In our office, we have acknowledged this growing problem by strengthening our resources both to help prevent elder abuse and to investigate and prosecute cases when they occur. In 2016, I reorganized the Kansas attorney general’s office to establish a new Fraud and Abuse Litigation Division that focuses criminal investigation and prosecution resources, in part, on elder abuse. That division houses the

Abuse, Neglect and Exploitation Unit established by the Kansas Legislature and also the prosecution of financial crimes involving insurance or securities. By law, the Fraud and Abuse Litigation Division also coordinates closely with the consumer-protection and Medicaid fraud and abuse enforcement work in the attorney general's office.

On the prevention front, we have increased the educational resources of our office to help make sure Kansans are aware of the types of fraudulent activities that are prevalent. In particular, our Consumer Protection Division offers presentations to community organizations, senior centers and business groups to keep Kansans informed about current scams and fraud schemes. We have also increased our online educational resources through our consumer protection website at www.InYourCornerKansas.org, which offers a user-friendly way to get tips on prevention and how to get help in the unfortunate circumstance when one has become a victim.

Combatting Robocalls

I know the Committee has placed a particular focus for this hearing on frauds that are perpetrated through robocalls, and rightfully so. The plague of robocalls that has exploded in recent years has resulted in a huge surge in complaints being filed with our office, other states' attorneys general offices as well as the federal agencies with jurisdiction. I often have conversations with Kansans who are frustrated with the number of calls they are receiving, despite having their numbers on the Do Not Call Registry.

The unfortunate reality is that these spam callers don't care about the Do Not Call list or any other laws we may pass to try to combat them. The vast majority are located overseas, armed with VOIP technology that allows them to make thousands of calls each day for very little cost. These callers know that they only need to reach a very small percentage of the people they are placing calls to in order to make a profit. An estimated 47.8 billion robocalls were made to Americans in 2018.¹ Like other federal, state and local law enforcement agencies, we continue to investigate bad actors and take enforcement actions—when we can find them, but after-the-fact enforcement alone never will be able to solve this problem because the volume of calls is simply too large. This problem was enabled by technology, which allows robocalls to be placed from halfway around the world into American living rooms at virtually no cost, and it will also require a technological solution.

Already, there are several products on the market that help reduce robocalls. There are a multitude of smartphone apps that allow users to block calls from known robocall numbers. However, these apps are only effective insofar as the caller is not spoofing its caller ID to come from a number that is known to the user, or even in some cases the user's own number.

That is where we believe the new protocols under consideration and implementation by the Federal Communications Commission known by the acronym SHAKEN/STIR may prove to be effective. These protocols provide frameworks that service providers can utilize to authenticate legitimate calls and identify illegally spoofed calls.

In two comment letters to the FCC on the adoption of the proposed regulations to implement these protocols, groups of 30 and 35 state attorneys general, respectively, including myself, have urged their swift adoption by domestic and international service providers. While I doubt this will be a magic bullet that ends the scourge of illegal robocalls, I am hopeful that implementation will move us in the right direction. I have attached to my testimony copies of these two comment letters (Attachments A and B).

Recommendations Going Forward

As we continue working to improve our overall response to the growing problem of the abuse, neglect and exploitation of older Americans, I offer several suggestions for the committee's consideration.

First, on the robocall front, it is imperative that we continue and step-up cooperative efforts to improve the availability and ease-of-use of consumer technology to block unwanted robocalls. SHAKEN/STIR is promising, but it alone will not be the solution. Our National Association of Attorneys General has developed a bipartisan working group that is engaging, on an ongoing basis, with major telecommunications companies to continually advance our efforts on this front. The goals of this working group are:

¹ YouMail Robocall Index, <https://robocallindex.com/history/time>.

- Develop a detailed understanding of what is technologically feasible to minimize unwanted robocalls and illegal telemarketing;
- Engage the major telecom companies to encourage them to expedite the best possible solutions for consumers; and
- Determine whether states should make further recommendations to the FCC.

I recommend these ongoing cooperative efforts continue and, as appropriate, engage all of the key players: federal regulators, state enforcers and the private sector companies that provide the services.

Second, we should strengthen and coordinate our outreach and education efforts. The purpose is to help empower those who work with older Americans, or older Americans themselves, to prevent abuse, neglect and exploitation by knowing what to look for and what to do when they see it. There are many such efforts now underway—so many, in fact, that messaging and advice can be inconsistent, or sometimes contradictory, so coordination is key. In Kansas, we help lead the ongoing education and outreach for preventing elder abuse, neglect and exploitation through our In Your Corner Kansas outreach program, and I am considering adding an employee whose job will be lead this outreach and education.

Moreover, recurring joint federal and state public events focusing on the problem of frauds and scams targeting older Americans can be beneficial by raising the profile of the issue. Last February, I joined then U.S. Attorney General Jeff Sessions, other federal law enforcement leaders, and representatives of victimized older Americans at a news conference at the Department of Justice to announce the largest federal and state enforcement sweep against fraudsters targeting older Americans in history. Future events of this sort could be helpful in sustaining attention on the problem.

Third, while education, outreach and prevention are important, we must not lose sight of the fundamental importance of effective enforcement actions. Nothing gets the attention of those who abuse or exploit older Americans quite like seeing others who do so detected, caught, prosecuted and punished in a meaningful way for their actions.

To that end, I would like to bring to the committee's attention a potential model for stepping up prosecutions using existing resources. Several years, my office partnered with the Kansas City regional office of the Department of Health and Human Services, Office of Inspector General to increase enforcement against criminal home health care fraud in the Medicaid system. The concept was simple: federal investigators at HHS-OIG encounter fraud involving losses small enough that obtaining prosecution by the United States Attorney was difficult or impossible. It is, of course, entirely understandable that U.S. Attorneys must prioritize use of their scarce prosecution resources and naturally focus first on larger cases, but smaller cases are no less important—just smaller.

We partnered with HHS-OIG for their agents to investigate and refer to our office cases with loss amounts less than what the U.S. Attorney chose to prosecute. Our only limitation was that we wanted the cases presented for prosecution in state court under state law, and that was agreeable to all parties. The result of this partnership—we called it “Operation No Show”—was about a dozen cases of home health care fraud successfully prosecuted. These were cases that otherwise would have been detected by federal authorities but never prosecuted in the federal system.

In short, it was a win-win for all involved.

That same model, it seems to me, has promise in addressing fraud and exploitation of older Americans. Federal agencies that encounter such fraud—the Postal Inspection Service, the Secret Service, Homeland Security Investigations, the Federal Bureau of Investigation, just to name a few—should develop standing partnerships with state attorneys general, where appropriate under state law, to obtain state prosecution of crimes against older Americans that otherwise would be unlikely to be prosecuted by federal authorities because of their relatively small size. The key is to institutionalize these relationships and the flow of cases, probably at the regional office level for the federal agencies, not to rely on *ad hoc* referrals.

Fourth, it is clear that our overall capacity to detect, investigate and criminally prosecute fraud and similar crimes against older Americans has not kept pace with the need that is being driven by the growing elder population. Most of this institutional capacity must come from states because that is where most fraud is investigated and prosecuted, but we should continually seek opportunities for federal participation that could make a significant improvement in state capacity.

One such area would be to change federal law in a manner that removes a limitation on the authority of Medicaid Fraud Control Units (MFCUs) to detect, investigate and prosecute patient abuse. Under current law, MFCUs may work to combat fraud against the Medicaid program itself wherever it may occur but may only com-

bat abuse of Medicaid beneficiaries (including fraud committed against patients) when it occurs in a health care facility or board and care facility.

Last year, I testified before the U.S. House Committee on Energy and Commerce, Subcommittee on Health, in support of a bill that was backed by NAAG, to remove this limitation and allow our MFCUs to go after fraud or abuse of Medicaid beneficiaries wherever it occurs. That bipartisan bill, H.R. 3891, sponsored by Rep. Tim Walberg (R-MI) and Rep. Peter Welch (D-VT), was reported out of the House Energy and Commerce Committee by voice vote last September. It has been reintroduced by Reps. Walberg and Welch in this session of Congress as H.R. 233. To date, I am unaware of any Senate companion legislation. Attached for your consideration is my testimony in support of this legislation (Attachment C).

Conclusion

I again thank the committee for holding this hearing and for allowing me to share some information on the work that my colleagues and I are doing to combat elder abuse, including frauds, scams and rip-offs targeting older Americans. As the population of seniors in American continues to grow, we must continue to work together at all levels of government to ensure the resources, authority and coordination necessary to address this growing need are in place.

Thank you for your consideration.

**Prepared Statement of Judith Kozlowski, JD,
Elder Justice Consultant and Subject Matter Expert,
Washington, D.C.**

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

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

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

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

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

Federal, State and Local Cooperation

The Elder Justice Coordinating Council (EJCC), part of the Elder Justice Act (2009), has transformed the work of the Federal Government on issues of elder justice. Established in 2012, this twelve member federal agency council has grown to include new agencies and divisions within member agencies to further expand the reach of the Council's work. The Elder Justice Working Group (EJWG) comprised of staff members from each of the member agencies worked to establish Eight Recommendations adopted by the EJCC as a framework to guide its work and on financial exploitation and to create a more comprehensive and integrated federal approach to the issues of Elder Justice. It has provided a forum for discussion about prioritizing what issues need focus and how member agencies can work together to address them. Since 2012, partnerships across agencies have addressed the issue of financial exploitation and enforcement of financial crimes against older adults. Elder financial exploitation remains the most pervasive and fastest growing form of elder abuse in this country and the world. EJCC members have created the Inter-agency Guidance on Privacy Laws and Reporting Financial Abuse of Older Adults; routinely add substantive content to the Department of Justice's Elder Justice

website, including substantial portions for prosecutors and law enforcement and training.

Elderjustice.gov is now a leading resource in the field of aging. Partnerships with the Corporation for National and Community Service (CNCS), the United States Postal Inspection Service (USPIS), the DOJ and the ACL's resource centers are beginning to work with local TRIADS to more effectively help train advocates and law enforcement address local problems faster and more comprehensively. Agencies also worked together with ACL in the development of the National Adult Maltreatment Reporting System (NAMRS) data base to develop a better picture of elder abuse nationally. Through the EJCC, the Social Security Administration and the Department of Veterans Affairs received support and input to strengthen their representative payee programs and to fight fraud and abuse within those important programs. This year, for the first time, there is an Elder Justice track at CNCS for grantees of its RSVP and Senior Corps programs.

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

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

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

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

The National Association of Attorneys General (NAAG), under the leadership of Kansas Attorney General Derek Schmidt, has been key in building partnerships within states and with the Federal Government. There are long standing state and federal partnerships with State Medicare Fraud Units (MFCU) units in the area of health care fraud, but under Attorney General Schmidt elder abuse and financial fraud cases have greater focus. Some states, like New York and Maryland have a specific Assistant Attorney General assigned to elder affairs, covering cases from consumer concerns to criminal prosecutions.

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

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

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

Education: Raising Awareness About Elder Abuse and Exploitation

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

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

Financial Services

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

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

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

The new FINRA Rules, Rule 4512 that creates a trusted contact form for account holders regardless of age and Rule 2165 that permits a transactional hold by a

broker suspicious of a transaction, are also changing some of the ways the financial industry addresses elder financial fraud. Working with law enforcement, these new rules offer powerful investigative tools. The FINRA Foundation also works with National Center for Victims of Crime on these very issues.

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

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

Technology

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

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

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

Conclusion

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

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

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

Thank you.

