

LAW ENFORCEMENT AND COMMUNITY EFFORTS TO ADDRESS CRIMES AGAINST SENIORS

HEARING BEFORE THE SUBCOMMITTEE ON CRIME OF THE COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES ONE HUNDRED SEVENTH CONGRESS FIRST SESSION

JULY 11, 2001

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LAW ENFORCEMENT AND COMMUNITY EFFORTS TO ADDRESS CRIMES AGAINST SENIORS

WEDNESDAY, JULY 11, 2001

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to call, at 11:35 a.m., in Room B-352, Rayburn House Office Building, Hon. Lamar Smith [Chairman of the Subcommittee] presiding.

Mr. SMITH. The Subcommittee will come to order.

I want to say again, before we officially start, to those of you all who have been inconvenienced by our changing the times or even the days, we apologize. It really was unavoidable. In the first instance, we had to change from Thursday to today because we were expecting a Judiciary Committee bill to be on the House floor, and we didn't want to have a conflict between Judiciary Subcommittee hearings and the full Judiciary Committee Members meeting to also be engaged in debate. So we appreciate the witnesses adjusting their schedule to be with us today.

We are going to begin with opening statements, and then we will get to our witnesses and look forward to their testimony almost immediately. I will recognize myself first for an opening statement.

The Crime Subcommittee will hear testimony today from State and local officials about their efforts to prevent and punish crime against the elderly. For senior citizens, though, there is both good news and bad news. The good news is that elderly Americans are less likely to be victims of violent crime. The Department of Justice attributes this to their life style: early to rise, and early to bed. The bad news is that the elderly are more susceptible to other forms of crime. Millions have been victimized by attempts to defraud them or their loved ones.

One of every eight U.S. residents is 65 years of age or older. By 2030 the figure will be one out of four. In the State of Texas, 10 percent of the population is at least 65 years old, and in some counties that I represent, a quarter of the population is 65 or older, and they are increasingly affluent. In the past 20 years, the median income for seniors over the age of 65 has more than doubled.

Most Americans have an elderly mother or father, aunt, uncle, or other family member who lives alone, and frankly, we are worried about them. Women compose 58 percent of elderly people over 65, and close to half of those women live alone. As our families age,

they often become more vulnerable, and it is then that they are most susceptible to offers literally too good to be true.

The growing senior population has offered con artists more opportunities. It is estimated that only 10 to 15 percent of crimes against seniors are actually reported because of the shame attached to being conned. The U.S. Department of Justice fears that many crimes against the elderly are never documented because victims may be unable to report them or are afraid to discuss the scams.

Older Americans are often targets of telemarketing fraud. In one case the FBI uncovered a fraudulent telemarketing company that directed nearly 80 percent of its calls just against seniors. Seniors also appear to be targets for other types of crime, such as home improvement fraud and lottery fraud. Such events can be devastating to seniors. While fraud may not take a senior's life, it can take their life savings.

Other seniors are vulnerable because they are lonely, seeking friendship, looking for a cure to an illness, or seeking a higher return on investments. The elderly thus become easy targets for con artists offering friendship, miracle cures, and easy money.

Today's hearing will focus on current efforts to combat crime against seniors and future actions that need to be taken. That concludes my testimony. I will recognize the gentleman from Virginia, the Ranking Member, for his opening statement.

Mr. SCOTT. Thank you, Mr. Chairman, and I am pleased to join you in convening this hearing on law enforcement efforts to address crimes against older Americans. Older Americans, citizens over 65 years of age, constitute a higher and higher percentage of the population each time we count them.

As the 77 million baby boomers, of which I am one, add to their ranks beginning in 10 years or so, today's 35 million or so seniors will rapidly increase. By 2030, their number will have doubled, so whatever issues and challenges there are today for seniors, the sheer numbers will only compound them. Since I am planning to be around at that time, I have a vested interest in whatever we do.

The National Center for Elder Abuse estimates that some 2 million seniors are victims of serious crime each year, ranging from fraud to murder. Although the elderly are less likely to be victims of violent crimes than teenagers and young adults in general, they are more likely to face attackers who are strangers. The chances are greater that an older victim will be more seriously hurt in a violent crime than a younger person.

Moreover, older people are more likely than young people to be victims of some crimes such as telemarketing fraud. Older people are frequently targets of fraudulent telemarketers. Some get more than 20 calls a day from scam artists. The same ones trying to wear them down are the ones who know they have been victimized before, and think they are vulnerable.

Citing FBI reports, the Elder Fraud Project of the National Consumers League estimates that there are an estimated 14,000 illegal telemarketing operations bilking thousands of victims each day. The Project estimates that telemarketing fraud robs U.S. citizens of at least \$40 billion annually. Surveys by the AARP indicate that over half of those victims are age 50 or older.

The current generation of older Americans may be particularly susceptible to the lure of telemarketers. Studies by the AARP show that most elderly telemarketing fraud victims don't make the connection between illegal telemarketing and crime. They don't associate the voice on the phone with someone who is trying to steal their money. Most believe that the caller is a nice young man or woman simply trying to make a living or trying to work their way through college, or an ambitious person trying to set a good sales record at the company.

Victims think a fraudulent telemarketer's actions are not crimes, simply hard sells. Even when they realize they haven't gotten their money's worth, they are reluctant to admit that they have been cheated or robbed by illegal telemarketers. So it is easy to see why so many seniors are easy marks of the Publisher's Clearing House schemes to sell them more and more magazines under the promise that they may be winners. We will be hearing about the successful prosecution of that case today, and any implications it has for successfully addressing fraud schemes targeted at the elderly.

One thought that occurs to me is that one specific suggestion should be sentencing enhancements for crimes targeting the elderly, similar to those that the Federal sentencing guidelines now have for hate crimes, and that may be one way to address targeting of elderly. So I look forward to the testimony of the witnesses on what is currently being done, and their suggestions for ways to improve our capabilities for addressing the problems of the future.

Thank you, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Scott.

The gentleman from Florida, Mr. Keller, does he have an opening statement?

Mr. KELLER. No, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Keller.

We will proceed. Let me introduce the witnesses who are here. They are Mr. Joseph Pollock, Sheriff, Burnet County, Texas. I shouldn't say county, I should say Burnet, Texas. Ms. Susan Reed, District Attorney, Bexar County, San Antonio, Texas. Susan, you won't mind my saying that my grandfather once held the position that you now hold as well. Mr. Frank Donaghue, Chief Deputy Attorney General and Director, Bureau of Consumer Protection, Pennsylvania Office of the Attorney General. Ms. Michele J. Bruno, State Director, TRIAD Program, Office of the Attorney General in Richmond, Virginia.

Once again, we welcome you all. We are frankly excited about your testimony and expertise on such an important subject. And we will begin, Mr. Pollock, with you, Sheriff.

STATEMENT OF JOSEPH POLLOCK, SHERIFF, BURNET COUNTY, TX

Mr. POLLOCK. Thank you. Mr. Chairman, Members of the Committee, it is good to be here today to testify about the important issue of senior safety. I am grateful for the opportunity to come to Washington and share my experiences from Burnet County, and I am glad the Crime Subcommittee has taken the time to focus its attention on seniors and elder victims of crime. This is my first trip

to the Capital and my first time to testify before Congress. I can tell you it is quite an experience.

My name is Joe Pollock, and I am the elected sheriff of Burnet County. Burnet County is a central Texas county of roughly 35,000 people. We are a retirement and resort community that each year sees an increase of population by folks we call "winter Texans." Burnet County was established in 1852, and is named in the honor of David Burnet, the provisional president of the Republic of Texas.

I am here today on behalf of the National Sheriffs' Association, of which I am a member, to speak to you about TRIAD, a highly successful program that serves 16 million seniors nationwide, and especially the seniors from my county.

The TRIAD program provides vital protection to seniors by enabling law enforcement to provide better service to seniors of our Nation. It protects America's aging population from criminals who would prey on the elderly. Sheriffs, local police, and seniors in more than 800 counties and 47 States have long recognized the need to ensure the safety and quality of life for the growing number of senior citizens. That is why I, along with the National Sheriffs' Association, support the formation of community partnerships under the auspices of TRIAD.

In Burnet County, our TRIAD began 7 years ago, in May 1994. I was the third sheriff in Texas to start a TRIAD program with senior adults. Our TRIAD started with just three or four members, and currently has an active membership of over 60 individuals. These adults are very involved, sponsoring events, implementing services, and assisting all the seniors of our community. The programs they provide enhance the quality of life of our seniors.

Services currently being provided include "Are you O.K.?" the S.T.A.R. Line Service; the 911 refrigerator cards; crime prevention programs; Neighborhood Watch; home security inspections; personal safety inspections; elderly abuse prevention, recognition, and reporting.

Two unique programs that the Burnet County Triad provides are the "Are you O.K.?" and the S.T.A.R. Line Service. These two programs provide daily contact and 24-hour accessibility to anyone needing this service. This gives those who live alone and their families the peace of mind, safety, and well-being that our seniors deserve.

"Are you O.K.?" provides daily contact with seniors, the homebound, and latchkey children. This system provides automatic dialing at prearranged times each day, and can handle an average of 150 calls per hour.

The S.T.A.R. Line Service allows independent seniors who live alone and who do not have constant companionship to deal with medical or other types of an emergency. It has a call capability that is very simple. Just push the button on the phone or on your pendant. The phone automatically calls the Burnet County Sheriff's Office dispatch center. They will answer and talk to the individual through a speaker phone at distances up to 150 feet.

One of the more recent experiences with the S.T.A.R. Line Service involved a senior citizen in Burnet County and was described in the media as follows:

"Cottonwood Shores: At 11:40 p.m. Thursday, a 90-year-old woman fell and couldn't get up. The woman, who is legally blind, could not get to her phone to call for help, and did not live with anyone who might have been able to help her."

"She was faced with the fact that she might lay on the floor in her own home until someone checked on her the next morning. This would have been true, except this woman had help hanging right around her neck."

"Help was a Starline pendant. By pressing this special pendant, the victim alerted the Burnet County dispatcher that something was wrong and she needed help, but she couldn't get to the phone."

"The Burnet County dispatcher sent both a Burnet County deputy, the Cottonwood Shores Volunteer Fire Department, and the Marble Falls Area EMS. When they arrived on the scene within 6 minutes, the emergency personnel found the woman lying on the floor where she had fallen. The victim had suffered bruises all over her body and ached from the fall."

"The Marble Falls EMS transported her to the Seton Highland Lakes Hospital where she was treated. Another happy ending, thanks to a simple pendant around her neck."

