ELDER JUSTICE COORDINATING COUNCIL

PANEL ONE: FINANCIAL EXPLOITATION

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Speakers Panel: Financial Exploitation

MS. GREENLEE: So we'll turn to our first panel. I hadn't had a chance to meet before this morning Mr. Tiller or Mr. Harwood. Many of the people in the audience have heard me talk before that my introduction to financial exploitation of seniors was as Assistant Attorney General in the State of Kansas where someone brought to me a grocery bag full of these scam puzzles and sweepstakes, and it's how I began to learn as well. So our partnership and my interest in this with your agencies is long held.

So we are going to turn to our first panel, on financial exploitation. So let me introduce them to you.
1 Paul Smocer is the President of BITS, with
2 The Financial Services Roundtable. Good to see you
3 again.
4 MR. SMOCER: Thank you.
5 MS. GREENLEE: And Paul Greenwood. We've got
6 Paul, he's the Deputy District Attorney, head of the
7 Elder Abuse Prosecutions in San Diego, California.
8 MR. GREENWOOD: Good morning.
9 MS. GREENLEE: Welcome.
10 And Erica Wood. Erica is with the American
11 Bar Association, Commission on Law and Aging, where she
12 is a senior attorney.
13 Three people well versed in financial
14 exploitation. We will, panelists, hear their comments,
15 and then we have set this up so that we can have an
16 opportunity for those of here to ask them questions. So
17 you might take notes. And we'll hear from all three
18 and then question them as a group, if we can.
19 So, Paul, I think we're going with you first.
20 MR. SMOCER: Okay, thank you. First, good
21 morning, and thank you to the members of the Elder
22 Justice Coordinating Council for providing this
opportunity for us to speak on the subject of financial
exploitation of older Americans and actions we can
collectively take to reduce that exploitation. As
Kathy said, my name is Paul Smocer, and I am the
President of BITS, which is the Technology Policy
Division of The Financial Services Roundtable. The
Roundtable and its members are committed to encouraging
their employees to comply with high standards of
conduct when providing financial advice to customers,
including older Americans and their families. Helping
ensure a secure financial system and retirement for
millions of Americans is central to the mission of the
financial services industry.

We are all here because we understand the
magnitude of this issue. Unfortunately, the threat to
elder Americans is only increasing as the population
ages, creating a potentially larger pool of victims for
financial exploitation. Since many older customers
still prefer to conduct transactions in person,
financial services employees can often detect older
customers' behavior and have the opportunity to react
appropriately in the event of financial exploitation.
In identifying and reacting to cases of suspected abuse, it is essential for the institutions to work with Adult Protective Services and local law enforcement. To accomplish this, many institutions participate in local and regional task forces composed of those groups. Working with our member institutions, the Roundtable's BITS organization previously released a white paper to help financial institutions and their customers identify and combat elder abuse. In addition, the Roundtable was proud to participate in the 7th Annual World Elder Abuse Awareness Day.

Currently, the Roundtable and its members have committed resources to a working group focused on developing a structure for training financial institution staff on elder fraud trends and procedures for reacting to suspected elder financial abuse. This group also hopes to create a broader sectorwide consumer-facing training and awareness program for the industry as a whole.

In discussing this issue more generally, the group has identified a number of areas where they feel impediments exist to improving prevention wherein the
assistance of the Council's members would be very helpful. I will outline each of these briefly, but my written comments have more detail on each of them.

First, an added layer of sophistication of currently robust financial institution protections could be to segregate elder customers' activities to allow special focus on this population. Many financial institutions are concerned, however, that segregating their customer population for this purpose could be interpreted to place them in violation of existing age discrimination laws. Clarification by the appropriate members of permissibility of using age as a specific criteria for monitoring would help solve this issue.

Second, there is a current conflict of customer duty in the legal obligations that occur when a customer who has the legal right to conduct business with his or her account wants to make a transaction that appears to involve fraud. A regulation or statute that provides institutions the authority to authorize a protective hold on such specific transactions would be helpful in this space as well.

Another substantial yet similar challenge
occurs when an individual with a duly executed power of attorney to act on behalf of the elder is suspected that they're trying to perpetrate fraudulent activity or activity not in the best interest of the elder.

Better educational material for those holding powers of attorney coupled with enhanced criminal penalties for those who abuse their power could be helpful here.

Fourth, financial institutions are sometimes concerned with the liability they or their employees might incur in situations where they suspect and report elder abuse, particularly if it is a situation in which it is ultimately determined that a fraud was not involved. Today, certain states require the reporting of even suspicions of fraud, but that reporting is not uniform on a national level, and statutory hold-harmless provisions to protect the reporter seem far from consistent. Standardizing reporting and liability protections we believe would serve to enhance the reporting effort.

Fifth, institutions currently file suspicious activity reports to the Financial Crimes Enforcement Network, but state requirements differ greatly. It is
necessary to clarify and standardize as appropriate these reporting requirements. Improvements could also be made to the suspicious activity report process to identify more quickly elder involved abuse.

In addition, sharing the information of various agencies, particularly the CFPB, who is currently collecting information on local and regional APS services, would be very helpful if that could be shared with the industry.

Lastly -- and Skip mentioned this -- an additional area of improvement involves the licensing of financial professionals who serve the community. Our thoughts regarding those improvements were recently submitted to CFPB in response to your request for information regarding senior financial exploitation.

In closing, please again accept my thanks for the opportunity to offer our thoughts to you today. Clearly, the concepts and suggestions that we outlined above are a starting point for discussion, and we recognize and wish to work with you as you move forward and appreciate that opportunity to do so.

So thank you.
MS. GREENLEE: Thank you. Thank you very much, Mr. Smocer, for now and for helping us on the event in June. You were very helpful. Paul Greenwood, we would like to hear from you next.

MR. GREENWOOD: Thank you very much. Well, good morning. Normally I'm very comfortable addressing a jury of 12 with a closing argument --

(Laughter.)

MR. GREENWOOD: -- but I find today addressing this great Council, and behind me, sandwiched between some very distinguished colleagues, this is slightly more challenging.