Questions for the Record

U.S. Senate Special Committee on Aging
"Fighting Elder Fraud: Progress Made, Work to be Done"
January 16, 2019

Questions for the Record
Candice Simeoni

Senator Jacky Rosen

Question:

According to the 2019 Fraud Book, the top scam reported in Nevada to the Aging Committee's Fraud Hotline in 2018 was the Computer Tech Support Scam. Are there any educational materials available to the public about identifying and preventing computer tech support scams?

Response:

Thank you, Senator Jacky Rosen, for your question. I would also like to thank you for your commitment to making the future for our aging population a priority. I appreciate you sharing your experience as a committed caregiver for your older family members at the hearing. It is truly commendable.

As I explained to you and the committee during my visit in January 2019, my York County Elder Abuse Task Force (YCEATF) has been such a great asset to me in my work throughout my career. I feel strongly that I would not have been as effective with my elder justice cases or my work in general without them.

To answer your question, I have asked the group for input. This is an example of what I would do if I had a question on one of my cases where I wanted more knowledge and direction than what I could offer alone. I am proud to report the following, as a collaborative answer to your question: what educational materials are available to the public about identifying and preventing computer tech support scams:

I have also noted the names of the members that provided response.

**YCEATF Member/Vice President: Karen Connolly, LSW, Financial Abuse Specialist
Team Caseworker DHHS OADS (Dept. of Health and Human Services - Office of Aging
and Disability Services) Adult Protective Services**

AARP Tech Support Scams: “Computer viruses are scary, and scammers exploit this fear to gain access to your personal information. They do this by tricking you into thinking your computer or other device has been compromised, and that you need their help to fix the problem. The Federal Trade Commission notes that some scammers will pretend to be working for trusted or familiar software companies such as Microsoft. They may ask you to give them remote access to your computer, and then charge you for new software downloads, unnecessary repairs, products, or services. They may also install Malware on your computer. If you have been scammed, contact your credit card company to reverse the payment. Take the necessary steps to rid your computer of any damaging malware, too. You can also file a complaint with the Federal Trade Commission, and report the scam to the FBI’s Internet Crime Complaint Center.” Visit www.aarp.org/TechScams FMI.

Report scams to local law enforcement. For help from AARP, call 1-877-908-3360 or visit the AARP Fraud Watch Network at www.aarp.org/fraudwatchnetwork.

**YCEATF Member: Lex Meagher: Senior Vice President, Senior Commercial Credit
Officer Kennebunk Savings Bank**

AARP (in partnership with Microsoft) has a pretty good brochure on this:

http://action.aarp.org/site/DocServer/Avoiding-Tech-Support-Scams_2017.pdf?jsessionid=00000000.app217a?docID=3442&NONCE_TOKEN=BA020485DCF092DFDE3D775A772B4A1E

YCEATF Member: Meg Tibbetts: Officer Saco Police Department

I enclosed a link to the FCC's page about this and a link for a PDF the better business has.

<https://www.consumer.ftc.gov/articles/0346-tech-support-scams>
<https://www.google.com/url?sa=t&source=web&rct=j&url=https://www.bbb.org/globalassets/article-library/tech-scam-study/bbb-computer-tech-support-study.pdf&ved=2ahUKEwj1jKeUvpjgAhWSmlkKHTNFD74QFjADegQIBRAB&usg=AOvVaw2gJkS9LIJTINY-BJzQcELg>

And I thought this was interesting too. It's a conversation with a tech scammer
<https://www.aarp.org/money/scams-fraud/info-2019/tech-support.html>

YCEATF Member: Ann M. Vigeant, General Manager: East Point Eldercare Services, Inc. dba Home Instead Senior Care

Home Instead has just recently added a new training series Called Protect Seniors online. I am looking forward to rolling it out in 2019 and below are some resources-hope it helps!

*Better Business Bureau

<https://www.bbb.org/>

*Better Business Bureau Scam Tracker

<https://www.bbb.org/scamtracker/us/>

*Association of Certified Fraud Examiners

https://linkprotect.cudasvc.com/url?a=http%3a%2f%2fwww.acfe.com%2f&c=E,1,BhaR0nIijmxZMDmiXYBq0naPRnOZR4c7vbpIHmHh5coLzA_RxLPYnOUjn44PjqcKUjZg2HNOayHdrrnOJ5wm0EEEW4P1CXQ6q-M9dgKu9Vx0.&typo=1

*Forensic fraud expert Tiffany Couch

https://linkprotect.cudasvc.com/url?a=http%3a%2f%2fwww.acuityforensics.com%2fsubs%2fteam.php&c=E,1,woEEsmxzfaIWSInF_xubchn1Fa4ch_pFjqMd_MwxS9Fe2TVOb-5feS3IS3FEGN4_jbtdKvCOSZ_z3JtI5yuUn08dXUCbv1lCAMClBfBcKRYeqJXw.,&typo=1

*AARP Fraud Watch Network

<http://www.aarp.org/money/scams-fraud/fraud-watch-network/>

*AARP Fraud Watch Network Scam-Tracking Map

<https://action.aarp.org/site/SPageNavigator/FraudMap.html>

*Federal Trade Commission Complaint Center <https://www.ftc.gov/faq/consumer-protection/submit-consumer-complaint-ftc>

*Online safety at

<https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fUSA.gov&c=E,1,6SZNXRtvrgKcepH8CzQa581xACNBZ17yRguIOaX1qxp9dRI7UOpBrNIU2bXJEUuXnqbvCLOL8vt5A3H6M-vzOw1Ii6GsWquo2BrTpPs4QpQVOCf8qGfrcqQIS-nW&typo=1>

<https://www.usa.gov/online-safety>

*National Cyber Security Alliance

<https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fstaysafeonline.org%2f&c=E,1,hrLMpwg6qRWuBw-RoP8f9wqiBIcBmHzVXYy0vcMrnroadZ3z-b2HKt7VP14VgD1CDaSDiaiDOg7MBgWQZbpbHg8P6Ukjl-KJJ3Ac9pkXuN92dgrtZBf4U&typo=1>

*Stop. Think. Connect. Public awareness campaign

https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fstaysafeonline.org%2fstop-think-connect%2f&c=E,1,uidXdWUoCeOCU1ghRzYhrBTc0OQ7_dODWT6MOCBN-Plt6K_i2N4mqfi4EqAzI-hezC-bpPLRwPy68ILx6pXEWRpIAylOr2LXH0xfG82Az-iwbw.,&typo=1

*Stop. Think. Connect. Lock Down Your Login

https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.lockdownyourlogin.com%2f&c=E,1,xYhaf0jdUtd-iquqs7If3FH6dqAPXWO5vLZkUERwqC-miQ03F4S26kKMWvS7uQIC5eVJCquM0nvJBH5RLHypbgDL_qCek905spW7g-HdrEhZ0blPg.,&typo=1

*Turn on 2FA (Guide to two-step authentication)

https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.turnon2fa.com%2f&c=E,1,6lmKhnaAtW_Cxgsvj6AqewdLiUEIE1lqqpitWwDltpRRy_P5TUN_IXp7x-G8ILcpmsG2hg1PojTVmVULM4DhCBG4dAuVy91H9ZB-IDyFxPkkdiwR_RAc.&typo=1

YCEATF Member: Linda Bridges Vice President, Security Officer: Kennebunk Savings Bank

The Federal Trade Commission (<https://www.consumer.ftc.gov/>) has several resources available to consumers...both online and in print.

- * 10 things you can do to avoid fraud (brochure)

- * Pass it On series has lots of handy consumer materials on various scams; including Tech Support Scams

As you can see with the above responses, we are a team. We work together on many levels to help each other in our everyday professions and towards our common goal of reducing the exploitation of our older Americans.

Thank you again, sincerely, for your interest and support.

U.S. Senate Special Committee on Aging
"Fighting Elder Fraud: Progress Made, Work to be Done"
January 16, 2019

Questions for the Record
Honorable Derek Schmidt

Senator Richard Blumenthal

Question:

As you mentioned in your testimony, you coordinated with the DOJ for its sweeping federal and state enforcement actions taken against elder fraudsters last February. Can you share why you believe this enforcement is not only helpful to send a message to scammers, but also helpful to elders who may be at risk for getting targeted in the future? Have you seen an increased focus not only in Kansas, but around the country, in combatting elder fraud?

Response:

Enforcement sweeps, such as the one coordinated by the Department of Justice last year, help bring public attention to the issue. It puts scammers on notice that law enforcement officials across the country are diligently working these cases. It also reminds consumers that these bad actors are out there and that they should be on alert.

We have seen an increased focus on combating elder fraud across the country. During my year as president of the National Association of Attorneys General (NAAG), we focused on this issue and found that many people across the country and across multiple disciplines and industries are interested in this issue. The growing population of senior citizens will make this an area of continued focus, which is why I'm pleased that NAAG has created a new standing committee on Elder Justice to coordinate these ongoing efforts.

Question:

In your testimony, you talked about the pervasive impact of robocalls and the much needed cooperation among telecommunication companies to develop SHAKEN/STIR standards to fight scammers in their use of spoofing, VoIP fraud, and other schemes. As you know, the rapid development of call spoofing technology has made it increasingly difficult for law enforcement agencies and the FTC to locate the call originators. How can we better educate and empower consumers against scams, caller-ID spoofing, and especially newer forms of spoofing like "neighbor spoofing"? How can we ensure that educational materials actually get to the especially vulnerable populations—such as the elderly—who are targeted the most?

Response:

Finding the best method of communicating with seniors about scams is a challenge. We have tried many methods of communicating this information in Kansas. This includes our In Your Corner Kansas website, which I discussed during the hearing, as well as sending information out through the local media. Our office sends out a monthly "Consumer Corner" column to newspapers around the State, and I have a monthly segment on one of our local broadcast television stations to share information as well. We also regularly give consumer presentations to community groups, senior centers and other organizations to convey this information. We are also always looking for new ideas and methods to communicate with those who may be most likely to be targeted by scam artists.

Senator Jacky Rosen**Question:**

According to the 2019 Fraud Book, the top scam reported in Nevada to the Aging Committee's Fraud Hotline in 2018 was the Computer Tech Support Scam. Are there any educational materials available to the public about identifying and preventing computer tech support scams?

Response:

As I mentioned in my response above to Sen. Blumenthal's question, we have information about these types of scams available on our consumer protection website at *www.InYourCornerKansas.org*. The Federal Trade Commission also provides educational materials on a wide range of scams and other consumer-protection issues on their website.

U.S. Senate Special Committee on Aging
"Fighting Elder Fraud: Progress Made, Work to be Done"
January 16, 2019

Questions for the Record
Judith Kozlowski

Senator Jacky Rosen

Question:

According to the 2019 Fraud Book, the top scam reported in Nevada to the Aging Committee's Fraud Hotline in 2018 was the Computer Tech Support Scam. Are there any educational materials available to the public about identifying and preventing computer tech support scams?

Response:

I believe that the very best available educational materials to inform and protect consumers from computer tech support scams can be found at the Federal Trade Commission. The link is: www.consumer.ftc.gov/articles/0346-tech-support-scams.

The information provided here is available in English and Spanish. It includes information about how the scam works, what to do if you get a call or a pop-up, what to do if you were scammed, and a special section on Refund Scams.

AARP through its Fraud Watch Network also has some excellent consumer information about tech support scams. It is available at www.aarp.org/aarp/fraud-watch.

There is also a video available through the AARP Fraud Watch Network called Hang Up on Tech Support Scams.

There are also at least three You Tube videos that may be of interest and will inform consumers:

- Tech Support Scams;
- Consumers Warned About Tech Support Phone Scam; and
- Don't Be a Victim of Tech Support Scams.

Statements for the Record

**Testimony of Thomas M. Flavin, Jr. and wife Elfriede Flavin
Effects of a Grandparents Scam**

September 17, 2018: Elfriede received a call from what she thought was our grandson Michael Montgomery.