For some time now, TRIAD has been federally funded but locally implemented. As you can see, I have tailored the program to specific needs of Burnet County, but this is important to remember, that the needs of my county differ significantly from the needs of Broward County, Florida, which differ from the needs of King County, Washington. That is why TRIAD relies on local collaboration to identify and implement grassroots programs to solve issues affecting the safety of seniors in their communities.

TRIAD has a clear vision and a simple mission. It keeps seniors safe from crime. TRIAD serves 16 million seniors nationwide, nearly half of America's senior population. As the population ages, programs such as TRIAD need to grow to meet the challenge.

In fact, Representative Scott, you will appreciate that Virginia is very active statewide in this program, with 78 Virginia counties participating. Mr. Chairman, in our State, 103 Texas counties participate in TRIAD, and I have available for the Committee the number of counties participating in TRIAD across the Nation.

Federal funding of TRIAD was approved last year when the Protecting Seniors From Fraud Act of 2000, now Public Law 106-534, passed both chambers of Congress on unanimous bipartisan voice votes. Thanks in part to this Committee's swift action in the last days of the session last year, seniors can be assured that we will have the means to continue working for their safety.

TRIAD's inherent value to seniors was recognized by Congress in the Violent Crime Control and Law Enforcement Act of 1994, and was funded by the Department of Justice as directed by the 1994 Crime Act. Since TRIAD's special recognition has expired, as did many provisions of the 1994 Crime Act, Department of Justice funding of TRIAD also expired.

We believe that to cease this funding is misguided policy. Congress agreed when the Protecting Seniors from Fraud Act of 2000 passed, ensuring that TRIAD programs would be authorized and continue to receive funding. Public Law 106-534 authorized \$1 million for each fiscal year, 2001 to 2005.

The Nation's sheriffs strongly believe that full funding for TRIAD would help reduce crime against seniors. TRIAD supports proven community-based prevention programs. It was created to reduce crime against seniors and dispel the fear of crime that the elderly have. To accomplish these goals, TRIAD builds partnerships between law enforcement officials and senior service organizations that design and implement innovative programs and activities to make seniors safer in their neighborhoods and their homes.

Mr. Chairman, without full funding, TRIAD will not be able to sustain its important mission to protect our seniors from crime. We at the National Sheriffs' Association strongly support the TRIAD program and support funding at its authorized amount. We are hopeful that you and the Committee will be able to fully support TRIAD and ensure that Congress appropriates the full amount.

Mr. Chairman and Members of the Committee, it has been my honor to testify this morning on TRIAD and the larger issue of senior safety. I appreciate the opportunity to be heard on this important issue, and I am prepared to answer your questions.

[The prepared statement of Mr. Pollock follows:]

PREPARED STATEMENT OF JOE POLLOCK

Mr. Chairman, and members of the Committee, it is good to be here today to testify about the important issue of senior citizen safety. I am grateful for the opportunity to come to Washington and share my experiences from Burnet County and I am glad that the Crime Subcommittee has taken time to focus its attention on seniors and elder victims of crime. This is my first trip to the Capitol and my first time testifying before Congress. I can tell you it is quite an experience!

My name is Joe Pollock and I am the elected sheriff of Burnet County, Texas. Burnet County is a central Texas county of roughly 35,000 people. We are a retirement and resort community that each year sees an increase in population by folks we call winter Texans! Mostly seniors, we welcome these part-year residents to our community. Burnet County was established in 1852 and is named in honor of David Burnet, the provisional president of the Republic of Texas.

I am here today on behalf of the National Sheriffs' Association, of which I am a member, to speak to you about TRIAD, a highly successful program that serves 16 million seniors nationwide and especially, the seniors of my county.

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emergency pendant (remote control). The phone automatically calls the Burnet County Sheriff's Office's 911 professional 24-hour emergency dispatch center. They will answer and talk to the individual through the speaker phone (even if the caller can't reach the phone) at distances up to 150 feet.

One of the more recent experiences with "S.T.A.R. Line Service" involved a senior citizen in Burnet County and was described in the media as follows:

COTTONWOOD SHORES

At 11:40 p.m. last Thursday, a 90-year old woman fell and could not get up. The woman, who is legally blind, couldn't get to her phone to call for help and didn't live with anyone who might have been able to help her.

She was faced with the fact she might lay on the floor in her own home until someone checked on her the next morning. This would have been true, except this woman had help hanging right around her neck.

Help was a Starline pendant. By pressing this special pendant, the victim alerted the Burnet County dispatcher that something was wrong and she needed help, but she couldn't get to the phone.

The Burnet County dispatcher sent both a Burnet County deputy, the Cottonwood Shores Volunteer Fire Department and the Marble Falls Area EMS. When they arrived on the scene within six minutes, the emergency personnel found the woman lying on the ground where she had fallen. The victim had suffered bruises all over her body and ached from the fall.

The Marble Falls EMS transported her to Seton Highland Lakes where she was treated.

Another happy ending, thanks to a simple pendant around her neck. (See complete article attached The River Cities Tribune by Daniel Clifton September 29, 2000).

For some time now, TRIAD has been federally funded, but locally implemented. As you can see, I have tailored the program to the specific needs of Burnet County. But it is important to remember that the needs of my county differ significantly from the needs of Broward County, Florida, which differ from the needs of King County, Washington. That is why TRIAD relies on local collaborations to identify and implement grass roots programs to solve issues affecting the safety of seniors in their communities. TRIAD has a clear vision and a simple mission-to keep seniors safe from crime. TRIAD serves 16 million seniors nationwide, nearly half of America's senior population. As the population ages, programs such as Triad, need to grow to meet the challenge. In fact, Representative Scott will appreciate that Virginia is very active statewide in this program with seventy-eight Virginia counties participating. Mr. Chairman, in our state, 103 Texas counties participate in TRIAD and I have available for the Committee the number of counties participating across the nation.

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Mr. Chairman and members of the Committee, it has been my honor to testify this morning on TRIAD and the larger issue of senior safety. I appreciate the oppor-

tunity to be heard on this important issue and I am prepared to answer your questions.

Mr. SMITH. Mr. Pollock, thank you for your testimony.

Mr. POLLOCK. Thank you, sir.

Mr. SMITH. Ms. Reed.

STATEMENT OF SUSAN D. REED, BEXAR COUNTY, SAN ANTONIO, TX

Ms. REED. Good morning, Mr. Chairman, Members of the Committee. As the Chairman told you, I am Susan Reed. I am the criminal district attorney of Bexar County, San Antonio, Texas.

I would like to thank you for the invitation to address you today, and for your focus on crimes against seniors. As America steadily becomes an older population, it is imperative that policymakers pay attention to crimes that rob our senior citizens of their dignity and their life savings.

These crimes take many avenues. They range from financial fraud to physical abuse. The effects of fraud can be as devastating as a direct act of violence. Seniors who have lost their life savings are emotionally crippled and physically vulnerable.

Senior citizens do not often report being the victim of a financial fraud, due to embarrassment or physical or mental incapacity. Therefore, the figures, although significant, may underestimate the impact.

My jurisdiction has a population of 1.5 million people. 4.7 percent of the population is over the age of 75, and there are 20,000 citizens over the age of 85. Last year in the White Collar Crime Division of my office, we tracked \$14 million in financial fraud against elderly citizens. I dare say that figure is low.

The nature of the crimes encompass home improvement and ponzi schemes, securities, insurance, and telemarketing fraud, misapplication by fiduciaries, and various scams too numerous to mention. The means of stealing our parents', uncles', aunts', and friends' money are varied and only limited by the criminal's imagination.

When you combine the characteristics of the victim, including in many cases the physical frailty or mental incapacity, with having to show that the decision to turn over their money is one based on a fraudulent misrepresentation as opposed to just a bad business deal, the prosecution of these cases becomes complicated and requires experience.

Financial fraud needs immediate attention, but because of their nonviolent classification, they are often not addressed with the same urgency. Consequently, scams ensnare a broad net of victims before being stopped. The result is large numbers of individuals are victimized, and the ability to recapture the financial loss from the perpetrator is diminished.

It is essential to staff task forces that can address the problem immediately and who specialize in this particular type of crime. The advantages would be faster response time, quicker prosecution by experienced prosecutors, and a source of individuals who could heighten public awareness and bolster prevention programs.

The Federal Government can help the local prosecutors, through grant funds, to establish collaborative task forces composed of in-

investigators and prosecutors. State prosecution is essential. The goal should be to stop the scam before it gets to the level of the Federal prosecution.

I have recently prosecuted two scams that had devastating effects on the victims. James Ricker, a ponzi scheme artist, had business cards printed with "In God We Trust." On the day he was sentenced to 13 years in prison for defrauding 127 victims, mostly senior citizens, of \$6.2 million, one of his victim's daughters stood in the courtroom to give impact testimony. She stated, "All I heard from my father for the last 4 months of his life was how he was penniless and how you took everything. I have to trust that God will put you in your proper place." Her father committed suicide after discovering he had been a victim of that scam.

Brad Farley was promising 7 to 8 percent interest on FDIC-insured certificates of deposit. He boosted his credibility by advertising in the Wall Street Journal and taking out billboards all around town. He was selling securities without a license, and was robbing Peter to pay Paul, while at the same time living a lavish life style on the retirement money and life savings of the 81 investors and raking in \$9 million. He is now serving 7 years in a Texas State prison.

The good part of this story was that we used the asset seizure laws to seize the CDs he had pledged to banks that did not bother to know their customer, and were able to return 94 percent of the original investment back to the defrauded victims. One grateful man put it simply, "You gave me back my life." During our investigations and time waiting for trial, five of the victims died. That is what the criminal counts on.

Your attention to this issue will have an effect on many lives in a very substantial way, not just in the immediate future but also for many years to come.

Thank you very much for listening to me, and I appreciate the opportunity.

[The prepared statement of Ms. Reed follows:]

PREPARED STATEMENT OF SUSAN D. REED

Good morning Mr. Chairman, Members of the Committee, my name is Susan Reed. I am the Criminal District Attorney for Bexar County, San Antonio, Texas.

I'd like to thank you for the invitation to address you today and for your focus on Crimes Against Seniors. As America steadily becomes an older population, it is imperative that policymakers pay attention to crimes that rob our senior citizens of their dignity and their life savings. These crimes take many avenues ranging from financial fraud to physical abuse. The effect of fraud can be as devastating as a direct act of violence. Seniors who have lost their life savings are emotionally crippled and physically vulnerable.

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Financial fraud needs immediate attention, but because of their "non-violent" classification, they are often not addressed with the same urgency. Consequently, scams ensnare a broad net of victims before being stopped. The result is large numbers of individuals are victimized and the ability to recapture the financial loss from the perpetrator is diminished.