(Laughter.)

MR. GREENWOOD: But I want to thank you so much for, first of all, giving us the opportunity to meet together as a group. This is really excellent. Sometimes you feel you're on your own and you're battling going uphill, but to see good faces again and just to be reminded that we're all in it together is very helpful. So I want to thank you just for that in itself. The networking is just terrific.
I've had the privilege of prosecuting crimes committed against seniors for the last 17 years. I'm one of two county prosecutors that is on your panels today, along with Page, from Seattle, and it really is a privilege to address you on behalf of many other prosecutors around the country. When I started 17 years ago, there were very few prosecutors dedicated to, on the local level, prosecuting these crimes, but I'm pleased to tell you that that group is growing, and we're all learning so much from the cases that we put on in court.

People ask me all the time, "How come you stuck in this for 17 years?" Well, the major reason is my parents. My father is 90, he has advanced Alzheimer's. He's a Second World War bomber pilot. And my mother is 89. And they are truly my heroes, and they are the people that really keep me focused on why we need to seek justice for these men and women.

(Applause.)

MR. GREENWOOD: For example, travel plans permitting tonight, I'll be in court tomorrow morning at 8:30 on a typical
elder theft case, and we do those regularly, but
where I've become frustrated over the last 17 years is
our inability to apprehend these crooks that you've
seen on video who perpetrate scams against our elders,
and they range from the "grandma" scam, and you all are
familiar with that one, where the perpetrator calls up,
pretends to be the grandson, he's in an out-of-state
jail, he needs $5,000 bail money to get him out of
jail, and this happens constantly. And then we've got
the sweepstakes scams that go on all the time. We've
now got -- recently I've had several timeshare sales
scams where elders are trying to divest themselves of
these timeshares and are being ripped off by out-of-
state crooks.

And these crooks hide behind anonymity, they
have cell phones, they're so hard to track, and they
always cause a loss of about $5,000. And the problem
that I've had over the last 17 years is that we've been
unable to coordinate efforts on the federal level and
on the local level to actually go after these crooks.
I'm proud that my office is willing to extradite crooks
from out-of-state and out-of-country, even for $5,000.
1. If I can probably commit to getting a judge to send
2. that predator to state prison, my office will probably
3. extradite from out-of-state certainly, and out-of-
4. country hopefully.
5. So what I am here to ask you about is whether
6. we can do more together to coordinate these efforts.
7. And I applaud the federal agencies for what they've
8. done, for their awareness level, but there is so much
9. more, as we all recognize, that we can do together.
10. And one of the major areas -- I see five
11. major areas actually that I would like to address as
12. being things that we could remedy.
13. Number one, I would love to see in major
14. urban areas like San Diego the creation of a
15. multidisciplinary task force involving the U.S. Postal
16. Service, the U.S. Attorney's Office, local law
17. enforcement, financial institutions, and, of course,
18. MoneyGram and Western Union. And in addition to that,
19. there is one other agency that has cropped up in the
20. last few weeks in my cases that I'm prosecuting. We're
21. seeing a lot of now victimization where the victims are
22. being asked to go to Walmart and CVS to buy prepaid
Green Dot cards because the crooks have figured out that Western Union and MoneyGram are doing a little bit better now in trying to screen out the wire transfers, but these prepaid cards you buy for $500, and then you scratch out on the back, just like an iTunes card, and there are 14 digits, and all you have to do is give those 14 digits to the crook over the phone, and he's got the money, and he's got it like instantly.

So I would love to see the creation in major cities across this country developing these task forces to provide some kind of rapid response because here is my frustration: I get calls every week from Adult Protective Services, "Paul, here is the latest victim. Can you talk to her or him?" I talk to them on the phone, they give me phone numbers, they give me wire transfer details of their losses, but then I ask them to make a police report. The police say, "Well, talk to the FBI." The FBI, unfortunately -- and I understand why -- they say, "Well, it's a $5,000 loss, there is nothing we can do for you." So these cases go uninvestigated.

So the second thing I would recommend is
looking at the implementation of mandated reporting laws for financial institutions. California has led the way, I believe, in making bank tellers, credit union tellers, mandated reporters. We've seen a tremendous improvement in the response. And even if all states won't go that far, at least make it mandatory training for all financial institutions so that when an elderly widow comes into the branch and says, "Can I have $5,000 in cash?" it should immediately send alarm bells ringing for the teller that maybe there is a scam going on.

Thirdly, I would urge some kind of better stringent anti-fraud measures to be placed out there. For example, it's so frustrating when banks and credit unions get rid of their bank surveillance videotapes after 3 months. Couldn't we ask them to keep those bank surveillance tapes for at least 9 months and maybe secure some kind of evidence there?

We need better regulations when a recipient goes in to pick up the money. Can't we mandate fingerprints and photographs and drivers licenses so that we can at least track who it is who is picking up
1 this money?
2 
3 Fourthly, I would love to see the 
4 establishment of a national committee of law 
5 enforcement experts creating a database which could be 
6 accessed by people like me and Page Ulrey containing 
7 contact information as to who we could call in other 
8 countries or in this country, Canada, Jamaica, the 
9 United Kingdom, other countries where scams originate. 
10 It would be terrific to have that kind of resource 
11 available so that we could, as part of the rapid 
12 response team, pick up the phone and say, "Okay, can 
13 you help me here?"
14 
15 And, fifthly, I would urge for some kind of 
16 creation of a system that would allow search warrants 
17 to be processed quickly to identify known telephone 
18 numbers that are being used by the scammer. I have in 
19 my office back in San Diego a whole list of phone 
20 numbers that I've called in Jamaica and in Las Vegas, 
21 area codes 876, and 702. I've spoken to these 
22 crooks, and I have their phone numbers, but I can't do 
23 anything about it, and it's so frustrating when you 
24 actually talk to the crooks on the phone, and they
laugh at you. Most of the time I call myself Richard Chamberlain, I don't know why, except that I grew up with "Dr. Kildare."

(Laughter.)