Michael: Hi grandma, are you busy, can I talk to you?

Elfriede: I am never too busy to talk to you.

Michael: I got into a little bit of trouble, can you help me out?

Elfriede: What kind of trouble? Where are you?

Michael: I am in Tennessee, I went with my friend because his father died from an aortic aneurism. Can you keep a secret?

Elfriede: Yes, what happened?

Michael: They had two beers and they caught me because he had a car accident and took me to jail for DUI. It is going to cost him \$10,000.00 dollars to get out of jail.

Elfriede: You should call your parents.

Michael: I can't, I will tell them when I get home. I have a number for you to call Jade at 931-444-6433.

The connection was terminated at this point. We had a discussion of the matter when I had returned from working at the American Legion. I can say at this time that Elfriede really thought she was talking to her grandson. I had no reason to doubt her.

We called Jade at the given number and were referred to a man identifying himself as Mr. David Thomas, attorney, and a public defender for Michael.

He explained, at what we both thought, in a profession manner, that my relative was involved in a two-car accident that involved personal injuries, and because he was from out of state, the district attorney thought he would be a possible flight risk and wanted him jailed for \$10,000.00 bail money.

As Michael was from out of state Mr. Thomas was having a hard time finding a bail bondsman and only could get a cash only bondsman because Michael had no credit. He also explained that Michael had suffered from a broken nose and required stitches. He also stated that if we agreed to put up our relative's bail we would be under a court ordered gag order and would not be able to discuss his case with anyone except his public defender and us as his only personal contact while our relative was incarcerated. Phone calls were restricted while he was incarcerated and then only in the presence of his attorney.

As we had agreed with Michael to keep his secret we agreed to put up his bail and send the required money. We understood all through the process of the scam that we were putting up bail moneys that would be returned as soon as Michael's case number, K3466-201 was settled.

We were then instructed to forward the money through FedEx, in care of Michael Montgomery, 205 Long Lane, Upper Darby, PA 19082. The money had to be wrapped in carbon paper, to prevent X-ray scanning, and theft by FedEx workers. This was done, and the FedEx receipt faxed through Staples to 1-877-807-5822.

19 September 2018: On 19 September we received a call from Attorney Thomas that there was a complication with Michael's case. The person injured in the vehicle that Michael had hit was driven by a woman who was pregnant and as a result of the accident she had lost the baby.

Our relative was now being held on a possible vehicular homicide charge. Our relative was now possibly facing two to ten years in prison if convicted, and the bail was raised from \$10,000.00 to \$50,000.00. At this point we were essentially horrified, both for my grandson, who was looking for a career as a lawyer, and for the mother with the lost child. Elfriede was in tears.

The situation of having my grandson in jail out of state, faced with a criminal charge and having to share the guilt of a woman losing her child because of an accident, we felt terrible. Being still under a court ordered gag order, we could talk to no one was excruciating.

I personally had flash backs to when my younger brother during the late 1960's was incarcerated. Family history: Back in the late 1960's, New York State passed a helmet law for motorcyclist. Get caught riding without a helmet, you went to court and were fined. If you did not pull over when signaled and they caught you, you faced a flight to avoid prosecution charge. This happened to my brother. A local nightspot was picked by NYS trooper because of it being a place where people who were riding the early light Japanese motorcycles were hanging out at. At closing time my brother, aged 22, went about 15 miles without his helmet, before he was captured while hiding in a used car lot that had no escape exit. During his arrest, one of the troopers stepped into an overgrown culvert and broke his ankle. The result was my brother was charged with assault, over and above the charges of rid-

ding without a helmet and flight to avoid prosecution. My parents had to put their home up for bail and hire an attorney, at least \$20 to 30,000 at the time. My brother went to jail for six months, even though the assault charge was dropped. I felt the fact that as long I had the money to pay the extra bail money, I would pay it. Again, I went to my bank to take out the money where the bank manager had me sign an affidavit that I was not in so many words being taken advantage of. I was unhappy about the situation but said nothing. I was still under a court gag order.

We wrapped the moneys as Mr. Thomas directed for FedEx. During our discussions, he asked me to verify that we had sent the \$10,000.00 because the bondsman said they only found \$5,000.00 in the FedEx envelope. I told him in no uncertain terms that I had put the money in as directed and if they say they have only \$5,000.00, someone else had stolen it, or someone was lying. He responded that he was only checking with me. He knew that insurance would cover the loss. The money was sent via FedEx to: I/C/O Michael R. Montgomery, 635 W 170th ST, Apt 5D, New York, NY 10032, on 19 September 2018 and the FedEx receipt faxed through Staples to 1-877-807-5822.

21 September 2018: On this date we received a call from Mr. Thomas informing us that my relative was now a free man with some conditions. He was not charged with assault; his DUI charge was reduced under the condition that he be enrolled in a DUI counseling program and upon completion of the program his record for the State of Tennessee would be expunged. Mr. Thomas was making arrangements to have him enrolled into a local program either near his home or college. For him to be released he would be required to pay for the damages to both vehicles that his personal vehicle insurance did not cover. That came to \$30,544.00. We would receive back the bail money we had sent within a week to 10 days as soon as the state finished the paperwork. If and when we sent the money for the vehicle damages Mr. Thomas would let Michael stay at his residence and in the morning furnish him a bus ticket to either his home or back to college.

During this process we did receive pleading calls from Michael promising to pay us back no matter what, so I went back to the bank. The \$30,544.00 was sent through FedEx per instructions to: I/C/O Michael R. Montgomery, 108-20 46 Ave, Apt 3A, Corona, Queens, NY 11368.

Then we waited for Michael's return to explain to his parents what had happened. About 28 September 2018 we received a call from Mr. Thomas that he was in a dilemma. Apparently, his law firm accused him of violating his Public Defenders status by him being hired by us as being Michael's personal attorney for the vehicle damage settlement, it was supposed to be a separate case and he needed \$20,000.00 to rectify the situation or his career would be ruined. He didn't have the money and asked that as he successfully defended our relative that we give him the money so he could keep his license. I told him I was sorry, but I would not hire him as an attorney, I only agreed to pay for bail and vehicle damages. If he wanted to be belatedly retained as Michael's attorney, he must call Michael's parents. They would have to be the responsible party. He did not sound happy and that is the last we heard from him.

We then defied the court's gag order and called our daughter to inform her that Michael was in jail in Tennessee and need a lawyer right away. Right away after talking with my daughter, Michael's mother, we found we had been thoroughly scammed.

At first, we felt foolish, how could this happen to us? It seemed so real. We dealt with thoughtful caring people, we thought. Mr. Dave Thomas acted the professional, he obviously knew more about court procedures than we did.

It seemed more people, including my own children knew about the Grandparent scam than we did. We watch Dr. Phil and knew about African love scams and were familiar with some investments scams, but if there was a scam of grandparents involving their loved ones, it wasn't anything that we recollected during the whole process of being scammed.

I am a Department of the Army civilian retiree after twenty-five years of service with the Army Reserve. The thrift savings plan that I paid with matching federal money has been effectively lost.

We are bent but we are not broken, we will survive this incident. In a way it feels like a sad death in the family. If you are not busy thoughts creep into your head, why, how could people do this to other people, I gave away \$80,544.00, how could I be so stupid. An incident or an innocent conversation can set off feeling of sadness bordering on depression. You have to fight it and not let it get you down. We realize we will never see the money. We still have a mortgage, two 10-year-old cars, two cats and our family.

**The Honorable Derek Schmidt, Attorney General,
State of Kansas, Topeka, Kansas**

Attachments A and B

Two comment letters to the FCC to end illegal robocalls, signed by 30 and 35 state attorneys general, respectively.

Attachment C

Testimony in Support of H.R. 3891, presented to House Committee on Energy and Commerce, Subcommittee on Health, September 5, 2018.

Attachment A

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of:)	
)	
Advanced Methods to Target and Eliminate)	CG Docket No. 17-59
Unlawful Robocalls)	
)	

COMMENT OF 30 STATE ATTORNEYS GENERAL

Illegal robocalls often scam consumers by hiding behind fake or “spoofed” caller ID numbers.¹ The Federal Communications Commission (FCC) has identified robocalls as the “number one consumer complaint,”² and consumers frequently complain about these calls to our offices as well. By removing regulatory roadblocks and collaborating with the telecommunications industry, the FCC can address the illegal robocall issue.³ The undersigned attorneys general strongly support the FCC’s adoption of rules to help eliminate unlawful robocalls.

The number of telephone scam complaints has grown exponentially in recent years. For example, in 2014, the Arizona Attorney General’s Office (AZAG) received 117 complaints about telephone scams. In 2016, the AZAG received 1,151 calls about telephone scams—nearly a 1,000 percent rise in just two years.⁴ Consumers find these calls unwanted and annoying, but

¹ Federal Trade Commission, *Robocalls*, Consumer Information, <https://www.consumer.ftc.gov/features/feature-0025-robocalls> (last visited June 7, 2017).

² *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Notice of Proposed Rulemaking, 17 FCC 24, 26 (2017).

³ *Id.* at 5 *citing* Robocall Strike Force, Robocall Strike Force Report at 1 (2016), *available at* <https://transition.fcc.gov/cgb/RobocallStrike-Force-Final-Report.pdf> (“Strike Force Report”).

⁴ Other undersigned attorneys general have seen a similar rise in complaints. For example, in 2012, the Oregon Attorney General’s Office (ORAG) received approximately 1,800 complaints or contacts about telephone scams. In 2016, the ORAG received approximately 5,300 complaints or contacts about telephone scams, with roughly 3,500 of those alleging aggressive

more importantly, robocalls perpetrated by scammers put consumers at risk of identity theft and financial loss.⁵ One common form of unlawful robocall is the IRS scam. The AZAG reports that this scam was the impetus for over 600 complaints to the Arizona Attorney General's Office in the past three years. Consumers received threatening calls and robocalls from scammers posing as IRS agents, demanding payments immediately.⁶ These scammers often spoofed legitimate IRS numbers, which helped trick many consumers into giving scammers thousands or even tens of thousands of dollars. By stopping this type of spoofing, the FCC can cut down on the efficacy of such scams, likely saving consumers across the country millions of dollars.

In addition to spoofing legitimate numbers, scammers also use non-existent or invalid numbers to prevent consumers from identifying the caller. Even if consumers complain, when law enforcement investigates the number, the evidentiary trail turns out to be a dead end.

The FCC's plan would help address both of these growing menaces. The FCC is presenting a sensible plan to stop "certain types of calls that seem to be such clear violations of

calls related to the IRS scam, or related to other aggressive false "monies owed" type scams. The Pennsylvania Office of Attorney General (PA OAG) reports that its Bureau of Consumer Protection received approximately 1,368 telephone scam complaints in 2016, representing thirty percent of all its Do-Not-Call complaints for that calendar year. In addition, the PA OAG reports that in 2016, its Bureau of Consumer Protection received over 500 consumer complaints alleging calls affiliated with the IRS scam. In 2016, Montana's Office of Consumer Protection fielded 2,867 complaints/inquiries regarding telephone scams, a 22 percent increase from 2015. Most of the consumer complaints involved spoofed telephone numbers. In 2014, the Florida Attorney General's Office received 7,756 complaints and inquiries related to telephone scams, including 1,272 that dealt with IRS scams. That number grew to 8,072 in 2016, with 2,785 of those involving IRS scams. In Vermont, the Office of the Attorney General experienced a nearly 25% increase in complaints or reports about various scams—most of them telephone scams—between 2015 and 2016 (from 5,896 complaints to 7,364 complaints), according to its Consumer Assistance Program. In 2016, Indiana OAG received 15,883 complaints about unwanted calls. Approximately 60% of those complaints alleged robocalls.