It is essential to staff task forces that can address the problem immediately and who specialize in this particular type of crime. The advantages would be faster response time, quicker prosecution by experienced prosecutors and a source of individuals who could heighten public awareness and bolster prevention programs. The federal government can help the local prosecutors through grant funds to establish collaborative task forces composed of investigators and prosecutors. State prosecution is essential. The goal should be to stop the scam before it gets to the level of federal prosecution.

I have recently prosecuted two scams that had devastating effects on the victims. James Ricker, a ponzi scheme artist, had business cards printed with "In God We Trust". On the day he was sentenced to thirteen years in prison for defrauding 127 victims, mostly senior citizens, of 6.2 million dollars, one of his victim's daughters stood in the courtroom to give impact testimony. She stated, "All I heard from my father for the last four months of his life was how he was penniless and how you took everything. I have to trust that God will put you in your proper place." Her father committed suicide after discovering he had been the victim of a scam.

Brad Farley was promising 7 to 8% interest on FDIC insured Certificates of Deposit. He boosted his credibility by advertising in the Wall Street Journal and taking out billboards all around town. He was selling securities without a license and was robbing Peter to pay Paul, while at the same time, living a lavish lifestyle on the retirement money and life savings of 81 investors and raking in 9 million dollars. He is now serving 7 years in a Texas state prison. The good part of this story was that we used the Asset Seizure Laws to seize the CD's he had pledged to banks that didn't bother to know their customer, and were able to return 94% of the original investment back to the defrauded victims. One grateful man put it simply, "...you gave me back my life." During our investigation and time waiting for trial, five of the victims died. That is what the criminal counts on.

Your attention to this issue will have an effect on many lives in a very substantial way, not just in the immediate future, but also for many years to come.

Thank you for your attention.

Mr. SMITH. Thank you, Ms. Reed.

Mr. Donaghue.

STATEMENT OF FRANK T. DONAGHUE, CHIEF DEPUTY ATTORNEY GENERAL AND DIRECTOR, BUREAU OF CONSUMER PROTECTION, PENNSYLVANIA OFFICE OF THE ATTORNEY GENERAL

Mr. DONAGHUE. Good morning, and thank you very much for the opportunity to testify today. My name is Frank Donaghue, and I am with the Pennsylvania Attorney General's Office. I am the Director of the Bureau of Consumer Protection. We have seven regional offices throughout the State of Pennsylvania, and we receive 30,000 written complaints each year.

With the Chairman's permission, during my remarks I would like to offer the Committee an audio tape of a real live telemarketing scheme.

Mr. SMITH. Right. Without objection, we will be happy to share the tape. Just out of curiosity, how long is the tape?

Mr. DONAGHUE. Less than a minute.

Mr. SMITH. Okay. Great.

Mr. DONAGHUE. The protection of older citizens is a priority not only for Attorney General Mike Fisher but for attorneys general across the United States. Though seniors make up only 12 percent of the total population, they comprise 35 percent of all fraud vic-

tims nationally. Second to the State of Florida, the Commonwealth of Pennsylvania has the largest percentage of senior citizens in the country.

The Pennsylvania Office of Attorney General, working individually and collectively with other attorneys general through the National Association of Attorneys General, or NAAG, has had a longstanding role in protecting seniors from fraud and abuse, by virtue of the powers and duties vested traditionally in those offices.

While others testifying today will focus on the criminal aspect of the victimization of older citizens, my discussion will focus on civil actions. Many of these actions fall into general categories, and I would like to briefly touch on some of the most frequent complaints we see in Pennsylvania.

Telemarketing and sweepstakes have evolved into a problem seriously affecting older citizens today. Although these types of scams are not confined to the elderly, this segment of our society is especially vulnerable to such fraud. Telemarketing and sweepstakes fraud both rank in the top five categories of consumer complaints most frequently reported by Pennsylvania senior citizens.

We have all received annoying telemarketing calls or unwanted sweepstakes solicitations in the mail. However, telemarketing and sweepstakes are not independent problems. In fact, they sometimes overlap. One of the most prevalent types of telemarketing fraud is the sweepstakes scam. Other types of telemarketing fraud include lotteries, bogus investments, deceptive travel promotions.

Even well-known sweepstakes promoted through mailings, with such recognizable names as Publishers Clearing House can be problematic and confusing to the elderly. In fact, just last month our office, together with the attorneys general of 25 other States, entered into a landmark settlement with this sweepstakes giant. This halted deceptive marketing practices and secured restitution for thousands of seniors who in a single year would spend thousands of dollars on products, convinced it would improve their chances of winning.

Among the terms of the historic Publishers Clearing House settlement is a prohibition on using separate entry forms for consumers who order goods and those who do not. This provision will ensure a single method of entry for all consumers wishing to enter Publishers Clearing House contests.

The settlement also requires Publishers Clearing House to identify certain high activity customers and cease all solicitations and communications with them unless third party approval is obtained. Finally, Publishers Clearing House will pay the settling States \$19 million in consumer restitution. This case is the third major sweepstakes settlement Pennsylvania has entered in just over a year's time.

It is not an accident that many of the victims of sweepstakes and telemarketing fraud are elderly. Sweepstakes promoters gather information about consumers and pass this information on to list brokers. The list brokers then compile and sell this information to telemarketing companies.

Some telemarketing companies use what is referred to as "mooch lists." Mooch lists are lists of people who telemarketers are able to defraud. These lists are started by cold calling or calling people

who have not yet proven to be vulnerable. The lists are then refined to identify only those people who have a tendency to fall prey to telemarketing scams. Those people on the mooch lists are frequently contacted until they finally submit to the scheme.

In reference to that, as I mentioned, I have a tape that I would like to play. Just as an overview, this was a woman who was 85 years old, lived near the Scranton area in Pennsylvania, and she actually—her son came home to visit her during Christmas, and she just had literally hundreds and hundreds of trinkets in her home that she had purchased through telemarketers. Unfortunately, she had—her son learned she had spent more than \$125,000 to these fraudulent telemarketers.

This is, again, just two small messages that were left on her answering machine, but there are small things in here that you will see in terms of these con artists, in terms of being smooth-talking and trying to take advantage of the elderly:

“Okay. I’ll just try you back.”

“Hi, Luella. This is Rod Dasko. Are you home? Hello? Well, I’m just giving you a call to make sure everything’s going just fine for you, hon, and to make sure everything was set up. So I hope you got everything taken care of, and if anything, I’ll go ahead and speak at you tomorrow, which would be Friday. Oh, and one more thing, God bless you in good health, and I’ll talk at you tomorrow. Bye-bye.”

“This is Ron Del Trakis with the National Clearing House in Tempe, Arizona. We have received your \$1,600 check last week, approximately Monday, yes, Monday of last week, and there was something whited out by you on the check. It was check 4990. The owners deposited it, even though they thought that it might not go through because of a white-out, and sure enough, the bank sent us a note saying that the white-out is not going to allow the check to go through. What you need to do is send another \$1,600 check, and when we receive that one back, we’re just going to send it back to you. But send another \$1,600 check to the National Clearing House, this is for the grand finals, send it regular mail today to the National Clearing House at 415 South McClintock, Suite No. 2, Tempe, Arizona 85281. And of course my phone number, Luella, is 1-800-967-4816, so if you have any questions, you give me a call. Congratulations to you again, and God bless you, hon. Bye-bye.”

Obviously, on that second one, his intent was to get her, although she had already sent in the original \$1,300, was to get the second check sent in, and in fact she did do that.

Through the efforts of our office, and working with other law enforcement officials, we were able to recover approximately \$50,000 for this woman. But again, you know, this shows the type of tactics they use.

I see my time is up. I would just add one other thing, which is, educational efforts are so important for senior citizens, and getting out the word about these scams really will serve to stop them. Thank you.

[The prepared statement of Mr. Donaghue follows:]

PREPARED STATEMENT OF FRANK T. DONAGHUE

Good morning Chairman Smith and distinguished members of the House Judiciary Committee's Subcommittee on Crime. My name is Frank Donaghue and I am the Director of Pennsylvania Attorney General Mike Fisher's Bureau of Consumer Protection. I am pleased to be here with the other members of this panel to comment on the important subject of protecting our seniors.

The Pennsylvania Office of Attorney General's Bureau of Consumer Protection has seven regional offices which handle more than thirty-thousand written complaints annually from consumers throughout the Commonwealth. The protection of our older citizens is a priority not only for Attorney General Fisher but for Attorneys General across the United States. Though seniors make up only 12 percent of the total population, they comprise 35 percent of all fraud victims nationally. Second to the state of Florida, Pennsylvania has the largest percentage of senior citizens in the country.

With the senior population growing and complaints of fraud against the elderly rising, there is real cause for concern. As the population of older Americans rises, so do the reports of abuses and scams directed at this population. Today I would like to provide the Committee with examples of some of the deceptive practices perpetrated against our older residents.

I. STATE ATTORNEYS GENERAL AND THE PROTECTION OF OUR SENIORS

The Pennsylvania Office of Attorney General, working individually and collectively with other Attorneys General through the National Association of Attorneys General (NAAG), has had a longstanding role in protecting seniors from fraud and abuse by virtue of the power and duties traditionally vested in the office. While others testifying today will focus on the criminal aspect of the victimization of older citizens, my discussion will focus on civil actions. Many of these actions fall into general categories and I would like to briefly touch on some of the most frequent complaints we see in Pennsylvania.

A. TELEMARKETING AND SWEEPSTAKES

Telemarketing and sweepstakes have evolved into a problem seriously affecting older citizens today. Although these types of scams are not confined to the elderly, this segment of our society is especially susceptible to such fraud. Telemarketing and sweepstakes fraud both rank in the top five categories of consumer complaints most frequently reported by Pennsylvania senior citizens.

We have all received annoying telemarketing calls or unwanted sweepstakes solicitations in the mail. However, telemarketing and sweepstakes are not independent problems, they sometimes overlap. In fact, one of the most prevalent types of telemarketing fraud is the sweepstakes scam. Other types of telemarketing fraud include foreign lotteries, bogus investments and absurdly deceptive travel promotions. Even well-known sweepstakes promoted through mailings, with such recognizable names as Publishers Clearing House, can be problematic and confusing to the elderly. In fact, just last month our Office, together with Attorneys General from 25 other states, entered into a landmark settlement with this sweepstakes giant to halt deceptive marketing practices and secure restitution for the thousands of seniors who in a single year would spend thousands of dollars on products convinced it would improve their chances of winning.