MR. GREENWOOD: But occasionally my cover has been blown and they find out that I am Paul Greenwood, Deputy DA in San Diego, and they laugh at me, and they know that they can just get away with it.

So I offer those five suggestions, but I want to thank you for the coalitions that have already been formed on the federal level. We need to share success stories amongst our county folks much more, but learn from one another and hopefully coordinate so that we can go after these predators out-of-state and out-of-country.

Thank you.

MS. GREENLEE: Thank you very much.

(Applause.)

MS. GREENLEE: Erica Wood. It's baseball season, so I'm going to say batting cleanup on this panel is Erica Wood.
MS. WOOD: Well, and as long as we're bragging about parents, my mother became 100 last month.

(MS. WOOD: (Applause.)

MS. GREENLEE: That's cool.

MS. WOOD: So far she's safe and sound, and I hope she remains that way.

I'm from the American Bar Association Commission on Law and Aging, but today I am not representing the ABA. I'm honored to be here to talk about federal representative payment programs, and I would like to especially address Commissioner Astrue, and I guess Dr. Petzel is --

MALE SPEAKER: He had to leave.

MS. WOOD: Yes.

COMMISSIONER ASTRUE: I'll fill him in.

(Laughter.)

MS. WOOD: Thank you.

MS. GREENLEE: Do we have staff here from the VA, though, I think, too? So, I mean, most of the agencies that are here on the front also have staff.
MS. WOOD: Thank you. Commissioner Astrue I want to recognize and congratulate you on everything that you've done and build on your remarks. I am particularly excited about the Philadelphia demonstration program that you mentioned involving the use of outside information. I think that's just the kind of thing that I want to reinforce.

But despite all that, sadly, some government representative payees do take advantage of their position of trust. Now, I'm talking about rep payees who out-and-out use benefit funds for their own purposes. I'm talking about payees with direct conflicts as long-term care providers or employers who pay minimum wages or house people in unsafe settings. I'm talking about payees who take control of beneficiary money beyond just the benefits, payees who no longer have care of the beneficiaries but continue to get and use the money anyway, problems I know that you're all very familiar with; payees who commingle benefit funds with other funds, or charge excessive or illegal fees. The payees that we're talking about are in the mammoth Social Security program, in the VA
fiduciary program, OPM, Railroad Retirement --
Treasury?

FEMALE SPEAKER: Uh-huh.

MS. WOOD: And perhaps there are others that we don't know about, that haven't even surfaced. Such payees play dual roles as far as financial exploitation. First, the payees stand as a bulwark against financial exploitation. That's why they're there, that's why they were appointed, to manage the funds and protect the beneficiaries. But, second sadly they sometimes do become the perpetrators despite their fiduciary role.

Now, proportionately, we're only talking about a small percentage, but oftentimes exploitation goes undetected with devastating impact on lives. Data is difficult to come by.

Spurred by the GAO, OIG, and other studies, both Social Security and the VA have taken steps in many directions, within existing resources, in payee screening, selection, support, monitoring, data to better detect abuse, frontline staff procedures,-- and I
certainly defer to them on exactly where these internal actions stand. Obviously more is needed.

But I'm really here to open the door to some broader, more holistic strategies that cross agency and jurisdictional lines to look through a bigger lens where collaboration and coordination is the name of the game.

After all, that's why we're here today.

One option is simply to get “more eyes” on payee misuse. Now, folks working in a wide range of federal or federally-funded programs, and also state players, routinely see beneficiaries. They might “bump into” abuse and yet just not recognize it or know what to do about it. Of course, I'm talking about the aging and disability network players, like APS, Agencies on Aging, ombudsmen, insurance counselors, long-term care licensing, legal services -- but beyond that think about HUD housing services coordinators, even a postal worker or a Department of Labor employee, an RSVP volunteer, the possibilities are endless. Could we somehow open their eyes, heighten their awareness, so they know what they're looking for in payee abuse and tell them when and how to report? So that's one.
Second, another option is to look at information exchange with external entities. As the GAO pointed out so vividly, the payee programs in Social Security and the VA are not coordinated with court programs and with APS, and yet they serve pretty much the same population. A rep payee may also be a guardian, or a person could have two different people, one serving as guardian and one as rep payee. So essentially what we've got is two fiduciary systems on top of each other, one federal and one state, but not hooked in, not hooked together.

Information on misuse of funds by a payee over here never makes it over here to the court side or to APS, even though it's about the same person.

Now, I understand that recent discussions by SSA, the OIG, and the Administration on Community Living are exploring ways to overcome information exchange barriers, and that's very promising.

But it's not just sharing information about specific cases. Let's talk systems, coordination, sitting down, breaking down silos among Social Security, the VA, courts, APS, the aging and disability network, which could be a real win-win. What if, at
least on a pilot basis, the court and a Social Security field office could join forces on training payees and guardians, could partner in public education campaigns or even recruit volunteers? What if they sat down studied trends, problems, egregious cases, miscommunications? What if?

And, finally, there is an option for greater external payee review. In 2009, as Commissioner Astrue knows, in response to a shocking case of longstanding exploitation by payees who had employed individuals with intellectual disabilities in a poultry plant, Social Security contracted to have state Protection and Advocacy agencies conduct intensive onsite reviews of certain organizational payees.

I think this is a "twofer" because the reviewers can look not only at the funds but also at beneficiary housing, employment, safety, and care. So one approach could be to extend the P&A review to additional payees, perhaps individual payees; and furthermore we might explore a similar role for experienced advocates on the aging side. We could perhaps shine a particular light on the conflicting roles of payees who also provide housing
and long-term care.

There is more that I could say, and it's in my written statement. I just wanted to add a word about the particular importance of payee education and training and support, and note that the fiduciary guide that Skip mentioned does include rep payees, and with that I'll stop and open my remarks to discussion.

MS. GREENLEE: Thank you very much, Erica. Let's thank our panel before we do the questions. So thank you all.

(Applause.)

MS. GREENLEE: Commissioner, we'll turn it over to you for questions.