⁵ *Advanced Methods to Target and Eliminate Unlawful Robocalls* at 1.

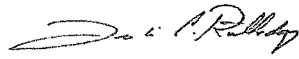
⁶ *Advanced Methods to Target and Eliminate Unlawful Robocalls* at 1–2.

the [federal] statute that they could be blocked.”⁷ There is little risk in allowing providers to block calls from the following: (1) an assigned number when the number’s subscriber requests calls from that number to be blocked, (2) invalid numbers, (3) numbers not allocated to a provider, and (4) numbers that are allocated to a provider but not assigned to a subscriber.⁸ Simply put, legitimate businesses do not need to use any of these methods to contact consumers. As such, allowing providers to block these calls would stymie scammers without burdening businesses.

Of course, the proposed rules will not block every illegal robocall. Perpetrators are sophisticated; robocalls can come from overseas, making it difficult to locate and prosecute the perpetrators, and callers within the U.S. may develop new methods to circumvent the rules.⁹ Nonetheless, the rules are a step in a positive direction for the FCC and for consumers, as they will reduce the ability of scammers to spoof real and fake numbers, and increase the ability of law enforcement to track down scammers. The FCC should thus implement the rules proposed in the Notice and help protect consumers from future scams.



MARK BRNOVICH
Attorney General of Arizona



LESLIE RUTLEDGE
Attorney General of Arkansas

⁷ *Id.* at 30.

⁸ *Id.* at 6–8.

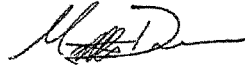
⁹ *Id.* at 10.

A handwritten signature in black ink, appearing to read 'Xavier Becerra'.

XAVIER BECERRA
Attorney General of California

A handwritten signature in black ink, appearing to read 'George Jepsen'.

GEORGE JEPSEN
Attorney General of Connecticut

A handwritten signature in black ink, appearing to read 'Matt Denn'.

MATT DENN
Attorney General of Delaware

A handwritten signature in black ink, appearing to read 'Pam Bondi'.

PAM BONDI
Attorney General of Florida

A handwritten signature in black ink, appearing to read 'Christopher M. Carr'.

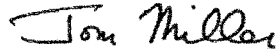
CHRISTOPHER M. CARR
Attorney General of Georgia

A handwritten signature in black ink, appearing to read 'Lisa Madigan'.

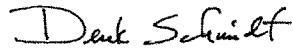
LISA MADIGAN
Attorney General of Illinois

A handwritten signature in black ink, appearing to read 'Curtis Hill'.

CURTIS HILL
Attorney General of Indiana



TOM MILLER
Attorney General of Iowa



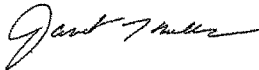
DEREK SCHMIDT
Attorney General of Kansas



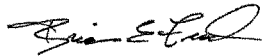
ANDY BESHEAR
Attorney General of Kentucky



JEFF LANDRY
Attorney General of Louisiana



JANET T. MILLS
Attorney General of Maine



BRIAN E. FROSH
Attorney General of Maryland



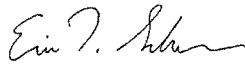
TIMOTHY C. FOX
Attorney General of Montana



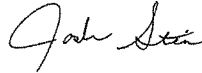
DOUGLAS J. PETERSON
Attorney General of Nebraska



ADAM LAXALT
Attorney General of Nevada



ERIC T. SCHNEIDERMAN
Attorney General of New York



JOSH STEIN
Attorney General of North Carolina



WAYNE STENEHJEM
Attorney General of North Dakota



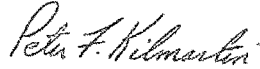
MIKE HUNTER
Attorney General of Oklahoma



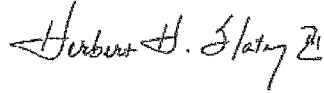
ELLEN F. ROSENBLUM
Attorney General of Oregon



JOSH SHAPIRO
Attorney General of Pennsylvania



PETER F. KILMARTIN
Attorney General of Rhode Island



HERBERT H. SLATTERY III
Attorney General of Tennessee



KEN PAXTON
Attorney General of Texas



SEAN D. REYES
Attorney General of Utah



THOMAS J. DONOVAN, JR.
Attorney General of Vermont



BRAD D. SCHIMEL
Attorney General of Wisconsin

Attachment B

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

Advanced Methods to Target and Eliminate
Unlawful Robocalls

)
)
)
)

CG Docket No. 17-59

REPLY COMMENTS OF THIRTY-FIVE (35) STATE ATTORNEYS GENERAL

The undersigned State Attorneys General¹ (“State AGs”) submit these Reply Comments in response to the public notice issued by the Consumer and Governmental Affairs Bureau (“Bureau”), seeking to refresh the record on how the Federal Communications Commission (“FCC”) can further empower service providers to block illegal calls.² The State AGs have reviewed the comments submitted by voice service providers, consumer advocacy groups, consumers, private businesses, and other interested parties in the industry. In reply, the State AGs continue to support the FCC’s efforts to identify new ways to enable providers to block illegal calls before they ever reach consumers.

In the future, the State AGs encourage the FCC to adopt new rules authorizing voice service providers to block illegally spoofed³ calls beyond what is currently authorized in the 2017 Call Blocking Order.⁴ Likewise, we encourage all providers to use all available tools to accurately identify illegal calls, including continually monitoring call traffic patterns⁵ to develop and refine criteria for identifying such calls; and continually updating and developing technology in the event current systems and solutions become obsolete. In addition, providers who offer blocking or labeling tools should distribute to consumers – especially seniors – adequate information about the availability of these tools, how they function, and what effect they can have.

The State AGs intend to continue our fight against illegal robocalls and abusive calling practices on the front lines – by providing public education and outreach, receiving and responding to individual consumer complaints, and taking appropriate enforcement action when possible. We

will continue to do everything possible to track down and hold accountable those who engage in illegal calling practices. The State AGs recognize that no single tool or method will solve this serious consumer problem. Therefore, we are committed to continuing our multi-pronged attack of working closely with all interested parties, including our federal counterparts and members of the telecommunications industry.

A. Law Enforcement Alone Will Not Solve the Robocall Problem

Our respective Consumer Protection Offices receive and respond to tens of thousands of consumer complaints each year concerning the disruptive and abusive nature of these calls.⁶ We then attempt to identify and target potential wrongdoers. However, it is common for our efforts to be frustrated, as these types of calls travel through a maze of smaller providers. If the calling party is found at all, he or she is most often located overseas, making enforcement difficult. Due to the nature of this problem, investigations and enforcement actions cannot serve as the sole solution.

Virtually anyone can send millions of illegal robocalls and frustrate law enforcement with just a computer, inexpensive software (i.e., auto-dialer and spoofing programs), and an internet connection. Because “technology enables a cheap and scalable model,”⁷ illegal robocalls remain the “number one consumer complaint”⁸ for many of our Consumer Protection Offices, the FCC, and the Federal Trade Commission (“FTC”). Despite the 2017 Call Blocking Order, which increased providers’ ability to block illegally spoofed calls, the robocall problem appears to be getting worse.

B. The Impact to Consumers Is Increasingly Widespread and Deleterious

Based on available data, the number of illegal robocalls, and corresponding consumer complaints,⁹ increases every year. Last year, reports reflect that American landline and wireless subscribers received an estimated 30.5 billion illegal robocalls.¹⁰ This figure is up from the 2016 estimate of 29.3 billion illegal robocalls.¹¹ By the end of this year, the industry expects a 33%

increase, meaning spammers and scammers are going to disrupt our children's homework, our dinner, our relaxation time, and even our sleep, to the tune of over 40 billion illegal robocalls.¹²

Non-consensual robocalling in the telemarketing context is abusive and unlawful in and of itself.¹³ Many illegal robocallers, however, simply do not care about the law and have a more insidious agenda – casting a net of illegal robocalls to ensnare vulnerable victims in scams to steal money or sensitive, personal information. In fact, reports indicate, of the 4 billion illegal robocalls made just this past August, 1.8 billion were associated with a scam.¹⁴ Strikingly, criminals are estimated to have stolen 9.5 billion dollars from consumers through phone scams in 2017.¹⁵ If reports are accurate, scammers could potentially take even more in 2018.

Sadly, the fraud perpetrated by those employing illegal robocalls and other abusive calling practices falls heavily upon the shoulders of our respective senior populations. One year ago, on October 4, 2017, Pennsylvania Attorney General Josh Shapiro testified before the United States Special Committee on Aging with respect to protecting the elderly from financial exploitation.¹⁶ In his testimony before the Committee, and in a letter to the FCC sent shortly thereafter, Attorney General Shapiro highlighted the urgent need for the FCC to combat illegal robocalls, beginning with adopting rules allowing providers to block specific calls used in spoofing.¹⁷

C. Fraudsters Evolved to Evade the 2017 Call Blocking Order

On July 6, 2017, a bipartisan coalition of 30 state attorneys general submitted a comment, encouraging the FCC to adopt rules allowing providers to block calls from numbers on do-not-originate lists and from numbers that are invalid, unallocated, or unused.¹⁸ On November 17, 2017, the FCC released the 2017 Call Blocking Order, wherein it adopted rules allowing providers to block calls from these types of phone numbers, as they are used in spoofing. However, all concerned parties knew the new rules would not act as a 'cure-all' to the robocall epidemic. Soon after the 2017 Call Blocking Order was released, forty (40) state attorneys general formed the bipartisan, Robocall

Technologies Working Group in order to work together, and with providers, to understand the technological advancements, as well as the barriers, in combatting fraudsters' evolving methods.

One specific method which has evolved recently is a form of illegal spoofing called 'neighbor spoofing.'¹⁹ A neighbor-spoofed call will commonly appear on a consumer's caller ID with the same area code and local exchange as the consumer to increase the likelihood he/she will answer the call.²⁰ In addition, consumers have recently reported receiving calls where *their own phone numbers* appeared on their caller ID. A consumer who answered one such call reported the caller attempted to trick her by saying he was with the phone company and required personal information to verify the account, claiming it had been hacked.²¹ Scams like this cannot be tolerated. We can and must do more to block illegally spoofed calls before they ever reach consumers. The State AGs encourage the FCC to adopt rules authorizing providers to block these and other kinds of illegally spoofed calls.

D. STIR/SHAKEN Is Welcome Progress

Those concerned with battling illegal robocalls and illegal spoofing have been waiting for voice service providers to fully implement the STIR (Secure Telephone Intity Revisited) and SHAKEN (Secure Handling of Asserted information using toKENs)²² protocols – frameworks that service providers can utilize to authenticate legitimate calls and identify illegally spoofed calls. The State AGs see the industry is making progress concerning this initiative. On September 13, 2018, the Alliance for Telecommunications Industry Solutions ("ATIS")²³ filed a letter²⁴ at this docket announcing the launch of the Secure Telephone Identity Governance Authority ("STI-GA"), which is designed to ensure the integrity of the STIR/SHAKEN protocols. With the launch of the Governance Authority, the remaining protocols can be established. Reports indicate STIR/SHAKEN will be operational by some carriers throughout next year.²⁵

We strongly recommend the FCC explore ways to encourage all domestic and international service providers to aggressively implement STIR/SHAKEN. The capability to identify illegally

spoofed, scam calls will increase in proportion to the number of providers who adopt the STIR/SHAKEN protocols.²⁶ This is a positive step forward and we hope that as the implementation of STIR/SHAKEN continues to progress, the relevant participants, including the Governance Authority, will keep consumer organizations and the State AGs fully informed of their progress.