Among the terms of the historic Publishers Clearing House settlement is a prohibition on using separate entry forms for consumers who order goods and those who do not. This provision will ensure a single method of entry for all consumers wishing to enter a Publishers Clearing House contest. The settlement also requires Publishers Clearing House to identify certain "High Activity Customers" and cease all solicitations and communications with them unless third party approval is obtained. Finally, Publishers Clearing House will pay the settling states \$19 million in consumer restitution. This case is the third major sweepstakes settlement Pennsylvania has entered into in just over a year's time.¹

It is not an accident that many victims of sweepstakes and telemarketing fraud are elderly. Sweepstakes promoters gather information about consumers and pass this information on to list brokers. The list brokers then compile and sell this information to telemarketing companies. Some telemarketing companies use what is referred to as "mooch lists." Mooch lists are lists of people who telemarketers are able

¹ Settlements were reached last year with both Time and United States Purchasing Exchange to resolve alleged violations of state consumer protection laws. Collectively, these contests involved tens of thousands of consumers and millions of dollars.

to defraud. These lists are started by cold calling or calling people who have not yet proven to be vulnerable. The lists are then refined to identify only those people who have a tendency to fall prey to telemarketing scams. Those people on the mooch lists are frequently contacted until they finally submit to the scheme.

Typically, con-artists focus on several factors that make the elderly more vulnerable to telemarketing or sweepstakes schemes. Older people are very trustworthy and less cynical and therefore have a tendency to fall victim to deals that sound legitimate and promise huge cash rewards. Consequently, many seniors are reluctant to hang up on a telemarketer and will listen to what they are promoting.

Age-related change is another factor that may cause older people to become victims. In some instances, seniors have trouble with their hearing. This puts them at a disadvantage on the telephone and they may agree to something that they did not hear or understand correctly.

Finally, because a significant number of older people live alone and are home for a large part of the day, they are more likely to answer the telephone. In many cases, the victims are lonely and welcome the attention that the smooth-talking telemarketer is giving them. These factors all contribute to the victimization of seniors at the hands of unscrupulous con-artists, making this one of the most common types of fraud encountered by state law enforcement.

B. HOME IMPROVEMENT SCAMS

Another frequent source of complaints is home improvements. In recent years, home improvement complaints consistently ranked near the top of the complaint categories maintained by the Pennsylvania Office of Attorney General's Bureau of Consumer Protection. On average, the Bureau receives approximately 2,200 home improvement complaints per year. The Bureau's complaint statistics confirm that Pennsylvania's senior citizens are the most frequent victims of home improvement fraud. Of course, there are many reasons for this unfortunate statistic.

One reason is that a greater percentage of seniors are homeowners and lack the physical capacity to perform the maintenance and repair that a dwelling requires over time. Seniors who are widows are viewed as particularly vulnerable to home improvement scams, because in many cases their husbands had assumed sole responsibility for home repairs and improvements. In addition, seniors are vulnerable to the scare tactics, "special discounts" and high pressure sales pitches that have come to characterize home improvement scams.

Again, as with telemarketing, another reason for the frequent victimization of seniors is that they are often at home when the illegitimate operators telephone or knock on their doors. Con-artists often exaggerate or even fabricate "problems" with the dwelling which they offer to fix at "a great price." The Bureau's complaint files are replete with instances in which unscrupulous operators have frightened, intimidated, or even threatened older Pennsylvanians into signing contracts for unnecessary repairs.

One dangerous component of these schemes occurs when the consumer is pressured into financing the repairs through a mortgage on their home. This often results in overpriced and shoddy repairs that are tied to the equity a senior has spent years establishing. In the worst cases, older Pennsylvanians can actually lose the homes they have lived in most of their lives.

C. OTHER FREQUENT COMPLAINTS

While these are just a few examples of the complaints we see involving seniors, there are others that relate to the particular needs of this age group. For instance, last week we filed an action accusing various hearing aid vendors of blatantly defying the law and shamelessly defrauding mostly older Pennsylvanians. This lawsuit marked the culmination of an investigation into the largest case of alleged hearing aid sales fraud the Bureau of Consumer Protection has ever seen.

Travel, a beloved pastime for many retirees, also generates a significant number of complaints. Last year, the Bureau, together with 11 other states, successfully resolved an action against a Florida based company for deceptive travel promotions marketed nationwide. In that case, consumers who were contacted and informed they had won a "world class" vacation later discovered that they had won nothing more than an opportunity to pay as much as \$1,000 for a seven-day trip.

II. NEED FOR PROTECTIONS

The health and safety of the elderly is the public's responsibility. While there are simple ways seniors can protect themselves from these scams—asking for the information in writing; calling a family member, lawyer, local bank or financial advisor

on the matter; and using their common sense and years of judgment—deceptive schemes are becoming more and more elaborate and the perpetrators more elusive.

A recent illustration of this problem is a Canadian telemarketing scam investigated by our Office. After an 82 year old consumer who fell prey to the scheme sent \$4,000 through an international wire service, our Office discovered that the con artists who called her did so using a so-called “disposable” cellular phone. These phones are as common in Canada as prepaid calling cards are in this country. Once they expire, the phone can be discarded and the caller’s identify is impossible to trace.

The commitment of Attorney General Fisher to the protection of older citizens has led our Office to take a variety of steps to ensure that every older Pennsylvanian does not fall prey to abuse or unscrupulous business practices. In addition to lawsuits aimed at halting deceptive practices, we are also very aggressive in our outreach efforts to educate consumers on the latest forms of fraud and how to better protect themselves. This includes the convening of a Task Force for the Protection of Older Pennsylvanians charged with identifying the chief health, safety and consumer problems facing older Pennsylvanians and recommending various social, educational and legislative reforms to combat those problems.

We are also undertaking innovative means to stop fraud before it can occur. For instance, with respect to foreign telemarketing schemes like the case I just mentioned, we have been teaming up with banks to ensure that their personnel can spot and perhaps prevent these losses. In many cases, a large cash withdrawal or international wire transaction can serve as a red flag to educated staff who may then contact the consumer or a trustee to ensure that the customer is aware of the transaction.

There are also a number of legislative proposals which we have helped develop and are encouraging our state’s General Assembly to pass. Among these are a telemarketing do-not-call list which would allow consumers who prefer not to receive telemarketing calls to eliminate these calls altogether. Such measures have already been adopted by a number of states and the Committee may wish to consider whether a nationwide list is appropriate.

The Committee should also consider providing enhanced penalties for fraud when the victim is a senior. Many states have statutes in place providing for enhanced civil penalties for cases of fraud perpetrated upon the elderly. Pennsylvania’s statute, for example, allows the Bureau of Consumer Protection to seek \$1,000 in civil penalties for violations of the statute and \$3,000 for every violation involving a consumer age 60 or older.

Whatever legislative protections are proposed by the Committee, it is important to ensure that the laws of the states are not preempted, and that the states have the authority and ability to enforce the provisions of any new federal law. Congress has granted such enforcement authority to the states in other consumer statutes, including the Telemarketing and Consumer Fraud and Abuse Prevention Act. State Attorneys General, as the traditional enforcers of consumer protections, are already actively protecting our nation’s seniors and we stand ready to enforce whatever new laws are enacted.

On behalf of Pennsylvania Attorney General Mike Fisher, thank you again for the opportunity to testify on this important issue. I would be happy to answer any questions the Committee may have.

Mr. SMITH. Thank you, Mr. Donaghue. And also, without objection, the complete text of all your opening statements will be made a part of the record.

Ms. Bruno.

STATEMENT OF MICHELE J. BRUNO, STATE DIRECTOR, TRIAD PROGRAM, OFFICE OF THE ATTORNEY GENERAL, RICHMOND, VA

Ms. BRUNO. Mr. Chairman and Members of the Committee, thank you for allowing me time today to testify about senior citizens and crime prevention. I am grateful for the opportunity to come up from Richmond and share my experiences on telemarketing fraud and seniors, and I am pleased that the Subcommittee has the time to focus their attention senior citizens, a population vulnerable to financial exploitation.

My name is Michelle Bruno, and I am the State Director of the TRIAD program for the Commonwealth of Virginia. Over the past 4 years, working for the Attorney General's Office, I have been afforded the opportunity to travel across Virginia, not only educating seniors on how to protect themselves from financial exploitation but also to listen to countless stories from those who have witnessed this abuse firsthand.

I am here today on behalf of the National Sheriffs' Association to testify before the Committee on behalf of all seniors in Virginia, and to relate to you some specific instances about telemarketing fraud and how it has affected our seniors in the Commonwealth. I have heard many testimonies on this subject, but have chosen two that will give the Committee a clear image of what really occurs when a senior is victimized.

These incidents may seem familiar, but I can assure you I have seen the devastation on the faces of these seniors, and each experience has had a significant impact on the individual's life. Here are the testimonies of Jim and Mary.

Jim, an 86-year-old retired Virginian, worked his whole life in the automobile repair business. Of moderate means, Jim is a churchgoing man who always paid cash for items and was never in debt. He lives in a small house, a widower with one child who does not live nearby. Jim lives off his Social Security and a small amount of savings. Jim spends much of his retirement at home, working on various projects in his garage, and in the spring and summer tending to his garden.

One day Jim received a telephone call from an individual who informs him that he is the winner of a "special Canadian lottery." This lottery, drawn by his United States Social Security number, would give him a windfall of \$250,000. The only thing that Jim needed to do is send a "claim fee" of 10 percent of his winnings, and then he may claim his prize.

Jim thought to himself, "I have never won anything in my life. I can finally help my daughter and grandchildren and give some money to my church." But then he thought to himself, "How do I know that this is not some hoax." After further discussion with the woman on the other end of the telephone, he was convinced that this was for real, so he sent the money through Western Union to a New York location and waited for his prize to arrive. But it never arrived.

Over the course of the next 6 months, he sent them more money in "fees" to assure his prize. Finally, when he had no more money to give, the telephone calls stopped and he never heard from them again. Afraid to tell anyone, he suffered in silence, skipped meals to pay for his medications, and eventually ended up sick in the hospital. It was only then that his daughter realized her father had lost his entire life savings, and to this day he has never recovered any of his money, and is afraid to answer the telephone and leave his home.

The second is Mary. Mary is a 70-year-old, active senior Virginian who worked as an account representative for an advertising firm for 30 years. Mary lives in a large home in a nice suburb of Northern Virginia. Mary has always been generous with her money, giving to local charities as well as to her church.

When the telephone rang one day and the person on the other end of the telephone asked her if she would like to donate again to the local cancer charity, she said yes without hesitation, because Mary had lost her husband to cancer several years earlier. Mary had no idea her name was soon being sold to hundreds of fraudulent telemarketers.