COMMISSIONER ASTRUE: Yeah, let me just respond briefly to Ms. Wood, and then I'll have an actual question. I mean, I think that we're in central alignment. One of the things that concerns me when I talk particularly to members of Congress and their staff is that there is an idyllic view and a dated view of what a Social Security field office looks like. With the budget cuts and the huge increases in workloads, these are swamped offices, and there are actually very
few older Americans in the waiting rooms and coming in these days. In part, that's because Treasury has been so successful on our behalf with direct deposit, but I actually do this with members of Congress, and they hate it, when I take them into their own field offices and I say, "Is there anything here that surprises you?" and then I count, one potato, two potato, three potato, and I say, "How many people over the age of 60 do you see in the room?" and typically these days, in an urban office in particular, it's less than 10 percent. There are usually more children in the waiting room than older Americans, and it's because they're in for authentication and that type of thing. That's a problem.

The reason I'm bringing this up is there is this image in many quarters that we have this constant regular interaction with our retirees, and actually we don't. And so what is really important -- and this is actually going to lead up to my question -- is the key interaction we have is when they first come on to the rolls, and sometimes they don't even come into the -- I mean, I think something like 43 percent are applying
online now. So those initial interactions when people first come on are critically important in terms of any information transfer that we give about avoiding fraud or reporting abuse or anything like that. So I guess the question -- you all come from different perspectives, the financial industry deals with people analogously, you deal with the problems, the ABA looks at it sort of broadly -- is there any learning from other organizations' experience if we don't have many opportunities to interact face-to-face with the people that we're trying to serve as to what's critically important to get across? And is there anything that we should be saying? Is there a piece of paper that we should be handing to people? Is there a website that we should have up that we should be telling them is going to be there if they ever have a problem? Is there anything in terms of information exchange as people are coming into the system that perhaps we're not doing now that we should be thinking hard about doing?

MS. GREENLEE: Mr. Smocer?

MR. SMOCER: Let me comment in a couple ways.
One of the concerns that I personally have is that I mentioned in the comments that we still see a lot of elder Americans coming into financial institutions, I mean, they still tend to want to do face-to-face branch banking, but I think that's going to diminish over time, too. Ironically, the fact that many of them who used to like to get the check because it was a chance to go out and go to the bank every month -- right? -- that doesn't need to happen for them anymore.

So one of my concerns kind of in a "long term going forward" sense is, are we collectively, whether it's an agency that deals with these folks, whether it's the financial services industry, are we going to stop having as many opportunities to do that face-to-face interaction, which always tends to be, I think, a little more effective than trying to do it remotely?

The one thing I would react to in your comment is that, yes, I think there is an opportunity to do some education at the point of them first entering the system. The one thing that struck me today as I listened to the members and listened to at least the testimony to date is it seems like a lot of
us are trying to focus on this kind of awareness and education piece, and it seems to be different agencies are working on perhaps different aspects of this, and I wonder if there is some way for us to figure out a way to coordinate that, because I don't think the messaging is significantly different. There may be specifics related to how to handle your Social Security payment, there may be something specific, but I think the basic cautions and messaging and awareness that we're trying to convey is essentially the same. And my staff sometimes hears me make this analogy, that a lot of times we seem to react like a group of 6-year-olds playing soccer -- right? -- everybody wants to go to the same ball.

(Laughter.)

MR. SMOCER: It's important that we go there, it's important we're trying to score, but we're all using resources that are precious to us to try and accomplish the same end. So I wonder if there is some way that we can think about collectively a way to kind of create that educational messaging with maybe some lead agency, and the rest of us kind of playing a
supportive role in that process, because we're about to launch something, CFPB is launching something, USPS is launching something, SSA is thinking of something, Treasury is working on something, and I think we're going to end up with a lot of the same words in probably different packaging, but we're trying to accomplish the same goal, and it would be great if we could figure out a way to work together to get that done.

MS. KOIDE: Can I ask a question before we leave that?

MS. GREENLEE: Yeah. I just want to make sure we come back and have other people can ask.

MS. KOIDE: But it is this question, and it's something that we are grappling with in the broader context of education. In the particular elderly population, what do we know in terms of what is effective education? And really, what are the cohorts of elderly who are being abused? And how confident are we that if we are educating in the form of a document, a website, that we're actually going to be effective of it? That seems like a first order question, and I
MR. SMOCER: And I'm not sure I do either. I mean, certainly speaking for our industry, I don't know that we have access to all the research that suggests, as we heard some of the members say today, as we heard some of the panelists say today, kind of, what are the brain effects going on in the elderly, and what might be the more effective approach to getting that message across? I mean, we kind of know the fraud schemes, we know how people are being exploited, and we can put out cautions around doing that, but one of the comments that was made earlier this morning was -- and I don't remember who made it, I apologize -- but the comment essentially was one of the first things to go is the ability to differentiate when someone is lying to you. Well, you know, kind of a lot of education that says these are the lies to somebody who may not be able to differentiate it --

MS. KOIDE: Exactly.

MS. GREENLEE: So we have a couple of questions. Let me broaden it to Erica and Paul, if you want to kind of weigh in, Commissioner Astrue asking
about sort of that initial point of entry, and Ms. Koide asking about kind of what works, and just make sure we have -- and we'll keep it moving, but to make sure the other two have a chance.

MS. WOOD: Well, as some of you know, I spend a great deal of time looking at state guardianship systems, and so I see a lot of parallels and differences with the rep payee system. I think that in formulating those messages and getting them out, some collaboration between the courts and the rep payee program could be helpful. I recognize that the field offices are strapped for resources, but maybe then there is more need for them to join forces with courts, and I don't know exactly how that would be done. I know that each court is different, and probably field offices are very different, and so some kind of pilot that might test that and evaluate that might be worthwhile.

The other thing that I just wanted to bring from the guardianship side is that there have been pilots sending out volunteers to monitor guardians. Who
knows? It might work on the rep payee side, too.
That's totally untested, but I just throw it out for what it's worth.

COMMISSIONER ASTRUE: I mean, it is a problem, and with the huge cuts we're facing, we're looking at possibly 15 to 20 days of furloughs for everyone in the government. In these days, going out into the field broadly for 7 million Americans is going to be very hard particularly to do it in any kind of thorough way.