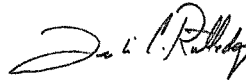
E. Conclusion – The Government and Industry Must Continue to Collaborate and Innovate

The pervasiveness of illegal robocalls and scam calls is a problem that cannot be solved by any one method, including the STIR/SHAKEN initiative. We, the undersigned State Attorneys General, need to continue to work together and in collaboration with our federal counterparts and the telecommunications industry to identify and implement new methods to combat the proliferation of these illegal acts. Also, we encourage the FCC to implement additional reforms, as necessary, to respond to technological advances that make illegal robocalls and illegal spoofing such a difficult problem to solve. Only by working together, and utilizing every tool at our disposal, can we hope to eradicate this noxious intrusion on consumers' lives.

BY THIRTY-FIVE (35) STATE ATTORNEYS GENERAL:



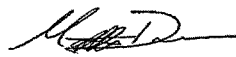
MARK BRNOVICH
Attorney General of Arizona



LESLIE RUTLEDGE
Attorney General of Arkansas



GEORGE JEPSEN
Attorney General of Connecticut



MATTHEW P. DENN
Attorney General of Delaware



KARL A. RACINE
Attorney General of the District of Columbia



PAM BONDI
Attorney General of Florida



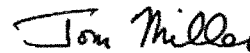
STEPHEN H. LEVINS
Executive Director of Hawaii
Office of Consumer Protection



LISA MADIGAN
Attorney General of Illinois



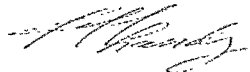
CURTIS HILL
Attorney General of Indiana



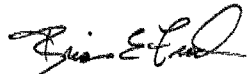
THOMAS J. MILLER
Attorney General of Iowa




DEREK SCHMIDT
Attorney General of Kansas



JEFF LANDRY
Attorney General of Louisiana



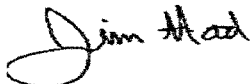
BRIAN E. FROSH
Attorney General of Maryland



MAURA HEALEY
Attorney General of Massachusetts



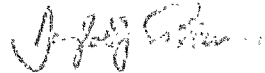
LORI SWANSON
Attorney General of Minnesota



JIM HOOD
Attorney General of Mississippi



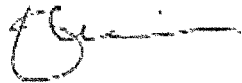
TIM FOX
Attorney General of Montana



DOUGLAS J. PETERSON
Attorney General of Nebraska



ADAM PAUL LAXALT
Attorney General of Nevada



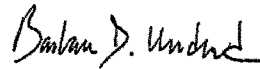
GORDON MACDONALD
Attorney General of New Hampshire



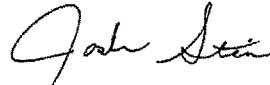
GURBIR S. GREWAL
Attorney General of New Jersey



HECTOR BALDERAS
Attorney General of New Mexico



BARBARA D. UNDERWOOD
Attorney General of New York



JOSH STEIN
Attorney General of North Carolina



WAYNE STENEHIEM
Attorney General of North Dakota



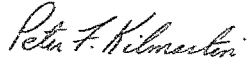
MIKE HUNTER
Attorney General of Oklahoma



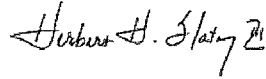
ELLEN F. ROSENBLUM
Attorney General of Oregon



JOSH SHAPIRO
Attorney General of Pennsylvania



PETER F. KILMARTIN
Attorney General of Rhode Island



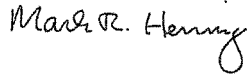
HERBERT H. SLATTERY III
Attorney General of Tennessee



SEAN D. REYES
Attorney General of Utah
Counsel for the State of Utah and
Utah Division of Consumer Protection



THOMAS J. DONOVAN, JR.
Attorney General of Vermont



MARK R. HERRING
Attorney General of Virginia



BOB FERGUSON
Attorney General of Washington



BRAD D. SCHIMEL
Attorney General of Wisconsin

DATE: OCTOBER 8, 2018

¹ Hawaii is represented in this matter by its Office of Consumer Protection, an agency which is not part of the state Attorney General's Office, but which is statutorily authorized to undertake consumer protection functions, including legal representation of the State of Hawaii. For simplicity purposes, the entire group will be referred to as the "Attorneys General" or individually as "Attorney General" and the designations, as they pertain to Hawaii, refer to the Executive Director of the State of Hawaii's Office of Consumer Protection.

² *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Public Notice, CG Docket No. 17-59, August 10, 2018, Bureau Seeks to Refresh the Record ("Public Notice").

³ Caller ID spoofing is when a caller deliberately falsifies the information transmitted to your caller ID display to disguise their identity. See <https://www.fcc.gov/consumers/guides/spoofing-and-caller-id>.

⁴ *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Report and Order and Further Notice of Proposed Rulemaking, CG Docket No. 17-59, November 17, 2017 (“2017 Call Blocking Order”) (FCC adopted rules allowing providers to block calls from phone numbers on a do-not-originate (“DNO”) list and calls from invalid, unallocated, or unused numbers).

⁵ Here we are referring to the patterns that emerge from the analyzing of call data, including but not limited to, call completion rates, average call durations, call volumes, times at which calls are placed, and sequential dialing patterns.

⁶ See *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Comment of 30 State Attorneys General, CG Docket No. 17-59, filed July 6, 2017, pg. 1, 2, footnote 4 (number of consumer complaints from a sampling of States who signed on to the comment).

⁷ See <https://www.consumer.ftc.gov/articles/0381-how-does-robocall-work-infographic>.

⁸ See *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Notice of Proposed Rulemaking and Notice of Inquiry, CG Docket No. 17-59, March 23, 2017, Statement of Chairman Ajit Pai. See also FTC Do Not Call Registry Data Book for Fiscal Year 2017 (over 4.5 million robocall complaints as opposed to approximately 2.5 million “live caller” complaints).

⁹ See <https://www.ftc.gov/policy/reports/policy-reports/commission-staff-reports/national-do-not-call-registry-data-book-fy-2>. In 2014, the FTC received approximately 1.7 million illegal robocall complaints. In 2015, the number of complaints rose to over 2.1 million. In 2016, the number climbed to approximately 3.4 million complaints. Last year, the FTC received 4.5 million illegal robocall complaints.

¹⁰ See <https://www.cbsnews.com/news/how-to-stop-robocalls-those-annoying-automated-phone-calls-are-about-to-get-worse/>. See also <https://www.prnewswire.com/news-releases/robocall-epidemic-breaks-annual-record-with-305-billion-calls-in-2017-300580916.html>.

¹¹ See <https://www.prnewswire.com/news-releases/robocall-epidemic-breaks-annual-record-with-305-billion-calls-in-2017-300580916.html>.

¹² *Id*

¹³ 16 C.F.R. § 310.4(b)(1)(v) (abusive telemarketing act or practice, and violation of *Telemarketing Sales Rule*, to initiate an outbound telephone call that delivers a prerecorded message).

¹⁴ See <https://www.cbsnews.com/news/how-to-stop-robocalls-those-annoying-automated-phone-calls-are-about-to-get-worse/>.

¹⁵ See <https://blog.truecaller.com/2017/04/19/truecaller-us-spam-report-2017/>.

¹⁶ Attorney General Shapiro shared a story of a Pennsylvania senior who fell victim to the “IRS scam.” In the scammer’s initial call to the senior, the caller ID displayed a number for the Pennsylvania State Police. The spoofing of government agency phone numbers to facilitate scams is all too common. See for example <https://www.fbi.gov/contact-us/field-offices/philadelphia/news/press-releases/phone-scam-uses-threats-spoofed-fbi-phone-numbers>.

¹⁷ 2017 Call Blocking Order, pg. 1, footnote 3 (Noting Attorney General Shapiro’s letter encouraging the FCC to move forward quickly to implement the rules).

¹⁸ See *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Comment of 30 State Attorneys General, CG Docket No. 17-59, filed July 6, 2017.

¹⁹ <https://www.fcc.gov/consumers/guides/spoofing-and-caller-id>.

²⁰ In 2017, reports of caller ID spoofing, as well as neighbor spoofing have increased from previous years. See *Biennial Report to Congress, Under the Do Not Call Registry Fee Extension Act of 2007*, FTC, December 2017.

²¹ See <https://philadelphia.cbslocal.com/2018/04/11/scam-own-phone-number-calls/>.

²² See <https://transnexus.com/whitepapers/understanding-stir-shaken/>. See also Robocall Strike Force Report, October 26, 2016, pg. 5, (“The premise of STIR/SHAKEN is that telephone calls and the telephone numbers associated with the calls, when they are originated in a service provider network can be authoritatively and cryptographically signed by the authorized service provider, so that as the telephone call is received by the terminating service provider, the information can be verified and trusted. This set of industry standards is intended, as it is more fully deployed into the VoIP based telephone network, to provide a basis for verifying calls, classifying calls, and facilitating the ability to trust caller identity end to end. Illegitimate actors can then be more easily and quickly identified with the hope that telephone fraud is reduced significantly. While industry members believe that the SHAKEN framework holds considerable promise for repressing the presence of robocalling in the communications ecosystem, the Strike Force recognizes that the nature of bad actors and their tactics to harass consumers with unwanted robocalls and fraudulent, spoofed Caller IDs are ever changing and adapting. Further, carriers are at various stages of transitioning to IP-enabled networks and SHAKEN fundamentally depends upon IP network technologies.”)

²³ See <https://www.atis.org/> (“ATIS is a forum where the information and technology companies convene to find solutions to...shared challenges.”).

²⁴ See *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59, Letter, ATIS, September 13, 2018.

²⁵ See *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59, *ex parte filings*, Verizon (5/7/18), Comcast (5/18/18), AT&T (5/16/18), and T-Mobile (5/24/18).

²⁶ See *Advanced Methods to Target and Eliminate Unlawful Robocalls*, CG Docket No. 17-59, Comments of T-Mobile USA, Inc., September 24, 2018, pg. 4.



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

DEREK SCHMIDT
ATTORNEY GENERAL

Attachment C

MEMORIAL HALL
120 SW 10TH AVE., 2ND FLOOR
TOPEKA, KS 66612-1597
(785) 296-2215 • FAX (785) 296-6296
WWW.AG.KS.GOV

Testimony in Support of H.R. 3891

Presented to House Committee on Energy and Commerce

Subcommittee on Health

By Kansas Attorney General Derek Schmidt

September 5, 2018

Chairman Burgess, Ranking Member Green, and Members of the Subcommittee:

Thank you for this opportunity to testify in support of H.R. 3891, legislation that would eliminate an outdated limitation in federal law, thereby expanding the authority of Medicaid Fraud Control Units (MFCUs) to detect, investigate and prosecute Medicaid patient abuse in non-institutional settings. I appreciate and commend the work by Representatives Walberg and Welch to bring this important legislation forward.

I am the Attorney General for the State of Kansas, a statewide, elected constitutional officer of our state. I have served in this capacity since January 2011. As Kansas attorney general, I have made a priority of building capacity and focusing resources on fraud and abuse investigations and prosecutions, including but not limited to fraud and abuse in the Medicaid program.

Policy of the National Association of Attorneys General

I also am the immediate past president of the National Association of Attorneys General (NAAG), the nonpartisan association that represents all 56 state, territory and District of Columbia attorneys general in the United States. During my year as NAAG president in 2017-2018, I led our Presidential Initiative

titled: "Protecting America's Seniors: Attorneys General United Against Elder Abuse." As part of that initiative, our organization worked in a bipartisan, or nonpartisan, manner to gather information, hear from experts and practitioners, and help build capacity to prevent and combat elder abuse throughout the country and in our respective jurisdictions.