Over the course of the next 6 months, she had been talked into giving over \$15,000 to various charities across the country. But the telephone calls would not stop. She began to be harassed by people at the other end of the line telling her that she was not a good Christian and that she was selfish to keep all of her money to herself. Mary, like Jim, became afraid to answer her own phone.

About a month later, she received a telephone call from a gentleman who claimed he could retrieve some of her lost money through his company's recovery service. The service would only cost her \$2,000, but he assured her he could recover over \$10,000 of her money from these fraudulent charities. Therefore, she sent her money, and again never received a dime of her money in return. She learned her lesson the hard way, as do many senior citizens.

These are only two of thousands of similar stories on financial exploitation of the elderly. Mr. Chairman and Members of the Committee, it has been my honor to share these experiences with you, and I appreciate the opportunity to be heard on this important topic. Thank you.[The prepared statement of Ms. Bruno follows:]

PREPARED STATEMENT OF MICHELE J. BRUNO

Mr. Chairman, and members of the Committee thank you for allowing me time today to testify about senior citizens and crime prevention. I am grateful for the opportunity to come up from Richmond and share my experiences on telemarketing fraud and seniors and I am pleased that the Subcommittee has time to focus their attention on senior citizens, a population vulnerable to financial exploitation.

My name is Michele Bruno and I am the State Director of the Triad program for the Commonwealth of Virginia. Over the past four years working for the Attorney General's office I have been afforded the opportunity to travel across Virginia, not only educating seniors on how to protect themselves from financial exploitation, but also to listen to countless stories from those who have witnessed this abuse first hand.

I am here today on behalf of the National Sheriff's Association, to testify before the Committee on behalf of all seniors in Virginia and to relate to you some specific instances about telemarketing fraud and how it has effected our seniors in the Commonwealth. I have heard many testimonies on this subject, but have chosen two that will give the committee a clear image of what really occurs when a senior is victimized. These incidents may seem familiar, but I can assure you, I have seen the devastation on the faces of these seniors, and each experience has had a significant impact on the individual's life. Here are the testimonies of Jim and Mary.

Jim, an 86 year old retired Virginian, worked his whole life in the automobile repair business. Of moderate means, Jim is a church going man who always paid cash for items and was never in debt. He lives in a small house, a widower with one child who did not live nearby. Jim lives off his Social Security and a small amount of savings. Jim spends much of his retirement at home working on various projects in his garage, and in the spring and summer tending to his garden.

One day, Jim received a telephone call from an individual who informs him that he is the winner of a "special Canadian Lottery". This lottery, drawn by his United States Social Security numbers, would give him a windfall of \$250,000. The only thing Jim needed to do is send a "claim fee" of ten percent of his winnings and then, claim his prize. Jim thought to himself, "I have never won anything in my life. I can finally help my daughter and grandchildren and give some money to the church." Then he thought to himself, "how do I know this is not some hoax." After further discussion with the woman on the other end of the telephone, he was convinced that this was for real. So he sent the money through Western Union to a New York location and waited for his prize to arrive. But it never arrived. Over the

course of the next six months, he gave them more money "in fees" to assure prize delivery. Finally, when he had no more money to give, the telephone calls stopped and he never heard from them again. Afraid to tell anyone, he suffered in silence, skipped meals to pay for his medications and eventually ended up sick in the hospital. It was only then that his daughter realized her Dad had lost his entire savings. To this day, he has never recovered any of his money and is afraid to answer his telephone.

Mary, a 70-year-old active senior Virginian, worked as an account representative for an advertising firm for thirty years. Mary lives in a large home in a nice suburb of Northern Virginia. Mary has always been generous with her money, giving to local charities and to her local church. When the telephone rang one day and the person on the other end of the telephone asked her if she would like to donate again to the local cancer charity she said yes without hesitation. Mary had lost her husband to cancer several years earlier. Mary had no idea her name was soon being sold to hundreds of fraudulent telemarketers. Over the course of the next six months, she had been talked into giving over \$15,000 to various charities across the country. But the telephone calls would not stop, she began to be harassed by people on the other end of the line telling her she was not a good Christian and that she was selfish to keep all of her money to herself. Mary, like Jim, became afraid to answer her own telephone.

About a month later, she received a telephone call from a gentleman who claimed he could retrieve some of her lost money through his companies recovery service. The service would only cost about \$2,000 but he assured her he could recover \$10,000 of her money from these fraudulent charities. Therefore, she sent the money, and never received a dime of her money in return. She learned her lesson the hard way, as do many senior citizens.

These are only two of thousands of similar stories on financial exploitation. Mr. Chairman and members of the Committee, it has been my honor to share these experiences with you, and I appreciate the opportunity to be heard on this important topic.

Mr. SMITH. Thank you, Ms. Bruno.

Before we go to questions, I was going to recognize the two Members who had joined us. Mr. Coble from North Carolina just had to leave to go to another Subcommittee meeting, but Mr. Chabot from Ohio is still here. We appreciate his attendance, as well.

I notice that in regard to your testimony, there has been a lot of overlap, which probably is not a surprise, but I wanted to focus on some of the ideas that you all had in common and ask you maybe to explain a little bit more about them. Ms. Reed, you mentioned the need for public awareness, which I take to be sort of another word for education, which is what Mr. Donaghue had mentioned, as well.

It seems to me that that is going to be a component of a package that we might put together to try to address senior crime. We might talk about enhanced penalties, we might talk about TRIAD, and we might talk about more effective prosecution. Both you and Ms. Bruno mentioned that, for example. But in regard to public awareness, do you see the need to educate seniors about the scams and frauds that are out there as equally important to any prosecution or equally important to any enhanced penalties?

Ms. REED. Absolutely, because prevention is the whole goal, if you can do it. I would prefer not to have to prosecute, so if I can get people educated, it's terrific.

Mr. SMITH. That was a quicker answer than I expected.

Ms. REED. Oh, I will be happy to talk some more if you would like me to.

Mr. SMITH. No, that is fine.

Mr. DONAGHUE. Actually, I would like to—

Mr. SMITH. Mr. Donaghue, yes. I was actually going to ask all four of you all to respond to the question, too.

Mr. DONAGHUE. I was going to add one thing, and it is in response to Ms. Bruno's scenario of the Canadian telemarketing scheme where they are calling senior citizens, telling them they have won \$75,000 or \$100,000, and then having them send in \$2,000 or \$4,000 Western Union.

Something that we have done in Pennsylvania is worked with the banks, so that their employees know when a senior citizen sort of unexpectedly comes in and withdraws a large amount of cash, and especially in the form of a money order or something like that, so that that is a sign to them that something may be awry.

Mr. SMITH. Sure. Ms. Bruno?

Ms. BRUNO. In Virginia we have a very active TRIAD program, as Mr. Pollock mentioned, and our goal is educating seniors across the State on crime prevention. And that is our number one goal of the TRIAD in Virginia, is we have 6 to 10 regional crime prevention conferences and we have around 300 seniors, with our goal being preventing them from being victimized. So that is our number one goal in Virginia, is education.

Mr. SMITH. Mr. Pollock, if you want to comment on both the importance of educating seniors, but also if you want to give some examples of the type of senior crimes you have encountered back home, that would be helpful, too.

Mr. POLLOCK. Yes, sir. We also have a lot of the telemarketing, sweepstakes, the telephone calls, and we also have some home repair frauds. We have had reports of seniors paying hundreds of dollars to have their driveway sealed, thinking that their driveway is going to break apart if they don't have it sealed, and these scam artists come in and just paint silver paint on it. These folks are so embarrassed that they don't want to prosecute. They don't want their kids to find out that they have got caught up in this type of a scam.

It hit a little close on me personally when I found out that—when my father-in-law passed away. He was tied up into, got caught up into this sweepstakes. My wife was the executor of his will, and he was a stroke victim, at home in a wheelchair. He didn't live in our community, and we weren't aware what he was doing. Found out, we have checks of his of over \$10,000 or \$12,000 that he had sent on these sweepstakes. We had all his mail forwarded to us, and I was getting magazines at our house for a couple of years. So I am sure there is a lot of other seniors in the same situation.

I have an inmate at my jail doing time on scamming seniors for insurance scams, and he is very remorseful for what he has done to the seniors. And he has talked to the public, and tells these folks how he did it, and like I said, I have used him in some of the TRIAD meetings. We get the TRIAD, a lot of our members, and he tells them point blank how he would get their money.

So not only educating our seniors but, you know, we also have to educate our police officers.

Mr. SMITH. As well. That is true. Thank you, Mr. Pollock.

Ms. Reed, another question, and that is, how difficult, or why is it so difficult to recover the money that the seniors have lost through some of these fraudulent scams?

Ms. REED. The prosecution is difficult to begin with, because of the nature of what you are having to try to prove. By the time that you get in there, these guys have spent the money on their life styles or whatever the case may be.

In our CD program we were able to get it back, which was a very rare circumstance for us. We usually, we go and we try to do the asset seizures, because we have that right to pull the money and then let the true owner claim it, and that is fine. That is good. But it really is difficult, and they really have disbursed it by the time it is brought to your attention, by the time you get through all the paperwork to prove it. It is a complicated type of prosecution.

Mr. SMITH. Okay. Thank you. My time is up. I am going to recognize the gentleman from Virginia for his questions, and then we will have a second round of questions, too. Mr. Scott?

Mr. SCOTT. Thank you. Thank you, Mr. Chairman. I would like to recognize the young lady from Virginia, and appreciate your hard work.

One of the things that has been mentioned is the difficulty in proving these cases because it is hard to differentiate a bad business deal from crime, and I think we have all had home improvement stuff done without much of a clue as to what a reasonable fee would be. How do you determine, is there anything out there that helps homeowners when the air conditioner breaks or the refrigerator breaks, and the guy shows up, how do you know whether you are paying a fair price or not? Any help on that?

Mr. DONAGHUE. Yes, certainly it is very difficult, especially with regard to home improvement scams, and I think that certainly people and especially seniors tend to put too much money down on home improvement contracts. We are actually promoting legislation in Pennsylvania right now that would require home improvement contractors to be registered with the State, but also one issue that we would like to see addressed is that only a third could be put down on a home improvement contract. I mean, there is the issue of having usually to buy supplies and materials and that sort of thing, but we think a third is a reasonable amount.

Mr. SCOTT. Well, a third of what? I mean, that still could be more than it is worth.

Mr. DONAGHUE. A third of the contract price, in terms of promoting that legislation.