I guess the other thing I would just want to say -- and maybe people can react to this -- I mean, it's an unfashionable thing to say perhaps, but there are some limits to education. I mean, if you think about the videotape from the Postal Service we just saw, my bet is if that woman entered our system between the ages of 62 and 70, we could have transferred a lot of this information and she would have processed it, and it wouldn't have been a problem, but the problem is -- I don't know what age she is now, but clearly there is at least early stages of dementia, and there are limits to education. I mean, obviously someone was
1 trying very hard, and it was no use.
2 And that goes back to the other point, that I
3 think one of the biggest problems we have is people
4 like that fall through the cracks. There are people
5 who know that somebody is vulnerable and no longer
6 capable of managing their affairs, and yet there are so
7 many legal and cultural barriers to sharing that
8 information that somebody like the woman in the video
9 is probably not going to have that information
10 communicated so agencies can try to respond and help
11 her. I mean, I would not be stunned if the Postal
12 Service told me that's one of my beneficiaries and she
13 doesn't have a representative payee even though it's
14 very clear from the video that she's not capable of
15 managing her own finances.
16 MR. GREENWOOD: And can I just weigh in?
17 MS. GREENLEE: Yes. Go ahead.
18 MR. GREENWOOD: A couple of points. I think
19 that's why training the gatekeepers of the money is so
20 important, because with regard to that victim on that video,
21 the next day she withdrew more money to send to Jamaica.
22 We need to do a better job at training the tellers
who are giving out that money, who see this lady coming
in day after day. These crooks are using other
sophisticated methods. I just had a case where now the
crook out-of-state is calling up a cabdriver to
pick up my victim on six different occasions --
because she no longer has a car because she's disabled.
See, they're arranging the cabs to take them to the
credit union and to withdraw the money, and thankfully
it was a trained credit union teller who spotted this
and brought it to the attention of the authorities.

Secondly, a conduit for getting all this
information together, I mean, there are some wonderful
websites out there, but I think you'll hear from her
this afternoon, Dr. Laura Mosqueda, who wears so many
hats I can't keep up with it, but she and her
colleagues at UC Irvine run this national center, and
it really is providing a tremendous resource. So if we
could somehow -- and I hope she doesn't mind me
volunteering her organization for this --

(Laughter.)

MR. GREENWOOD: -- as a conduit to bring all
these different aspects of training and projects

together under this one umbrella of the national center

would be a terrific idea.

MS. GREENLEE: So for the rest of you on the

panels, we're going to expect you to answer all of the

questions that have been asked before you get here,

don't you think? So keep track because this is good

follow-up.

(Laughter.)

MR. SMOCER: I'm glad we're on the first

panel.

MS. GREENLEE: Yeah, yeah, because they get

harder as the day goes.

(Laughter.)

MS. GREENLEE: Commissioner, do you have more

questions before I open this up to the panel?

COMMISSIONER ASTRUE: No, no. I think I

should share.

MS. GREENLEE: Secretary Koide, do you have

more? Let me come back to you since you had asked and

see if you have --

MS. KOIDE: No.
MS. GREENLEE: Anybody else?

MR. TILLER: May I, please?

MS. GREENLEE: Yes.

MR. TILLER: I feel like we could sit here all week actually with just this group and discuss it. I think, from a law enforcement angle, we have a lot of work to do. We're all playing catch-up to these emerging crimes. For us, we've experienced the Jamaican lottery scheme is the emerging crime in our realm. I believe Mr. Greenwood could share that same opinion. We actually have someone detailed to Jamaica, which sounds very exotic, but it is truly not. Essentially it's to generate those relationships with local law enforcement. We have our first case at Justice to extradite, we're waiting to see that happen, but it's one case.

What I worry about is the law enforcement officer in the middle of Kansas. They need to be a social worker now. They need to know how to interact with the elderly, educate them, interact with the caregivers. We're doing our catch-up ourselves, with Mr. Smocer's comment, we have to do the same with our
1 window clerks at the post office because they come in
2 and mail $10,000 via Express Mail to Jamaica, that is
3 not uncommon. My brother down the table here from FTC,
4 they've done a tremendous job with MoneyGram, the wire
5 transfer companies. There is a recent change with
6 Green Dot we should probably discuss at some point.
7 We're all playing catch-up. Corporate America is
8 playing catch-up on how to stop this misuse of their
9 own products, but this is what we have to do, is talk
10 about it. But I almost think we have two tracks, the
11 education track and the law enforcement track, and
12 again we could be here all week and discuss these.
13  
14 MR. SMOCER: And if I could.
15  
16 MS. GREENLEE: Yes. I was going to say
17 comments are completely welcome. Do you have
18 questions, too? Because I want to make sure that they
19 can respond.
20  
21 MR. SMOCER: So two thoughts come to mind.
22 One is -- and I mentioned the kind of whole suspicious
23 activity reporting in FinCEN. I think there is a very
24 practical thing that could be done easily, which is to
25 kind of update that reporting to very specifically call
out elder abuse or suspected elder abuse. Right now, if I'm still correct, it is a textual entry as opposed to one of the categories of what you're reporting is suspicious activity. So just kind of making it a category so that we could collectively do some analysis that suggests that maybe the same suspect over here in California is also being victimized by someone in New Jersey, so we can kind of start to gather that data. And to the extent that we can, I mean, that is a relatively good and mature process for reporting suspicious financial activity to the extent that we can get other industry players into that space, whether it's USPS following through it, whether it's Green Dot and some of the others following through it. I think that would be helpful to build the database that Paul was trying to look for, which is, can we consolidate this information and realize the same criminal actors are many times operating across various jurisdictions? I think that would be a very helpful thing to look into if we could.

MS. GREENLEE: Other people on the panel?