One specific action that came from our NAAG initiative was the endorsement from our organization for H.R. 3891 and its proposed expansion of authority to allow MFCUs to detect, investigate and prosecute Medicaid patient abuse in non-institutional settings. To that end, our organization authored two letters: A May 9, 2017, letter to then-Health and Human Services Secretary Tom Price expressing support for the policy of expanded MFCU authority and a March 28, 2018, letter to Representatives Walberg and Welch specifically supporting H.R. 3891. The first letter was signed by 38 attorneys general and the second by 49. Both were bipartisan. Under our NAAG procedures, both letters reflect the official policy statements of NAAG. Both are attached as exhibits to this testimony, and I incorporate them by reference as part of my testimony so that NAAG policy on this subject may be fully presented to the Committee. Also attached are the July 17, 2017, response from Secretary Price and the August 7, 2017, response from Health and Human Services Inspector General Daniel R. Levinson.

Thus, to the extent my testimony today reflects the content of those NAAG letters, it constitutes the views of the National Association of Attorneys General; to the extent I testify to matters outside those two letters, my testimony constitutes only my views as Attorney General for the State of Kansas.

The Value of MFCUs

The Social Security Act requires that every state, as a condition of participation in the Medicaid program, either maintain a MFCU or obtain a waiver. All but one state maintains a MFCU. States choose to situate their MFCU in various positions within state government. Forty-four MFCUs are housed in the state attorney general's office; Kansas is one of those states. Five states – Connecticut, Illinois, Iowa, Tennessee, and West Virginia – and the District of Columbia house the MFCU in another state agency.

North Dakota has received a waiver from the federal government and does not have a MFCU. None of the five territories has established a MFCU.

Our MFCU has both civil and criminal jurisdiction. When appropriate, we seek both injunctive and monetary relief in instances of civil false claims to the Medicaid program or other unlawfully made payments. We also investigate and prosecute criminal Medicaid fraud and patient abuse. While our MFCU attorneys occasionally work in federal court enforcing federal law as cross-designated Special Assistant United States Attorneys, most of our work is in state court enforcing state laws against Medicaid fraud and patient abuse. Because of the joint federal-state nature of the Medicaid program, we work closely with the United States Attorney and with appropriate federal law enforcement agencies. Our federal-state working relationship is excellent.

The size of MFCUs varies substantially by state, with the overall size continually overseen and subject to approval by the Department of Health and Human Services-Office of Inspector General (HHS-OIG). In Kansas, our MFCU employs four attorneys, four fiscal analysts, one nurse investigator, one legal assistant, a special agent-in-charge, and six special agents. The special agent-in-charge and the special agents all are sworn law enforcement officers. The total annual budget for the Kansas MFCU is approximately \$1.8 million. Of that amount, 75 percent is paid with federal funds and the other 25 percent with state matching funds. In a small state like Kansas, this federal financial support is critically important to enable us to maintain the important capacity to detect, investigate and prosecute instances of Medicaid fraud and of the criminal abuse – physical, sexual or financial – of Medicaid beneficiaries.

The federal funding that supports MFCUs is known as Federal Financial Participation, or FFP. It comes with conditions. Those conditions limit the uses of our MFCU assets. One of those conditions governs the type of cases our MFCU may handle. In general, cases within a MFCU's jurisdiction fall into one of two categories: Fraud committed against the Medicaid program itself, and abuse of patients who are Medicaid beneficiaries. Under federal rules, our MFCU may investigate and prosecute cases of financial *fraud*

against the Medicaid program *wherever it may be discovered*. Consequently, we have handled cases of Medicaid fraud in billing services, in nursing homes, in medical offices, in home health care settings, and in other situations. However, our MFCU may only investigate and prosecute cases of patient *abuse* when it occurs *in a health care facility or board and care facility*.

In a small state like Kansas, our MFCU provides important services in detecting, investigating and prosecuting the abuse of Medicaid patient-beneficiaries. Sadly, we have had occasion to investigate and prosecute almost every type of patient abuse imaginable – financial abuse, physical abuse and sexual abuse. Consider several recent examples of criminal abuse cases we have handled:

- Prosecuted a nursing home employee for physical or sexual abuse of five residents. The defendant was convicted of one count of attempted criminal sodomy and four counts of mistreatment of a dependent adult and sentenced to 91 months in state prison.
- Prosecuted a nursing home employee for sexual abuse of a resident. The defendant was convicted of one count of aggravated sexual battery and sentenced to 130 months in state prison.
- Prosecuted a couple who illegally used the assets of one of the defendants' mother, while acting as her power of attorney and trustee, to make purchases for themselves, including a house, farm and truck, while the mother was living in a nursing home and her expenses were going unpaid. Both defendants were convicted of mistreatment of a dependent adult and conspiring to mistreat a dependent adult and each defendant was sentenced to more than 90 months in state prison.

We are currently prosecuting a nurse for allegedly stealing narcotics intended for beneficiaries in nursing homes and diverting them for illicit use, thereby denying patients the pain treatment to which they were entitled. The defendant is charged with multiple counts in three different counties. This case remains pending, and of course the charges are merely accusations and the accused is presumed innocent unless and until proven guilty. Our office has more than a dozen similar cases of suspected or alleged patient abuse currently being investigated or prosecuted.

Clearly, the MFCU is an important instrument for justice and for protecting Medicaid beneficiaries from abuse. This is consistent with the intention of Congress in creating the MFCUs as evidenced by the statutory instruction that MFCUs were created, in part, to help ensure “that *beneficiaries* under the [State] plan [for medical assistance] will *be protected from abuse and neglect* in connection with the provision of medical assistance under the plan.” *See* 42 U.S.C. SEC 1396a(a)(61)(emphasis added). But under current federal law, we are constrained from using these same important law enforcement tools in the MFCUs to protect Medicaid beneficiaries from abuse and neglect when the crime occurs someplace other than in a health care facility or, at the discretion of individual states, in a board and care facility – someplace such as in a home-health setting.

For emphasis, I would note that the expanded MFCU authority proposed in H.R. 3891 is a particularly important tool for combating elder abuse. As we noted in our NAAG letter:

Today, more than 74 million Americans are enrolled in Medicaid. Of those, more than 6.4 million are age 65 or older. Statistics cited by the Centers for Disease Control and Prevention (CDC) suggest that 1 in 10 persons age 65 and older who live at home will become a victim of abuse. Not surprisingly, CDC figures also suggest that most elder abuse is never detected, with one study concluding that for every case of elder abuse that is detected or reported, 23 more remain hidden.

See NAAG Letter to HHS Secretary Tom Price, May 9, 2017 (internal citations omitted). While the expanded authority would not be limited to addressing abuse against elder Medicaid beneficiary-patients, the importance of this tool in addressing elder abuse is what led NAAG to lend our support to this legislation as an outgrowth of our presidential initiative on combating elder abuse.

Importance of H.R. 3891

The difference in scope between a MFCU's anti-fraud authority and its narrower anti-abuse authority is the subject of H.R. 3891. This bill proposes to allow states the option of expanding their MFCU's scope to combat Medicaid beneficiary-patient abuse wherever it may occur, including in non-institutional settings. That state-by-state option, which mirrors the flexibility in current law that allows states to opt-in to using MFCUs to combat patient abuse in board-and-care facilities, is an important component of the bill. That is optional authority that, if H.R. 3891 is enacted, Kansas intends to exercise. From my vantage point, it makes little sense to allow broad MFCU authority to combat fraud when the public treasury is the victim but to insist on narrower MFCU authority to combat abuse when the Medicaid beneficiaries themselves are the victim. Whatever its original rationale, this distinction seems, at best, outdated. Nevertheless, states must abide by that distinction and limit the scope of the efforts to combat patient abuse or risk losing their FFP.

In practice, the limitation on using MFCU assets to detect, investigate and prosecute patient abuse outside of an institutional setting has real consequences. In Kansas, we have seen at least two real-world, detrimental effects of this limitation:

- We have seen cases in which our MFCU agents, in the course of conducting a lawful investigation in connection with suspected fraud in home health care services being funded by Medicaid and provided in the beneficiary's home, have uncovered evidence of abuse of the Medicaid beneficiary-patient. Under current law, our MFCU could proceed to investigate and prosecute the fraud committed against the government program but could not proceed to investigate and prosecute the abuse committed against the beneficiary-patient. That is because of the current statutory restriction that limits a MFCU's authority over patient abuse only to institutional settings such as in a health care facility.

- We also have seen cases involving so-called “pill mills” involving the illegal diversion of narcotics from the lawful supply chain to the illicit market. In some cases, that diversion results in the misuse of these drugs causing death or great bodily harm. But if the diversion occurs entirely in a setting outside a health care facility or a board and care facility – for example, at a doctor’s office – our MFCU is permitted to pursue the relatively small fraud (the stealing of pills from the Medicaid program) but not the much greater harm done to patients as a result of the diversion (the death or great bodily harm from misuse of the drugs).

That difference in scope between our MFCU’s anti-fraud authority and its anti-abuse authority is poor public policy and, at least in my view, logically unjustifiable. It has roots in an era long ago when the delivery of most health services was in an institutional setting and, therefore, the opportunity for Medicaid beneficiary-patient abuse in a non-institutional setting, such as a home health care setting, was remote.

But today, far more care is delivered to patients, including Medicaid beneficiaries, through home and community-based services outside of health care facilities. And when we discover that a patient-beneficiary is being abused in that non-institutional setting, I can see no logical policy reason to be prohibited from using MFCU assets to appropriately pursue that abuse.

H.R. 3891 is designed to eliminate that barrier in federal law to using existing MFCU assets to protect Medicaid beneficiaries from patient abuse, regardless of where the abuse may occur. It proposes a small change in statute that has a large likelihood of providing better protection, and better justice, for Medicaid beneficiary-patients who are the victims of abuse.

For that reason, I strongly support passage of H.R. 3891 both as Kansas Attorney General and on behalf of the National Association of Attorneys General. This legislation, if enacted, would take the blinders off the MFCUs and let them detect, investigate and prosecute Medicaid beneficiary-patient abuse wherever it may occur. I commend Representatives Walberg and Welch for their leadership in bringing this legislation forward, and I offer to work with the Committee in whatever manner may be helpful to advance this legislation and, I hope, find a way for it to reach the President’s desk before this calendar year is through.

Thank you for your consideration of this important matter.



PRESIDENT
George Jepsen
Connecticut Attorney General

PRESIDENT-ELECT
Derek Schmidt
Kansas Attorney General

VICE PRESIDENT
Jeff Landry
Louisiana Attorney General

IMMEDIATE PAST PRESIDENT
Marty Jackley
South Dakota Attorney General

EXECUTIVE DIRECTOR
James McPherson

2030 M Street, NW
Eighth Floor
Washington, DC 20036
Phone: (202) 326-6000
<http://www.naag.org/>

May 10, 2017

The Honorable Tom Price
Secretary, U.S. Department of Health & Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Mr. Secretary:

As the Attorneys General of our respective states, we write to request a change in federal policy to allow use of the federal funds provided to our Medicaid Fraud Control Units (MFCUs)¹ for the detection, investigation and prosecution of a wider range of abuse and neglect committed against Medicaid beneficiaries or in connection with Medicaid-funded services. Under the pertinent provisions of the Social Security Act, most state attorneys general have an important working relationship with their state's MFCU; in many states, the MFCU is housed within the state attorney general's office.²

As implied by its commonly used name, the MFCU has as its principal focus the detection and elimination of *fraud* within the Medicaid program. But Congress also created the MFCUs to help ensure "that beneficiaries under the [State] plan [for medical assistance] will be protected from *abuse and neglect* in connection with the provision of medical assistance under the plan."³ Indeed, at one place in the Social Security Act, Congress expressly refers to MFCUs as "medicaid fraud *and abuse* control unit[s]".⁴

Today, more than 74 million Americans are enrolled in Medicaid.⁵ Of those, more than 6.4 million are age 65 or older.⁶ Statistics cited by the Centers for Disease Control and Prevention (CDC) suggest that 1 in 10 persons age 65 and older *who live at home* will become a victim of abuse. Not surprisingly, CDC figures also suggest that most elder abuse is never detected, with one study concluding that for every case of elder abuse that is detected or reported, 23 more remain hidden.⁷

¹ These federal funds are referenced in regulation as "federal financial participation," or "FFP." See 42 C.F.R. § 1007.19.