Mr. SCOTT. Mr. Pollock, you mentioned the driveways. How do you know you are paying—I mean, maybe you want to have your driveway look a little better.

Mr. POLLOCK. Well, you need to find—I always tell my seniors, if you go look for the product or the service, it is better than when these people come to you. When they come to you, I always tell them to try to find someone that is in that business. These people are letting them go in and seal these driveways. They don't know them, and they don't know the going rate for that. These people are coming there, just putting silver paint on their driveways.

Mr. SCOTT. I think, Ms. Bruno, you mentioned the charities. It is not unusual to sell names. You have got magazine subscriptions, charities, that sell the names so that others will solicit the same names. Are the charities that people contributed to legitimate charities?

Ms. BRUNO. No, No, Mr. Scott, they are not. These were fraudulent charities that these seniors were giving to.

Mr. SCOTT. How do you define a——

Ms. BRUNO. You have to register. In the State of Virginia, you need to register your charity with the Office of Consumer Affairs.

Mr. SCOTT. It is not unusual for fund-raisers to take 80 percent or more——

Ms. BRUNO. No, it is not.

Mr. SCOTT [continuing]. Of the expenses. I mean, some charities that people would consider legitimate. As a matter of fact, if they only spend 80 percent on fund-raising expenses, some of those are successful. Some of us would say that is excessive, but how do you decide when you have crossed the line and committed a crime, or whether it is not a legitimate charity?

Ms. BRUNO. Well, if they are not registered in the Commonwealth of Virginia, with the Office of Consumer Affairs, which they have to be to solicit any type of money from people in Virginia, then that is against the law.

Mr. SCOTT. If they are registered?

Ms. BRUNO. If they are registered, then yes, it is normal for fund-raisers when they call you to take 80 to 90 percent of that particular amount of money. That is the going rate.

So what we do when we educate seniors is, we have a pad, the Office of Consumer Affairs and the Attorney General's Office have a check list that we give out to seniors through Meals on Wheels, through our conferences, that says, "These are the six or seven questions you should ask a telemarketer, you know, when they call you: How much money do you receive, you know, from the money I'm sending you?"

Again it goes back to education, to giving seniors the information they need to know when they pick up their telephone.

Mr. SCOTT. I was in the State Senate when we passed that bill, and I was just shocked that some of the best charities salvage about 15 to 20 percent of the donated money, that 15 to 20 percent actually ends up with the charity. Those are the best.

Ms. BRUNO. You are absolutely correct, but it is more money than they would have, you know, if they didn't hire a professional fund-raiser at all.

Mr. SCOTT. I will wait until the next round. Thank you.

Mr. SMITH. Thank you, Mr. Scott.

The gentleman from Florida, Mr. Keller, is recognized for his questions.

Mr. KELLER. Thank you, Mr. Chairman.

Sheriff, I would like to start with you, if I could there.

Mr. POLLOCK. Yes, sir.

Mr. KELLER. I know you have probably had a lot of experience with crimes against seniors. I want to focus on just the property crimes, though, things like purse snatching and pickpocketing, that sort of thing. Do you think that, in your experience as a sheriff, that seniors are more likely to be targets of things like purse snatching than other folks, like people my age, in their 30's?

Mr. POLLOCK. I would think so, simply because they are, most of them are more feeble and are not strong enough to combat someone that is attempting to rob them. We don't have much of that crime

in our community. It has happened, but most of ours is the telemarketing, the home repair, sweepstakes type of crimes.

Mr. KELLER. Sure. I am from Florida. We have a lot of seniors down there.

Mr. POLLOCK. Right.

Mr. KELLER. I was wondering, to the extent that you do have things like purse snatching, taking from senior women——

Mr. POLLOCK. We have had that before, but not that much of it.

Mr. KELLER [continuing]. What type of legislation do you think we could do to help along those lines, like stiffer penalties, or what kind of thing you think would help?

Mr. POLLOCK. Yes, stiffer penalties, and prevention, education. That is where we come in as TRIAD. In the 7 years that I have been a part of TRIAD has really brought my seniors closer to law enforcement. They are my eyes and my ears in my community.

Mr. KELLER. Okay.

Mr. POLLOCK. They hear of things going on in the community, and they make sure that I hear about it.

Mr. KELLER. Ms. Reed, let me switch to you. Along the same lines, thinking about property crimes against seniors, do you believe that the current sentences, both State and Federal, are adequate for crimes against seniors, or do you believe that we should have some sort of additional enhancers?

Ms. REED. I would like to see—in the State of Texas, we don't have an enhancement against elderly victims on financial fraud, and I would most definitely like to see that. In the Federal system I believe there is certain points given in the guidelines, depending on if it is elderly, but anything to enhance penalty is fine.

As to the prosecution, if I may address it——

Mr. KELLER. Sure.

Ms. REED [continuing]. Like purse snatchers and things like that, the practical point of life is that your U.S. Attorney is not going to take a purse snatching case. It is going to end up in your State prosecution. What you really need to do is, you need to, for those who go out in the community, you need to educate. We all hear about how you have to be at malls, careful, and what to do around vans and things like that.

So that is an important component of it, as well as you have to have good safety and responsibility at your various public areas for security, to try to prevent that. Then the prosecutors have got to go after them, and you have to make the public aware.

Mr. KELLER. Let me ask you that, because I just had a chat with my U.S. Attorneys in the Middle District of Florida, and they say they are four attorneys short. That is why they can't prosecute a lot of stuff.

Ms. REED. Right.

Mr. KELLER. So I imagine, let's say we did have some stiff Federal-type penalty for violent property crimes against seniors like purse snatching and others, I would suspect, kind of like you do, that they wouldn't be able to do that. They have got enough fish to fry, bigger fish, even, maybe. Is there some sort of way to have that stiff Federal penalty and yet have the State district attorneys prosecute it, sort of like we have in Project Exile in Virginia, where

you kind of deputize the State Attorney to prosecute certain types of Federal gun laws?

Ms. REED. Right, and we have participated in Project Exile on the gun laws, and I suppose that could be done through the attorneys general—not through the attorneys general but through the district attorneys. We were able to get the extra prosecutor through grant funding that came out of the State of Texas. So a lot of it revolves around your money and where you fund it.

Mr. KELLER. Okay. Mr. Donaghue, you mentioned the NAAG organization in your testimony. Do you know if my wife and mother-in-law are members of this NAAG association? [Laughter.]

Just kidding. I will move on here. For the record, I am joking, in case my wife sees that.

One final question: Ms. Bruno, does TRIAD also address crimes against seniors that are violent and property crimes?

Ms. BRUNO. Yes, yes. Different TRIADS in different localities have different programs, and each TRIAD does address every crime against seniors.

Mr. KELLER. I would imagine, from your testimony, one of the things you think we can do is to fund the TRIAD programs?

Ms. BRUNO. Absolutely.

Mr. KELLER. Okay. I yield back, Mr. Chairman.

Mr. SMITH. Thank you, Mr. Keller.

Before I recognize her for questions, let me thank the gentleman from Texas for coming to the hearing, and recognize her as well, and she has 5 minutes for her questions. Ms. Jackson Lee?

Ms. JACKSON LEE. Thank you very much, Mr. Chairman, for holding this very needed and insightful hearing, and I thank the Ranking Member as well.

The first thing I would like to do is to tell my good colleague and friend, Mr. Keller, that I will serve pro bono as his defense counsel for his mother and his wife— [Laughter.]

—and I will tell them that he was only joking, he was not serious, because I know he loves them dearly.

Let me indicate my apologies. I had an amendment on the floor and as well, Mr. Chairman, I have a briefing that I am hosting on world hunger, so I thank you for giving me this opportunity. This is an important hearing, and one that has issues that I confront daily. Let me welcome the two witnesses from Texas, as well, and thank you for your work.

Mr. Chairman, first I would like to ask that my entire statement, ask unanimous consent to have my opening statement submitted into the record.

Mr. SMITH. Without objection, your opening statement and the opening statements of other Members will be made a part of the record.

[The prepared statement of Ms. Jackson Lee follows:]

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF TEXAS

Thank you, Mr. Chairman.

I want to thank Chairman Smith and Ranking Member Scott for holding a hearing on this serious matter, one which has a tremendous financial, social and emotional impact on one of our nation's finest resources—our elderly.

Older Americans are popular targets for fraudulent activity in our society. As our witnesses will testify, seniors make up a disproportionate number of fraud victims nationally, comprising 35 percent of all fraud victims, although they are only 12 percent of the total population. Many elderly are vulnerable because they are lonely and appreciate having someone to talk to, even if that person is a paid solicitor. Others, as we will hear, are too polite, too intimidated or simply possess a disability, such as a hearing impairment, that prohibits them from resisting solicitations.

Just last year, I participated in a press conference about a hoax flyer that was distributed to African American seniors stating that they may be eligible for \$5,000 in slave reparations or Social Security reimbursement. The flyer stated that African Americans born in or before 1927 qualified for payment through a non-existent law supposedly called the Slave Reparation Act. The flyer requested the seniors to provide their name, address, phone number, date of birth and Social Security number.

According to a Monday, July 9 press release from the Social Security Administration's Office of the Inspector General, over 25,000 individuals nationwide, including several hundred in Texas, were deceived by this flyer and one that promised many seniors an unwarranted lump sum payment or increase in Social Security benefits. Many responded by mailing in various identity documents such as bank account information, original birth certificates and even money. I submit for the record redacted copies of two of these documents. The sender of the flyers used the information to compile a database of the respondents' personal information and generated a mailing list that it used for fundraising efforts for its alleged advocacy work.

Although it does not yet appear that any of these seniors lost significant sums of money, they gave up valuable personal information as well as a certain amount of trust and dignity by relying on these empty promises. And it remains to be seen if the information obtained will be used for further fraudulent purposes.

At the press conference regarding the reparation letters, I advised seniors how they could avoid becoming victims of crimes such as the hoax flyer. I advised that they should take steps such as asking careful questions before revealing personal identifying information, carefully reviewing monthly credit card statements, minimizing identification information that they carry and regularly checking credit reports. Yet we must continue to educate our seniors about how to protect themselves, particularly as the scams against them become increasingly sophisticated.

Moreover, financial fraud and identity theft are only two of many crimes committed against seniors. This group is also susceptible to fraud committed in the fields of health care and other social services. Older populations are also quite vulnerable to abuse and neglect, gun violence and other violent crimes. This group has a special need for a safe environment, caring relationships and freedom from fear. We have a duty to explore what we can do to protect this group and punish those who take advantage of them.