Skip?
MR. HUMPHREY: Well, first of all, I wondered, Paul, have you used at all or have you seen any use of the FAST organizations and bringing together as quickly as possible the effort to get information readily available to prosecutors like yourself? I think that would be very important. This whole idea -- and what we need more of is the engagement of the financial community itself and having them understand that there are safe harbors so that they are not at risk in the reporting. And certainly for those who are in the lay fiduciary roles, in those fiduciary roles, that they understand the responsibilities that they have to report as well.

So it just seems to me that what each one of you are talking about represents the kind of coordination that we also need to facilitate.

MR. GREENWOOD: And Skip mentioned the FAST team, which is an acronym for Financial Abuse Specialist Teams, and there are many of those spreading around the country, and we have them in California, and, yes, I've been actively involved in one for the last 17 years.
1 Unfortunately it's always these sad stories the FAST team
2 shares, but ultimately they look to me for trying to,
3 solve it, investigate it and prosecute it. And
4 that's where the frustration comes in, and I think just
5 the fact that I hear that you have a postal inspector
6 representative out in Jamaica, I mean, I hope you don't
7 mind, I'm going to be asking you for the name and the
8 phone number because this is great, this is what we
9 need, is points of contact in all these areas so that I
10 can contact the FBI and then we can contact the U.S.
11 Postal Service. And I don't think it would take much
12 to get on a regional level a series of people and a
13 task force to get this going. And speed is of the
14 essence, you know, if we can do it. And I think you
15 said -- one case at a time is fine with me. If we can
16 just do one case next month, and then the month after,
17 the word will spread in that predatory community, and I
18 think we can do it that way.
19
20 MS. GREENLEE: Mr. Harwood, do you have any
21 questions?
22
23 MR. HARWOOD: Yeah, thank you, a couple
24 different questions. First, let me just follow up on
the comment that Mr. Smocer made of guardian coordination. Actually, the Federal Trade Commission has a law enforcement database that receives complaints from both Western Union and MoneyGram, and we make that database available to any law enforcement agency, and it's for free, and anyone who is not -- it's called Consumer Sentinel, and if you're a law enforcement agency and want to gain access, we would be happy to give it to you. We've been working with Western Union and MoneyGram over the past year to feed all of their consumer complaints into the system so it's a way now that law enforcement can go and compare information.

And then Mr. Greenwood, you mentioned Green Dot. We've actually had similar conversations with Green Dot about whether we can work with their data as well. But I'm curious, maybe all three of you can answer this, but if Western Union or MoneyGram or Green Dot were sitting here, what sorts of things would you urge them to do in addition to what -- or maybe what they could do now or what they are doing now to try to discourage seniors from using any of those three payment systems as a means for transferring money
1 offshore frequently?

2 MR. GREENWOOD: Well, I mean, they are doing it now, as you said, by warning them. I think a personal approach is needed, just by having somebody at the counter saying, "Have you been contacted today? Has somebody promised you a prize or has a grandson told you he's in jail?" Just having that personal interaction, which might cause some of these people to hesitate.

3 When I speak to the victims, that's one of the first questions I ask them, "Did anybody come up to you and ask you if you needed help and why you were sending the money?"

4 and in most of the cases they said no. And I said, "Well, if they had said anything to you, would that have made you stop and think?" and they said, "Possibly." They're not going to say it's going to happen all the time. I also think, though, that these three agencies should do more to make it more difficult for the recipients to pick up the money.

5 I mean, I remember going to the bank a few years ago with my son, he was like 12 at the time, and he had his first check as a recreational referee at the soccer, and the hoops we had to go through to prove who...
he was to cash like a $24 check, and I think, how ironic, you know, we do that for a 12-year-old kid, but when a stranger comes in and picks up a large sum of money we should have some rules in place.

So I think we should get more regulations to have fingerprints, photographs, photocopies kept on file so that when we trace where that money was picked up, at least we have a name and a photograph of somebody who is doing it.

MS. GREENLEE: Mr. Harwood?

MS. KOIDE: Sorry.

MR. HARWOOD: Go ahead.

MS. KOIDE: I want to understand the "picked up" point because if the money is being transferred from -- loaded at a Walmart, Green Dot, MoneyGram, if it's loaded onto a card, it's coming off the ATM or the point of sale. Say more about what the process would look like in terms of verifying the identity of who is actually taking the cash off.

MR. GREENWOOD: Yeah, for those recipients who go into actual Western Union or MoneyGram to actually physically pick up cash --

MS. KOIDE: Got it.
MR. GREENWOOD: -- that was -- yeah,

obviously, as you say, when they just simply open up a
new account, it's not going to be so easy to make that
happen.

MR. HARWOOD: Sure, no problem. Another
question that occurred to me, so it strikes me that a
lot of effective law enforcement -- let me ask you
another question first. You talked about how helpful
it would be to have more access to subpoenas quickly so
you can check on phone numbers. If you could do that,
what would you do with that information? I mean, I
gather you would like to know who owns that phone
number, but what's the next step in that process as far
as you're concerned, assuming you get that information?
How would you go about -- because at lot of times it's
going to be offshore.

MR. GREENWOOD: Right.

MR. HARWOOD: So what's the next step?

MR. GREENWOOD: With apologies to the folks
on Jamaica, a lot of these are from the 876 area
code. So now if we can track down where that number
was coming from, then we would
1 obviously contact the Postal Service if they have their
2 representative out there and then work through them
3 with the local law enforcement in Jamaica to identify
4 who the suspect is. And then once we get that
5 information -- and I'm constantly telling the agencies,
6 "I'm here, I'm willing to prosecute this crime. You
7 show me who it is, I'll prosecute that person." I
8 think once they get that kind of commitment from a
9 local prosecutor, it will start happening.
10       MR. HARWOOD: I actually think some of that
11 may already be happening, and as Mr. Tiller has
12 mentioned and some others have mentioned, there
13 actually is an outlet for you to do that by talking
14 with the folks in Jamaica. It's called Project JOLT, I
15 believe is the name of it?
16       MR. TILLER: Yes.
17       MR. HARWOOD: And it's actually trying to do
18 exactly what you're describing, so we'll make sure you
19 get in touch with that. My sense is that one of the
20 challenges that many law enforcement agencies face is
21 not just identifying who is perpetrating the scam or
22 fraud offshore but actually effectively prosecuting
them because they are in fact offshore. Have you had success? You talked about possibly considering extradition. Have you had success with that, trying to get prosecutions where the perpetrators are located offshore?