² See 42 U.S.C. § 1396b(q).

³ See 42 U.S.C. § 1396a(a)(61) (emphasis added).

⁴ *Id.* (emphasis added).

⁵ January-March 2016 Medicaid MBES Enrollment report (Updated December 2016), available at <https://www.medicaid.gov/medicaid/program-information/downloads/cms-64-enrollment-report-jan-mar-2016.pdf> (last accessed March 28, 2017).

⁶ See <http://kff.org/medicaid/state-indicator/medicaid-enrollment-by-age/?dataView=1¤tTimeframe=0&selectedDistributions=65-plus&sortModel=-%7B%22collId%22,%22Location%22,%22sort%22,%22asc%22%7D> (last accessed March 28, 2017).

⁷ See <https://www.cdc.gov/violenceprevention/elderabuse/consequences.html>.

In light of those realities, the current strict federal limitations on states' ability to use MFCU assets to investigate and prosecute abuse and neglect are outdated, arbitrarily restrict our ability to protect Medicaid beneficiaries from abuse and neglect as Congress intended, and should be replaced or eliminated. We request authority to use federally funded MFCU assets to detect, investigate and prosecute abuse and neglect of Medicaid beneficiaries or in connection with Medicaid-funded services to the full extent the federal statute allows. Toward that objective, we offer two specific recommendations, both of which can be accomplished by changing current federal regulations:

First, we recommend allowing the use of federally funded MFCU assets to investigate and prosecute abuse and neglect of Medicaid beneficiaries in non-institutional settings. The Social Security Act expressly allows use of MFCUs to investigate and prosecute patient abuse/neglect in "health care facilities"⁸ or "board and care facilities,"⁹ but the statute *does not prohibit* use of federal MFCU funds to investigate abuse/neglect in non-institutional settings—only the regulations impose that prohibition.¹⁰ This regulatory restriction arbitrarily limits the scope of potential abuse or neglect cases our MFCUs can investigate or prosecute—for example, by excluding abuse or neglect of a beneficiary alleged to have occurred in a home health care or other non-institutional setting. This regulatory restriction appears to us in conflict with Congress's broad command that the MFCUs are to help ensure that Medicaid beneficiaries "will be protected from abuse and neglect in connection with the provision of medical assistance" under Medicaid. We recommend these regulations be broadened to allow use of federal MFCU funds to freely investigate and prosecute suspected abuse or neglect of Medicaid beneficiaries in whatever setting it may occur, including non-institutional settings.

Second, we recommend improving detection of abuse and neglect of Medicaid beneficiaries by broadening the permissible use of federal MFCU funds to screen complaints or reports alleging potential abuse or neglect. Under current regulations, federal MFCU funds may be used only for the "review of complaints of alleged abuse or neglect of patients *in health care facilities*."¹¹ As with the first restriction discussed above, the regulatory limitation on the screening of only those complaints alleging patient abuse or neglect *in health care facilities* arbitrarily narrows the permissible use of MFCU assets and appears in conflict with the broad congressional command to help ensure that all Medicaid beneficiaries, not just those in institutions, "will be protected from abuse and neglect." This regulation effectively places blinders on the MFCUs in their ability to search for and identify cases of possible abuse and neglect of beneficiaries. The regulations should be broadened to allow use of federal MFCU funds to freely screen or review any and all complaints or reports of whatever type, in whatever setting, that may reasonably be expected to identify cases of abuse or neglect of any Medicaid beneficiary. The MFCUs should have the widest possible latitude to detect and identify potential abuse and neglect of Medicaid

⁸ 42 U.S.C. § 1396b(q)(4)(A)(i).

⁹ 42 U.S.C. § 1396b(q)(4)(A)(ii).

¹⁰ See, e.g., 42 C.F.R. § 1007.19(d)(1) ("Reimbursement will be limited to costs attributable to the specific responsibilities and functions set forth in this part in connection with the investigation and prosecution of suspected fraudulent activities and the review of complaints of alleged abuse or neglect of patients *in health care facilities*." (emphasis added)).

¹¹ See 42 C.F.R. § 1007.19(d)(1) (emphasis added); see also 42 C.F.R. § 1007.11(b)(1) ("The unit will also review complaints alleging abuse or neglect of patients in health care facilities....").

beneficiaries. We favor permitting the MFCUs to cast a wide net at the screening stage: Better to err on the side of reviewing complaints or reports that ultimately are determined to involve conduct outside the scope the MFCU may investigate or prosecute than to err through narrow screening criteria that can leave abuse or neglect of Medicaid beneficiaries undetected by the MFCU.

Mr. Secretary, we know you share our strongly held view that all persons should live free from abuse and neglect. The MFCUs are valuable assets to help make that freedom a reality for Medicaid beneficiaries. We respectfully request you take swift action to eliminate federal regulations that needlessly narrow our use of these valuable assets. Instead, we request to be freed to use federal MFCU funds to detect, investigate and prosecute abuse and neglect committed against Medicaid beneficiaries or in connection with Medicaid-funded services to the fullest extent permitted by federal statute.

Thank you for considering our recommendations. We stand ready to work with you to achieve this important objective.

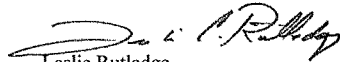
Sincerely,



George Jepsen
Connecticut Attorney General



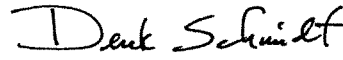
John Lindemuth
Alaska Attorney General



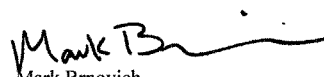
Leslie Rutledge
Arkansas Attorney General



Karl A. Racine
District of Columbia Attorney General



Derek Schmidt
Kansas Attorney General



Mark Brnovich
Arizona Attorney General



Cynthia H. Coffman
Colorado Attorney General



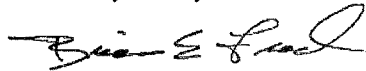
Doug Chin
Hawaii Attorney General



Curtis T. Hill, Jr.
Indiana Attorney General



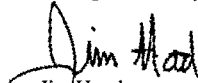
Andy Beshear
Kentucky Attorney General



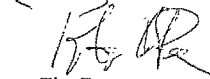
Brian Frosh
Maryland Attorney General



Bill Schuette
Michigan Attorney General



Jim Hood
Mississippi Attorney General



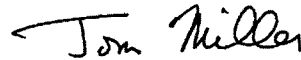
Tim Fox
Montana Attorney General



Adam Paul Laxalt
Nevada Attorney General



Eric T. Schneiderman
New York Attorney General



Tom Miller
Iowa Attorney General



Jeff Landry
Louisiana Attorney General



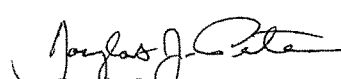
Maura Healey
Massachusetts Attorney General



Lori Swanson
Minnesota Attorney General



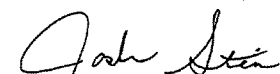
Josh Hawley
Missouri Attorney General




Douglas Peterson
Nebraska Attorney General

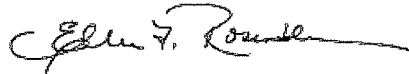


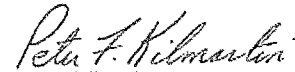
Hector Balderas
New Mexico Attorney General




Josh Stein
North Carolina Attorney General

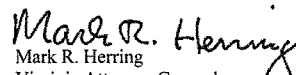

Mike DeWine
Ohio Attorney General


Ellen F. Rosenblum
Oregon Attorney General



Peter F. Kilmartin
Rhode Island Attorney General

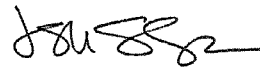

Marty J. Jackley
South Dakota Attorney General



Sean Reyes
Utah Attorney General

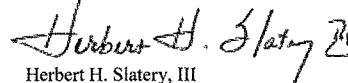

Mark R. Herring
Virginia Attorney General



Brad Schimel
Wisconsin Attorney General



Mike Hunter
Oklahoma Attorney General


Josh Shapiro
Pennsylvania Attorney General


Alan Wilson
South Carolina Attorney General


Herbert H. Slatery, III
Tennessee Attorney General


T. J. Donovan
Vermont Attorney General


Patrick Morrissey
West Virginia Attorney General


Peter K. Michael
Wyoming Attorney General



THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

The Honorable George Jepsen
President
National Association of Attorneys General
Washington, DC 20036

Dear Attorney General Jepsen:

Thank you for your letter requesting that the U.S. Department of Health and Human Services change its current regulations to allow Medicaid Fraud Control Units (MFCUs) to receive federal financial participation to detect, investigate, and prosecute abuse and neglect of Medicaid beneficiaries in non-institutional settings. We share your concerns regarding the safety and well-being of Medicaid beneficiaries in all settings, and we are diligently working on responding to your inquiry.

This matter has been referred to Inspector General Daniel R. Levinson, from whom you can expect a direct response. As the agency responsible for overseeing MFCUs and administering the MFCU grant award, the Office of Inspector General would be in a position to respond to the issue you have raised.

Thank you again for your letter and your focus on protecting the safety and well-being of Medicaid beneficiaries.

Yours truly,

A handwritten signature in black ink, appearing to read "Thomas E. Price".

Thomas E. Price, M.D.



DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL
 WASHINGTON, DC 20201



The Honorable George Jepsen
 President
 National Association of Attorneys General
 Washington, DC 20036

Dear Attorney General Jepsen:

Thank you for your letter to Secretary Thomas E. Price, M.D., requesting that the U.S. Department of Health and Human Services (HHS) change its current regulations to allow Medicaid Fraud Control Units (MFCUs) to receive Federal financial participation (FFP) to detect, investigate, and prosecute abuse and neglect of Medicaid beneficiaries in non-institutional settings. As indicated by Secretary Price's letter of July 17, 2017, your letter has been referred to the Office of Inspector General (OIG) for response.

We share your concerns regarding abuse and neglect of Medicaid beneficiaries. We recognize that the laws governing Federal matching were established almost 40 years ago and do not reflect the shift in delivery and payment for health care services to home- and community-based settings. OIG believes that the law should be changed to expand MFCUs' use of FFP to include the detection, investigation, and prosecution of abuse and neglect of Medicaid beneficiaries in non-institutional settings. However, we do not believe that the change can be made by regulation.

The Social Security Act (the Act) currently allows for payment of FFP for MFCU activities in abuse and neglect cases involving Medicaid beneficiaries.¹ Section 1903(q)(4)(A) of the Act specifically sets forth only two settings in which MFCUs may review complaints of abuse or neglect of patients: (1) health care facilities that receive Medicaid payments and (2) board and care facilities. Other non-institutional settings, such as home-based care and transportation, are not listed. Because the statute specifically enumerates some settings in which MFCUs can investigate abuse and neglect cases and receive FFP, the failure to include the others, according to statutory construction principles, is read as excluding them.