For example, the Senate's Patient's Bill of Rights contains provisions that are designed to combat crimes against seniors through measures such as sentencing enhancement based on the age of the victim, a study and report on health care fraud sentences, safeguard of pension plans and the provision of sources of restitution to senior crime victims. Senator Leahy's Seniors Safety Act of 1999 contained many of these protections, and it is imperative that we support such measures in the 107th Congress.

Just this April, the Texas legislature took another positive step toward protecting seniors by passing a bill that requires local law enforcement agencies to report investigations of certain consumer fraud offenses against elderly people to the Department of Public Safety. That department is, in turn, required to analyze that information and make those analyses available to any local law enforcement agency, political subdivision, or state agency. This should be a valuable tool to law enforcement officials, and we must ensure that the federal law enforcement officials also have such tools.

Mr. Chairman, I am looking forward to hearing the testimony of the panel of witnesses on this important topic and to the dialogue that will ensue as discuss what we in Congress can do. Thank you.

Ms. JACKSON LEE. Thank you very much. Let me just briefly say how timely this hearing is as relates to Texas, and particularly Houston. Having just experienced the flood of a lifetime, we are now in the recovery period, which is long and onerous. Frankly, the hardest-hit areas were low income and many with areas where elderly individuals were impacted, and we are beginning to see the unfortunate results of devastation when we have the various, if I

might call them scam artists, and construction contractors coming in and representing what they can and cannot do.

So this is an important hearing as it relates to our own personal situation in Houston. We are beginning to rebuild. FEMA is beginning to make assessments. The Housing and Community Development of the City of Houston are beginning to allot different compensation checks to rebuild, and the loud voice that we are trying to get out to our seniors is to ask first, to call the Better Business Bureau, because even without this devastation, we have found when you have Federal funds and seniors have been responsible for having their own homes repaired, we have had terrible and devastating results.

The other point that I would like to make is, of course, the most recent scam that we have heard with respect to reparations, which is a legitimate and real interest in terms of African Americans. It has been made light of by appealing to seniors to hand in or to give money to the Social Security Administration, to suggest that they will get some compensation because they happen to be an African American, totally not within the realm of the Social Security Administration, hasn't been improved, is not in operation, and therefore obviously a scam situation that is going on.

My question would be, and I do support the TRIAD program, I would like to hear from the witnesses whether they think that the highest, if you will, impact on seniors are criminal acts such as I assume misdemeanor purse snatching, and maybe at a different level if they are injured, of course, or the civil scams such as people appealing to them on telemarketing, people appealing to them in terms of repair, even in terms of medical care, prescription drugs over the mail or other types of needs that seniors typically have. Is there an equal balance, or do you think there is a distinction?

Mr. SMITH. Is that a question for everyone to answer?

Ms. JACKSON LEE. Mr. Pollock?

Mr. POLLOCK. It is hard to define what it is nationwide, you know. I know I can only answer in my community. As far as the cash loss of what my seniors are losing, I know a lot of it is because of the scams, as far as the sweepstakes, the mail frauds, the telemarketers. A lot of these crimes, we are not hearing about it. I find out through family members a lot of times when one of their parents are victimized by one of these people.

Seniors do have a fear of crime, of being abused. I can't recall having any bad assaults recently. I have had a senior in my county that was victimized by a burglar, and he eventually died, but it is a serious problem that our seniors are facing.

Ms. JACKSON LEE. Thank you, sheriff.

Mr. POLLOCK. Yes, ma'am.

Ms. JACKSON LEE. Ms. Reed?

Ms. REED. You know, I have been searching my memory because I read a statistic on it, and I cannot recall it. But abuse takes many forms, and it is either in nursing homes, within the home, there are domestic violence issues and abuse, and the physical abuse, much more so than you probably have on the streets in relation to things such as purse snatching. Of course the elderly are always vulnerable within their home to the circumstance of having some-

one break in and killing them and that nature of things, and so that does happen.

But I think as to the numbers of offenses, I think the financial, because they are homebound in many instances, and the telemarketers. I think that is one reason why in sheer numbers you may see more victims there, not to make light of any of the abuse, but I really do think you are going to see a lot of that. Actually that translates into physical abuse, because those people are so devastated in many circumstances that it is much like an act of violence against them.

Ms. JACKSON LEE. The stress may get them.

Ms. REED. Yes.

Ms. JACKSON LEE. Let me thank you and yield back my time, Mr. Chairman. This obviously, I think, is a hearing that will warrant action. I am interested in enhanced sentencing and at least some highlighting of crimes against seniors as a very ugly situation in America, and one that should be cured, and one that resolves or it needs to have Federal attention. I thank you all for your testimony.

Mr. SMITH. Thank you, Ms. Jackson Lee.

The gentleman from Ohio, Mr. Chabot, is recognized for his questions.

Mr. CHABOT. Thank you, Mr. Chairman. I thank you for holding this important hearing, and also thank the panel for their testimony here this morning.

Just a couple of questions. There is obviously the education aspect to combatting this serious problem, as well as the law enforcement aspect. Relative to the education aspect, how successful have States or other governmental entities been in getting local stations, for example, to do public service announcements and things of that nature, or just getting the message out there? I would ask any of the folks to respond to that. Has that been tried, and if so, what kind of success have you had?

Ms. REED. Ladies first?

Mr. DONAGHUE. Yes, please.

Ms. REED. We do quite a bit of that, and the media is very good and is a tremendous benefit, because first of all a lot of the victims are homebound. So if they see it on television, explaining the scam to them, it is a wonderful thing, because that will make them more cautious without them having to go to a meeting somewhere where they get the education.

We do, we have things like Scam Net, and we send reports to the stations and tell them about it and try to foster stories. But I think even more part of my task force idea would be to have a liaison there who actually does public information with the media.

Mr. CHABOT. Anybody else want to comment?

Mr. DONAGHUE. Certainly in terms of legal actions that are taken by the various attorneys general, the media picking up on those actions I certainly believe helps consumers, senior citizens, know the types of scams that are out there. Even as recently as the Publishers Clearing House case which I mentioned today, again the coverage of that will lead consumers and seniors to call our office and learn what the terms of the settlement are, to see if they are eligible for restitution and that sort of thing.

Mr. CHABOT. Thank you. Mr. Donaghue, you had mentioned before, bank officials being notified or some sort of knowledge about perhaps, in somebody's judgment, large amounts being withdrawn in cash.

I just wanted to make sure that you are aware, we have had this in this city, in Washington, for some time now relative to something called "Know Your Customer," which is a regulation which a lot of folks were very concerned about, including myself. The Federal Government was going to require banks to basically spy on their customers, what it amounts to. If the government decided that you were taking out too much, they would know, and somebody would be notified, etcetera. So I would just say, you know, be careful in that whole area, and I am sure that you are aware of the privacy concerns that there might be in that particular aspect.

Let me ask you about, as far as sentencing, when some of these folks actually get caught, how seriously do the judges take these cases? You know, far too often, in my view and the views of many folks, we have a tendency maybe not to be as tough as we ought to be the first time, second time, and people carry it out. A lot of times unless somebody actually is beaten up physically or harmed in some manner, we don't perhaps take it as seriously.

I am just wondering, especially, Ms. Bruno, Jim, the 86-year-old fellow who loses his whole life savings, and the other lady as well, I mean, these people are really devastated. Are the judges taking these cases as seriously as they ought to? Are people being sentenced to jail, prison, for the maximum, relatively long terms? Or what is happening when they get into the court? I know, I mean, you want to get the money back, some if it is civil, but some of it is criminal, and what happens to these people?

Ms. REED. Would you like me to address that?

Mr. CHABOT. Whoever.

Ms. REED. You know, I was a judge for 12 years, and I sent them all to prison. That was my philosophy, so I took it real seriously.

Mr. CHABOT. Yes.

Ms. REED. We do get pretty good sentences, but a lot of it has to do with if your law enforcement makes a big deal out of it. In Texas our judges are elected, and your sentencing is somewhat driven by that, because if you have your media that is involved, pays attention to those kind of crimes, there is always that public outcry for it.

I do think they take it seriously, but a lot of times the cases, particularly the financial, get backlogged, because they are complicated to try and, you know, maybe the murder case gets more attention and so that gets pushed forward. So that is a bit of a problem.

Mr. CHABOT. I would like to thank all four of you for your involvement in this area, in protecting the constituents that we represent here in Washington. Thank you.

Mr. SMITH. Thank you, Mr. Chabot.

I just have two more questions. Mr. Donaghue and Ms. Bruno, I was curious, in your testimony you mentioned the widespread use of disposable cellular phones, at least in your written testimony. I don't know if you got to it in your verbal testimony. But I was going to ask you how that works and what can be done about it.

And, Ms. Reed, it looks like you are aware of that situation, too, and Mr. Pollock, if you all will respond to that.

Mr. DONAGHUE. Yes, and it is actually interesting, in Ms. Bruno's testimony she mentioned that Canadian telemarketing scheme, and we have, we see cases like that quite frequently. In one instance we were able to set up a successful trap and trace, and ultimately were able to learn of at least the whereabouts of the particular suspect in Canada.

The problem was, when we ultimately, and in working with the Canadian officials, were homing in on this person, they had this disposable cellular phone, and which my understanding, you know, you purchase the shell and then the battery that goes along with it has the minutes contained therein, and all the information that the telephone companies would use to trace that particular phone is contained within that. Once that is discarded, you know, we have lost our target.

Mr. SMITH. Ms. Bruno, you want to add to that?

Ms. BRUNO. I would have to agree with Mr. Donaghue. It is often very difficult to trace somebody who is using a cellular phone, because oftentimes they clone other individual cellular phones in the area that they are in, and you get bounced oftentimes and—

Mr. SMITH. What can we do about that, or there is an easy—maybe there is not an easy solution.

Ms. BRUNO. I don't know of any easy solution.

Mr. SMITH. Anybody have any ideas?

Mr. DONAGHUE. I don't think it is an easy solution. You would have to look at it from the standpoint of—

Mr. SMITH. Could you trace it to the purchaser?

Mr. DONAGHUE [continuing]. Registering the phone with a particular person and, you know, some sort of identification so it could run with that person.

Mr. SMITH. Right. Okay. Last question I have, and Ms. Reed, let me ask you to start off with the answer, and that is, what would you all like Congress to do to address the escalating amount of senior crime?

I didn't mention, I don't think, in my opening testimony, but perhaps it is worth mentioning, and that is, to our knowledge, when you look at all the different types of crime that occur in America, there are only three types that are increasing, senior crime being one of those three. The rest have sort of plateaued or have gone down.