MR. GREENWOOD: Not offshore yet because I haven't identified anybody offshore. We have extradited somebody -- from Colorado, but not offshore.

MR. HARWOOD: So my third -- we should work on that as well, I think, because that's a challenge. Actually, the Department of Justice has actually been our best ally with regard to international prosecutions, but something that we should probably discuss in the future.

The third thing -- and I know this is something that maybe Page can talk about, too -- I'm curious about the challenges of dealing with a senior victim when you're actually trying to put somebody on the stand or prosecute somebody.

MR. GREENWOOD: Oh, I love it.

(Laughter.)
MR. GREENWOOD: I keep telling my other prosecutors around the country, give me a 100-year-old victim witness anytime. Do I have to run a rap sheet on the victim? No. They have such credibility with my jurors, and even though they may exhibit signs of cognitive challenges, the fact is that they are a victim of financial exploitation. Jurors get it. This is exactly why this person was targeted. And I often say to my gang prosecutor friends, "Who would you rather have as your victim, a 100-year-old, my victim, or your 17-year-old victim who is a member of the rival gang?"

(Laughter.)

MR. GREENWOOD: So it's absolutely -- this is one of the misconceptions that I battle against, is that law enforcement typically think that if you're over 75, you're going to be an ineffective witness in the courtroom. That is not the case. They become so powerful as a witness.

MR. HARWOOD: I think that view is still widely held. How do we overcome that, among law enforcement, that older victims are really not good
victims to rely on?

MR. GREENWOOD: Well, it's people like Page and I and others can go around and say, "Bring us these cases because these victims speak for themselves and they have such jury appeal." So we've just got to get that message out across the country to other prosecutors.

COMMISSIONER ASTRUE: Can I ask you, Paul, we're dealing with the same issue with the lotteries in Jamaica and our IG has been pretty active but pretty frustrated, and I know extradition is viable, and I commend you for being willing to do that. Is it also a viable strategy -- I mean, your experience in places like Jamaica, if we supply enough information to Jamaican or similar countries' law enforcement -- is it a viable strategy to sidestep extradition and actually get prosecution in the country of origin, or do you think that's not a viable strategy?

MR. GREENWOOD: No, I'm sure that's workable given the relationships that are obviously being built by our agencies and with the local law enforcement. Certainly it would be, but again it's about
accountability whether they would follow through, and we would like to hear if these are successful prosecutions. So I wouldn't say that we have exclusive monopoly on how to do these cases, no, not at all, I just work with any prosecutor in any country being willing to do that.

MS. GREENLEE: So let's get Department of Justice in the mix.

Julie McEvoy, do you have questions?

MS. McEVOY: I do, thank you. First of all, thank you for your observations and comments. I think one of the clear takeaways is that we can bring some of the Department of Justice law enforcement components into this discussion particularly on a task force level. I sense the frustration being told that certain of these cases are too small. Perhaps if we get the right folks in the room, we can look at this as a more global problem and get some attention to it. So thank you for that.

I was hoping, Mr. Smocer, you could follow up on your suggestion that it might be appropriate to segregate elderly customers as a focus and that to do
that, the financial industry would be interested in
some sort of exemption from the ABA. Could you
evoke a little bit and tell me what you had in
mind?

MR. SMOCER: I think the question is we're
not even -- you know, with so many institutions, we get
the question a lot of time, "Can we actually do that
segregation?" I mean, it's for, we think, the right
purposes, but institutions are concerned that were they
to segregate out that population and say -- let me give
you some practical examples. So we get a change of
address to which a statement is supposed to go, right?
A lot of times that confirmation of that change of
address might go via e-mail nowadays, but if we happen
to know -- if an institution happened to know this was
an elderly customer, they might take it the extra step
to give them a call or ask them the next time they're
in the branch or whatever the case may be, "Hey, Mr.
Smith, did you intend to change your address? Because
we got this request in."

And so I think a lot of the fraud monitoring
kinds of systems that are in place today are very
strong, but I think institutions would like the opportunity to think about extra steps they could do germane to this population but are afraid if they segregate that population, that they're going to get in trouble in another way. So just kind of getting some clarity around whether that's permissible, and if it's not, thinking about how we might make it the way to go.

MS. McEVOY: Good. Okay. Thank you.

MS. GREENLEE: Do you have other questions right now?

MS. McEVOY: Not right now. Thank you.

MS. GREENLEE: I have one. I wanted to go back to, Paul Greenwood, you talking about the $5,000 loss kind of threshold.

MR. GREENWOOD: Yes.

MS. GREENLEE: Will you talk about the relationship between financial exploitation and other kinds of abuse? Because I'm concerned that if we measure the loss on a dollar, based on a dollar figure -- and I understand prosecutors have to make decisions, and so do APS workers -- that we're not fully capturing the nature of the abuse if we're only looking at the...
finances. So will you talk about what you see as the correlations between financial abuse, physical abuse, emotional abuse, and some of the other kind of problems we're worried about?

MR. GREENWOOD: Sure. And actually you raise a good point. Let me first of all talk about the impact on the victim. To some people, the loss of $1,000 may not be too significant, but to so many of my victims it is huge, and I've seen so many victims spiral downhill as a result of losing $1,000 or $5,000, and they lose the will to live. So I think generally we have to assess the impact of the crimes on the victims, not just by the money amount but what it actually means to them in terms of having had a violation of trust or whatever.

And, secondly, you're right, financial exploitation isn't in a vacuum, it can often be part of a wider picture of power and control. So you get the financial exploitation as part of neglect where the caregiver is basically depriving the victim and weakening them to the point where now the victim signs over the house, quitclaim deeds, does a reverse
mortgage, and they become power of attorney and have total control of the assets.