In cases in which a beneficiary is receiving services in his or her own home, the requirements of the statute are not met. Homes and most other non-institutional settings are neither health care facilities that receive Medicaid payments nor board and care facilities. Thus, the statute does not

¹ Section 1903(a)(6) of the Act requires HHS to pay a portion of the sums expended by a State "which are attributable to the establishment and operation of (including the training of personnel employed by) a State medicaid fraud control unit (described in subsection (q))." Section 1903(q) of the Act defines MFCU requirements, including MFCU duties regarding patient abuse and neglect.

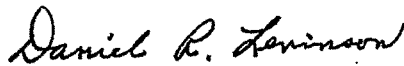
Page 2 --- The Honorable George Jepsen

permit FFP for the detection, investigation, and prosecution of abuse or neglect of patients in non-institutional settings.

HHS is bound by the statute and cannot expand the regulatory definition of "health care facilities receiving payments under the State Medicaid plan" to include non-institutional settings that do not receive Medicaid payments. While we cannot make the requested regulatory change, we have been and continue to be supportive of efforts to effect a statutory change that would allow MFCUs to receive FFP for the detection, investigation, and prosecution of abuse and neglect in non-institutional settings. OIG representatives have also identified the need for a statutory change in testimony before congressional committees, including, most recently, in May 2017 testimony.²

Thank you for raising this important issue. We continue to support the concept that MFCUs should receive FFP to conduct these investigations of abuse and neglect.

Sincerely,



Daniel R. Levinson
Inspector General

² Testimony of Christi A. Grimm, Chief of Staff, before House Committee on Energy and Commerce: Subcommittee on Oversight and Investigations: "Combatting Waste, Fraud, and Abuse in Medicaid's Personal Care Services Program," May 2, 2017, available at <https://oig.hhs.gov/testimony/docs/2017/grimm-testimony-05022017.pdf>



PRESIDENT
Derek Schmidt
Kansas Attorney General

PRESIDENT-ELECT
Jeff Landry
Louisiana Attorney General

VICE PRESIDENT
Tim Fox
Montana Attorney General

IMMEDIATE PAST PRESIDENT
George Jepsen
Connecticut Attorney General

EXECUTIVE DIRECTOR
Chris Toth

1850 M Street, NW
Twelfth Floor
Washington, DC 20036
Phone: (202) 326-6000
<http://www.naag.org/>

March 28, 2018

Honorable Tim Walberg
2436 Rayburn House Office Building
Washington, D.C. 20515

Honorable Peter Welch
2303 Rayburn House Office Building
Washington, D.C. 20515

Dear Representatives Walberg and Welch:

As the Attorneys General of our respective states, we write in support of your legislation, H.R. 3891, that would expand the authority of Medicaid Fraud Control Units (MFCUs) to detect, investigate and prosecute Medicaid patient abuse in non-institutional settings.

On May 10, 2017, thirty-eight attorneys general wrote to then-Secretary Tom Price at the U.S. Department of Health and Human Services urging expanded authority for MFCUs to address patient abuse and neglect ("the NAAG letter"). Specifically, the NAAG letter requested HHS alter its regulations implementing the pertinent statutory provisions to broaden the permissible authority for MFCUs, and the associated use of federal financial participation (FFP), in two regards. First, it recommended "allowing the use of federally funded MFCU assets to investigate and prosecute abuse and neglect of Medicaid beneficiaries in non-institutional settings." Second, it recommended "improving detection of abuse and neglect of Medicaid beneficiaries by broadening the permissible use of federal MFCU funds to screen complaints or reports alleging potential abuse or neglect."

On August 7, 2017, HHS Inspector General Daniel R. Levinson responded to the NAAG letter stating "OIG believes that the law should be changed to expand MFCUs' use of FFP to include the detection, investigation, and prosecution of abuse and neglect of Medicaid beneficiaries in non-institutional settings." However, HHS concluded that such a change requires statutory amendment and could not be accomplished solely by regulation.

On September 28, 2017, you introduced H.R. 3891. We are informed that, in the drafting of your legislation, you were mindful of the NAAG letter and that you intended to implement the letter's recommendations. We have reviewed H.R. 3891 and understand that, if adopted, it would enable HHS-OIG to implement all changes requested in the NAAG letter. Your legislation permits, but does not require, each MFCU to exercise the expanded authority the bill proposes, just as current law does with board and care facilities. It is our understanding that States electing to operate under the expanded authority of H.R. 3891 would be able to use their MFCUs to detect, investigate and

prosecute cases of abuse or neglect of Medicaid patients in whatever setting abuse or neglect may occur and to do so without losing federal financial participation.¹

This change is vitally important because it eliminates the blinders current law places on MFCUs' ability to detect, investigate and prosecute cases of abuse or neglect of Medicaid patients. Since the current statute was enacted decades ago, substantial growth has occurred in home and community-based services, office-based services, transportation services, and other settings that are neither "health care facilities" nor "board and care facilities" but where services are provided and thus patient abuse or neglect may occur. H.R. 3891 proposes a common-sense change that will better protect an often-vulnerable population and will maximize the benefits and efficient use of MFCU assets.

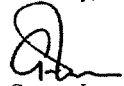
We also note that your bill is particularly timely and important in light of the national opioid epidemic. Consider, for example, a situation in which a Medicaid beneficiary in a home or community-based setting is provided prescription opioid painkillers in an unlawful manner, resulting in death or great bodily harm to the patient. Under current law, although the patient harm caused by distribution of those opioids may have been criminal, our MFCUs would be hampered or prevented from investigating or prosecuting the case of patient abuse because it occurred in a setting other than a health care facility or a board and care facility. Under H.R. 3891, however, MFCUs could exercise clear authority to pursue that sort of investigation and, if appropriate, prosecute that patient abuse, thus bringing more criminal and civil investigation and prosecution assets to bear in the fight against the opioid epidemic.

Thank you for your leadership in proposing H.R. 3891. We hope it can become law soon so our states may have the option to use the important new tools it would make available in the fight

¹ The NAAG letter requested expanded authority for MFCUs to "detect, investigate and prosecute" a wider range of abuse and neglect cases, and Mr. Levinson's response confirms that OIG favors "use of FFP to include the detection, investigation, and prosecution" of such cases. By "detect," the NAAG letter specifically sought broader authority for MFCUs to use FFP to "screen" complaints or reports alleging potential abuse or neglect." Current HHS regulations constrain states' ability to use MFCU assets to *review* complaints in order to detect which may allege patient abuse or neglect that would warrant investigation or prosecution using MFCU assets. *See, e.g.*, 42 C.F.R. Sec. 1007.19(d)(1)(limiting FFP to "review of complaints of alleged abuse or neglect of patients *in health care facilities*")(emphasis added); *see also* 42 C.F.R. Sec. 1007.11(b)(1)(restricting authority of MFCU to "review[ing] complaints alleging abuse or neglect of patients *in health care facilities*" and to "review[ing] complaints of the misappropriation of patient's private funds *in such facilities*.")(emphasis added). For states that would choose to exercise the expanded authority in H.R. 3891, we read the bill to require elimination of these and similar regulatory barriers that restrict MFCUs authority to review complaints. Obviously, a review will necessarily precede a determination whether a complaint or report alleges Medicaid patient abuse or neglect that would fall within H.R. 3891's expanded authority to investigate or prosecute, and it would make no sense to arbitrarily limit review to complaints from patients in health care facilities if the authority to investigate and prosecute abuse and neglect is expanded to other settings.

against the abuse and neglect of *all* Medicaid patients -- wherever that may occur. If we may be of assistance in advancing this legislation, please let us know.

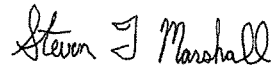
Sincerely,



George Jepsen
Connecticut Attorney General



Mike Hunter
Oklahoma Attorney General



Steve Marshall
Alabama Attorney General



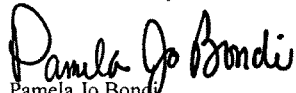
Mark Brnovich
Arizona Attorney General



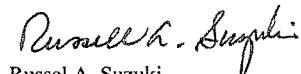
Xavier Becerra
California Attorney General



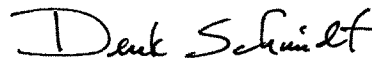
Matthew P. Denn
Delaware Attorney General



Pamela Jo Bondi
Florida Attorney General



Russel A. Suzuki
Hawaii Acting Attorney General



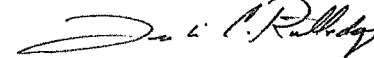
Derek Schmidt
Kansas Attorney General



T.J. Donovan
Vermont Attorney General



Janna Lindemuth
Alaska Attorney General



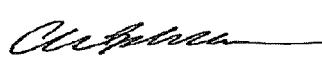
Leslie Rutledge
Arkansas Attorney General



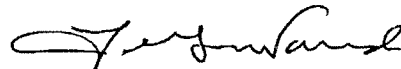
Cynthia H. Coffman
Colorado Attorney General



Karl A. Racine
District of Columbia Attorney General



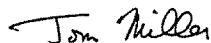
Christopher M. Carr
Georgia Attorney General



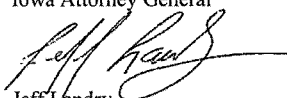
Lawrence Wasden
Idaho Attorney General



Lisa Madigan
Illinois Attorney General



Tom Miller
Iowa Attorney General



Jeff Landry
Louisiana Attorney General



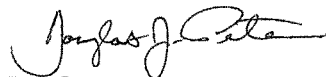
Maura Healey
Massachusetts Attorney General



Lori Swanson
Minnesota Attorney General



Josh Hawley
Missouri Attorney General



Doug Peterson
Nebraska Attorney General



Gordon MacDonald
New Hampshire Attorney General



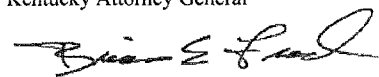
Hector Balderas
New Mexico Attorney General



Curtis T. Hill Jr.
Indiana Attorney General



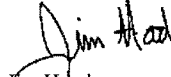
Andy Beshear
Kentucky Attorney General



Brian Frosh
Maryland Attorney General



Bill Schuette
Michigan Attorney General



Jim Hood
Mississippi Attorney General



Tim Fox
Montana Attorney General



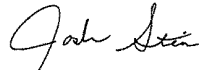
Adam Paul Laxalt
Nevada Attorney General



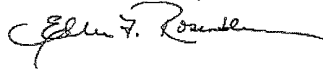
Gurbir S. Grewal
New Jersey Attorney General



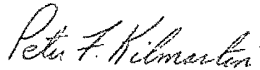
Eric T. Schneiderman
New York Attorney General



Josh Stein
North Carolina Attorney General



Ellen F. Rosenblum
Oregon Attorney General



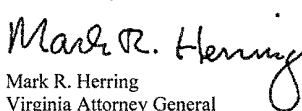
Peter F. Kilmartin
Rhode Island Attorney General



Marty J. Jackley
South Dakota Attorney General



Sean Reyes
Utah Attorney General



Mark R. Herring
Virginia Attorney General



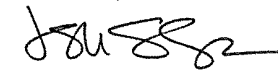
Patrick Morrisey
West Virginia Attorney General



Peter K. Michael
Wyoming Attorney General



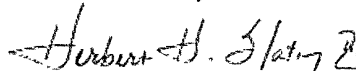
Mike DeWine
Ohio Attorney General



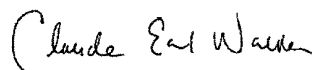
Josh Shapiro
Pennsylvania Attorney General



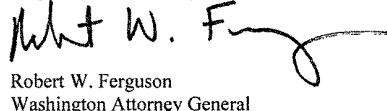
Alan Wilson
South Carolina Attorney General



Herbert H. Slatery III
Tennessee Attorney General



Claude Earl Walker
Virgin Islands Attorney General



Robert W. Ferguson
Washington Attorney General



Brad Schimel
Wisconsin Attorney General