What would you like Congress to do? I know it could range from funding to task forces to enhanced penalties to more education and so forth, but what would you like for us to do to try to combat senior crime. Ms. Reed?

Ms. REED. Well, from the local perspective, I am very interested in the ability to create the task forces. I think a component of that can be the prevention and can be worked into that, so that they work hand-in-hand, so you have the effective prosecution and you have the prevention.

I think your enhanced penalties are a good idea. I think, as a practical aspect, I think your prosecution is mostly going to be at your local level and your States, and so you can't enhance theirs, but of course you can send a message by doing that.

Mr. SMITH. Right, right. Okay, thank you. Mr. Pollock?

Mr. POLLOCK. I would love to see you support TRIAD so that we can—

Mr. SMITH. I had a hunch you were going to say that. [Laughter.]

Mr. POLLOCK. You left the door open for me there.

We need to educate our seniors. We need to educate our law enforcement. A lot of our law enforcement are not familiar with these crimes, too. Prosecution, and let's put them in our jails for a long time, so that hopefully we can send them a lesson that we're not going to tolerate these type of crimes.

Mr. SMITH. Okay. Good. Mr. Donaghue?

Mr. DONAGHUE. I certainly think that Congress certainly sets the model often, with the laws that they pass, and certainly the telemarketing sales rules comes to mind, and I think certainly one important part of the telemarketing sales rules is that you gave the State attorneys general concurrent jurisdiction to bring an action under that law. To the degree that we don't preempt the States from, you know, enforcing their own laws, I think that is helpful.

Mr. SMITH. Ms. Bruno?

Ms. BRUNO. I have to agree with Mr. Pollock and ask for your continued support in funding the TRIAD program for each State. TRIAD educates seniors, and also can assist them in reducing their fear of unwanted crime as well, so—

Mr. SMITH. Okay. Very good. Thank you all.

Mr. Scott?

Mr. SCOTT. Thank you, Mr. Chairman. I think you asked the question I was going to ask, of what new laws were needed. Let me ask it a slightly different way, and that is, what is wrong with the traditional laws against fraud? Are there any shortcomings in the present law, criminal laws? When people rip off others, is there any defect in the criminal law that prevents you from getting people convicted?

Well, let me ask another question. How about increased civil laws that would allow injunctive relief? Is that something that we should be looking at?

Mr. DONAGHUE. Certainly, and in Pennsylvania we do have a civil enhancement penalty for crimes or fraud or misleading conduct against seniors. It is \$1,000 per violation of our consumer law statute, but for a senior citizen it is a \$3,000 penalty, and certainly it does help us hit the—

Mr. SCOTT. Per violation?

Mr. DONAGHUE. That is right.

Mr. SCOTT. How often is that inflicted on someone?

Mr. DONAGHUE. We use the terms of that statute quite frequently. Actually, we just sued last week a hearing aid dealer who obviously was predominantly selling to senior citizens in Pennsylvania, and was failing to comply with Pennsylvania's laws. One of the things that we put in our complaint was the allegation that, you know, each violation of both our consumer protection law and of the hearing aid law would amount to a \$3,000 fine per violation.

Mr. SCOTT. What was—was he actually sending a hearing aid if people purchased a hearing aid?

Mr. DONAGHUE. What he was—there is in Pennsylvania a number of requirements that go to giving the consumer the ability to

return the product, either within the first 3 days if the sale is at a person's home or within 30 days after the purchase, and he was skirting many of those provisions and in essence not giving the senior citizen the ability to cancel that hearing aid contract.

Mr. SCOTT. How organized is this fraud? I imagine some people just figure they can rip somebody off, and do it individual-to-individual. Others are well-organized phone banks where they have very sophisticated list development and systematically rip off anybody that's answering the phone. How much of this is organized and how much of it is kind of sporadic?

Ms. REED. I really would say—and I really can't give you any statistics on it—you know, the boiler rooms work in big groups and target an area, but there are also an awful lot of little guys out there who do the pigeon drops, and travelers. That is one of the problems that we will see, is they will come through town and then move on, and just kind of travel before you are able to make your cases on them, and move around. So there are organizations that we have seen that are big organizations that violate the laws, but there is also the little guy.

Mr. DONAGHUE. I think you hit the nail on the head with regard to the boiler rooms and the information that they share, and State attorneys general are constantly looking out for patterns and practices of fraud, and do try to share information to try to keep up with them.

Mr. SCOTT. How often are you successful in prosecuting the boiler room operations?

Mr. DONAGHUE. From a civil context, it does become difficult, especially with regard to telemarketing fraud and those boiler room operations, especially with the ones that are coming out of Canada. Again, modern technology unfortunately will often help some of those telemarketers that are—

Mr. SCOTT. If they are out of the jurisdiction, we recognize the problems you have got there. If somebody is running the operation within a State, say Pennsylvania, what are your barriers to prosecution of a boiler room?

Mr. DONAGHUE. Well, and I should mention we actually did have a very successful prosecution about, approximately 2 years ago, against a Canadian telemarketer, and that was with the help of the Canadian officials, and we ended up actually using the Federal telemarketing sales rule when we brought our action in the Middle District.

But certainly, you know, to the degree that if we do have something in-State, it does make it much easier for us. But unfortunately, and especially with regard to telemarketing, most of them are either, you know, in Canada or other parts of the world.

Mr. SMITH. Okay. Thank you, Mr. Scott.

Thank you all for your testimony today. It has been very helpful. We will be back in touch with you as we move forward with legislation, and get your advice as we go along that route, as well. Thank you all, again.

We stand adjourned.

[Whereupon, at 12:40 p.m., the Subcommittee was adjourned.]

A P P E N D I X

STATEMENTS SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE BOB BARR, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF GEORGIA

Crime has been, and continues to be, a major concern in our society.

Crime against seniors and the elderly is particularly abhorrent. Scam artists seek out those whom they perceive as the most vulnerable—often seniors, living alone on fixed incomes, and generally trusting and good-hearted. Visits or phone calls from con artists come unannounced, with scam offers seeming too good to be true. Scams against seniors include telemarketing, sweepstakes, home or vehicle repairs, miracle cures, phone “slamming,” identity theft, living trust frauds, fake charitable organizations, and pyramid schemes.

Although elderly persons are by no means the only victims of fraud and financial scams, they are particularly susceptible. The well-versed criminal often chooses victims who can least afford either the emotional distress or the financial loss. These crimes may not be as dramatic and dangerous as a robbery or an assault, but they can be just as devastating.

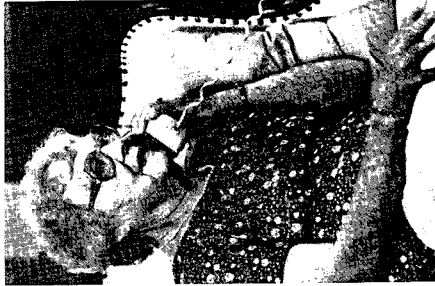
Policy makers, public officials and law enforcement, along with community organizations, must continue to be vigilant in community policing and educational efforts. Together, we can reduce the number of victims by continually brining such scams to light and educating the public. Seniors are often seen as “easy targets” for crime. By knowing how to identify these various scams and taking the necessary preventative measures, seniors can protect themselves from falling prey to fraud.

MATERIAL SUBMITTED FOR THE HEARING RECORD

THE BURNET COUNTY
SHERIFF'S DEPARTMENT

CAN PROVIDE

**Daily Contact With
Seniors,
The Homebound &
Latch-key Children**



*Peace of mind for family
and friends*

Are You O.K.?

Are You O.K.?

For complete information contact
your

- * Church Office
- * Synagogue Office
- * Local Civic Group
- * Highland Lakes Medical Center
- * Local Community Physician
- * Local Fire Department
- * Local EMS
- * Burnet County Courthouse

or the

Burnet County Sheriff's Department
P.O. Box 216
Burnet, Texas 78611

Office Phone (512) 756-8080
Fax (512) 756-4064

**ARE YOU O.K.?
SYSTEM HIGHLIGHTS**

- * Automatic dialing at pre-arranged times each day.
- * Handles an average, 150 calls per hour.
- * Can call more than once a day, or at different times on different days.
- * Capable of scheduled calling interruptions for vacations special occasions, weekly schedules.
- * Custom/foreign language messages for individuals.
- * Capable of making long distance calls.
- * No cost to subscribers.
- * Important Emergency information kept on each subscriber.
- * Automatic Operation
- * Speaker allows operator to hear subscriber.
- * Utilizes the 911 System operators.
- * Operated and monitored exclusively by the Burnet County Sheriff's Department.
- * A practical, caring community service.

Take the real Out of Being Alone.

Contacting an elderly person, homebound individual or latch-key child on a daily basis helps to assure their well being and gives them a feeling of security..

The **Are You O.K.?** telephone system eases the concern of friends and family who may find it difficult to maintain consistent, reliable contact. Parents of a 9-year-old child may want to make sure their son is home on time from school. An 85-year-old woman wants the independence of living alone with the security of being monitored. The **Are You O.K.?** system brings a sense of comfort into every subscriber's home.

Each day at a specified time, the system automatically makes these monitoring calls inexpensively and without interruption to normal community services.



Are You O.K.? What It Is and How It Works

The Burnet County Sheriff's Department utilizes its Dispatch System to monitor and store subscribers names, numbers, and call times. With the press of a button, the system automatically calls each person. Upon receiving a voice response, it delivers a short recorded message.

System operators may choose to monitor responses through the speaker while maintaining other duties. At the end of each calling session, a daily log of calls is produced on the printer.

If the subscriber doesn't answer after a preset number of call attempts, an ALERT is issued on both the monitor and the internal speaker. When the computer is on ALERT it prints out complete background information on the subscriber, including doctor name and address, nearest friend or relative, next of kin, and medical history.

When the subscriber needs Emergency Service before the regular scheduled call, they simply dial 911. The same Emergency Dispatch System will handle the call. This service is provided 24 hours per day, 7 days per week by the Burnet County Sheriff's Department.

How You Can Subscribe to Are You O.K.?

This automated calling system is a natural addition to police, fire and other emergency centers. The System was purchased by Sheriff Joe Pollock in conjunction with donations from civic and fraternal groups, churches, synagogues, and other organizations working toward community betterment.

The success of the system depends on informing as many potential subscribers as possible about the daily calling service. Targeted subscribers can include the elderly, latch key children, handicapped and homebound individuals. **There is not any charge to the subscriber.**

You can obtain the Enrollment Forms for potential subscribers by contacting your church or synagogue office, local civic groups, the Burnet County Courthouse, or the Burnet County Sheriff's Department.

Each subscriber must complete a Field Interview Form