And then, of course, there is so much financial exploitation by sons and nephews and grandsons who are addicted to drugs, alcohol, and gambling, who then resort to violence after they've stolen the victim's money, and when the victim confronts them, and so you get the whole picture of neglect and physical exploitation, as well as the financial damage.

So that's why I believe prosecutors who handle elder cases shouldn't just be departmentalized into, "Okay, you're doing fraud cases of elders,"
because I think we should cover all the aspects -- financial, physical, and neglect -- because it is a big picture. And in San Diego, our police department has six detectives who do nothing but investigate elder abuse crimes, of both physical and financial because, as you indicate, there is such an overlap often between the various activities.

MS. GREENLEE: This is a concern I have just generally for the law enforcement approach and the
Adult Protective Services approach, that often we would prioritize a crime against a person as being a higher ranked significance than a crime -- and I'm speaking of a property crime, and for an older population, I think that division doesn't work very well, that it doesn't sort of indicate that the financial exploitation could be an early warning signal or completely wrapped up in the other types of abuse. And then if you quantify that number, it can drop even lower. So I just wanted to throw that out as one of my concerns about how we sort of evaluate decision-making and sort of -- it becomes a relative measure on the seriousness, and I don't think it's accurate for this population.

Let me go around one more time before we let this group go, if we have other questions from either end.

Skip?

MR. HUMPHREY: I have one question for Mr. Smocer. Have you seen or are you aware of any particular training program for those employees in financial institutions that seem to be working? And are they restricted? Have you had the sense that they
are restricted by the laws that may claim some basis for discrimination?

MR. SMOCER: The training programs, yes, there are some very effective ones, and I would be glad to get together offline, and I think we should, and kind of share what we know and what you are working on. The training programs per se don't really overlap the discrimination point per se. I think to some extent, though, they overlap the kind of confusion around -- well, confusion in a few senses. To whom do you report this? Because there are so many options, right? Do you take it straight to law enforcement? Do you work through APS? Does it depend on what particular geography you happen to be in that is most effective? And even, who is the right agency if you're going to take it to an agency? I mean, that's one of the struggles, as all of you know, the agencies vary in some cases by state, by region, by locality, et cetera, which is why we are very encouraged by the work you're doing on trying to gather all that information. And then it is the question of trying to clarify and make it clear -- and this doesn't -- I
mean, this will work for financial institutions, but it
will work for a number of other industries as well and
just people in general -- make it clear that you have
an obligation to report and that if you do, you're held
harmless because there is a concern whether I'm an
individual teller at a small institution, should I say
something, shouldn't I? You know, there's, I think,
concern more broadly. So if we can clarify that, I
think that would go a large way.

And laws like Maryland has passed and like
California has passed, as an example, don't just apply
to financial institutions, they apply pretty much to
any citizen who senses that there is an abuse going on,
that you should report it, here is who to report it to,
and that you're held harmless in reporting it. And so
I think if we could get that -- you know, whether it
has to be a national model that the states could adopt
or national legislation that applies and overrides the
states, I mean, some model that basically helps that
reporting to get improved.

And one thing I wrote down earlier as the
panel was talking, one thing that also struck me, too,
and it's a point I just made a second ago, to whom do you report this? I mean, I think there are a lot of people who would report but it is so confusing. And one idea I didn't have in either the written or the oral was, is there a way to think about kind of a one 1-800 number, right? One toll-free number that some call center then passes on, they have the information. I, as a citizen, or I, as a teller, or I, as whoever, don't need to think about or figure out that in my community, I should probably call this number. I mean, is there a way to kind of consolidate that point of contact for somebody who wants to report?

MS. McEVOY: I think that dovetails nicely with Mr. Greenwood's suggestion, that, gee, wouldn't it be great if there were a database, if you could have a single referral point that would collect standardized amounts of information and be able to go to that database and send it back?

MR. SMOCER: Right.

MR. HARWOOD: I don't want to go on much more, but I just had one final question. Our sense is that one of the challenges that senior consumers and
their caregivers face is access to adequate legal representation. I'm curious if any of you have thoughts or are aware of programs that are actually working to ensure that elderly consumers have the kind of access they need to get advice about the various legal issues they face. And, Ms. Wood, maybe you might have some thoughts.

MS. WOOD: Well, as Assistant Secretary Greenlee knows, under the Older Americans Act, there is a whole system of legal services programs for older people, and I think that functions very effectively, but it's not enough, and so combining that with private resources, pro bono, is needed. And one of the things that the ABA does is work very hard to link those public and private pro bono and legal services programs so that you get more bang for your buck, but it's still not enough. And I think that there are a lot of avenues that we could take to increase these legal resources that bear upon all the questions that we've just discussed.

MS. GREENLEE: Erica, you made a comment earlier about kind of going to the places where seniors are already engaged with the broader kind of aging and
disability networks, and you were listing a whole group. It's hard to find them. It's kind of a needle in a haystack, you've got such large numbers, but they do see other people. And when you were describing that, I just got stuck on, how? I mean, operationalizing that particular idea, I'm just interested in now and as follow-up, so that if we have someone who comes in for services to a congregate meal site, we won't know they have a rep payee. I mean, how -- because it came up in the context of the abuse and the rep payee situation.

MS. WOOD: I guess you would have to look at each of those players individually to see how they bump into the rep payees, but an ombudsman certainly might in the course of going to a facility. A legal services program might encounter them, and might not know about the indicators of rep payee abuse.

So they each come in contact in a different way. I agree that it's a scattered approach, but even a simple brochure would help because for most people it's still not even on their radar screen.
MS. GREENLEE: Yeah. Okay. Anything else?

(No audible response.)

MS. GREENLEE: Thank you, panelists. We will break for lunch. Before you move, let me tell -- well, you can go ahead and clap, but I don't want them to move yet.

(Applause.)

MS. GREENLEE: Well, this is a federal event, so I'm proud to announce we won't be feeding you.

(Laughter.)

MS. GREENLEE: We are good feds. We are going break and reconvene here at 1:30. Lunch is on your own. Good luck. And thank you all very much. Please come back. We've got wonderful people speaking this afternoon. And thanks for the first panelists so much.