WHITE PAPER ON ELDER FINANCIAL EXPLOITATION

Imagine a scenario in which you come home and discover that while you were away, your residence has been looted. It is obvious that the suspect has gained access without your knowledge and has stolen assets valued at approximately $5000.

After the initial shock, you call 911 to report the crime. You are then told that there is nothing that can be done. It is explained to you that an investigation is not possible because of either lack of resources, or because the amount stolen does not meet the criteria for investigation. Additionally, because there is evidence that the suspect has now left the jurisdiction, you are informed that your local agency does not have the ability to go after the out of state criminal.

Such a lack of response from a local law enforcement agency would typically create a protest from the homeowner and from the community at large.

Yet, every day in this country there are cash assets being taken from elder citizens, and very little is being done to investigate, apprehend and prosecute the offenders.

The crime of elder financial abuse takes many forms. It is one of the fastest growing crimes and the indications are that it is going to escalate. The reasons for that are evident.

Demographics show us that we are indeed an aging society. Thanks to medical advances we are living longer. By the year 2030 it is predicted that there will be over 70 million people in this country over the age of 65. And by the year 2020 it is calculated that there will be over 240,000 people aged 100 or above.

Additionally, victims of elder financial abuse are often reluctant to report such crimes to the authorities. Embarrassment leads to silence; and there is sometimes a perception by the victim that an adult child might want to take control of the older parent’s finances in an effort to preserve any remaining assets. A victim may choose to stay silent rather than run the risk of losing independence and control.

And some elderly victims - because of mental capacity challenges - are unaware that they have been tricked or duped by a perpetrator.

Furthermore, as resources and budgets become more stretched, local law enforcement may have to give priority to investigating violent crimes and therefore place reports of financial elder abuse on the back burner.

Financial institutions share the responsibility for the fact that so many of these crimes remain unreported. Frequently, the elderly victim is told by the scammer to withdraw funds from their bank or credit union and then make a wire transfer or purchase a credit card onto which cash can be loaded. In states where the institutions are not mandated by law to report suspected financial elder abuse either to Adult Protective Services or to law enforcement, a bank or credit union teller may be reluctant to intervene. Training of such employees in recognizing red flags of elder financial abuse may not occur.

However, in states where either mandatory or permissive reporting laws exist, there is at least some expectation that an alert bank teller may spot an unusual transaction and attempt to prevent the elder from becoming the next victim.

Advances in technology has allowed suspects to remain anonymous. Cell phones can be purchased off the shelf at supermarkets leaving very little trace as to the identity of the user. The internet allows crooks to create bogus accounts and intercept monies from victims without the need to physically walk into a store or bank.

Prepaid credit cards are now offered for sale at local pharmacies and popular outlets. Elderly victims are frequently hoodwinked into loading such a card with cash; they are then instructed to scratch off the metallic strip on the back of the card revealing the numeric code from which the crook can obtain the cash value of the card.

Elders are targeted because typically they are known to be a more trusting generation; a kind, reassuring voice on the other end of the telephone can persuade an elderly victim to do something that a younger person might otherwise challenge.

Moreover, many elders are concerned about their financial security. They have seen their savings reduced by a volatile stock market and are looking for ways in which they can guarantee a more secure future for themselves and their children. When an individual calls and promises a large “prize”, the temptation to respond is huge.

The failure of local law enforcement to take a report or investigate such crimes may be attributed to one or more of the following reasons:

1. There is no known, identifiable suspect
2. The suspect appears to be out of state and therefore beyond the jurisdiction of that particular agency
3. The victim entered the transaction voluntarily and is entitled to make a “foolish” decision
4. The agency does not think that the prosecutor’s office will be willing to prosecute

Prosecutors too often labor under misconceptions that prevent successful prosecution of suspects who commit elder fraud. One of the most common myths is that elders make poor witnesses in the court room. Sadly, many prosecutors fall into the trap of believing that an elderly victim will be ineffective as a witness because of poor memory.

Moreover, some prosecutors are unwilling to consider filing charges because the amount of the loss to the victim falls below the threshold that the prosecutors’ office has established.

Unfortunately, we currently have no reliable data from which we can measure the extent of the problem of elder financial abuse. There is no national clearing house that collects such cases; and we will never know the true extent of the number of cases that go unreported.

Meanwhile, the perpetrators become more brazen and creative in their efforts to extract the life savings of our elders.

Two “scams” have emerged as prevalent in the last few years. One is known as the grandma scam. The crook typically calls the unsuspecting grandmother and pretends to be her grandson. One variation of this crime involves the crook telling the elder that he is in jail in another state or country; he may explain his travels by stating that he is attending a friend’s wedding. The reason for his incarceration is because he has crashed the rental car after a pre-wedding celebration and has been arrested for a DUI. He convinces the grandmother that he needs urgent bail money in order to get back home. He tells the victim not to mention this to anyone in the family or elsewhere as he does not want this information to be leaked to his employer. The victim is then ordered to go immediately to the bank or credit union to withdraw up to $5,000 in cash and then wire the money to a third party in the region where the jail is located.

A second common scam involves the promise of a substantial prize. The victim is convinced that he or she simply needs to send money to cover the taxes on the winnings. Payment is demanded either in the form of a wire transfer or through the purchase of loaded credit cards. Sometimes, the victim is sent through the mail a check that ostensibly will cover the amount of the taxes. The check looks authentic; and it may take the bank or credit union several days to confirm that it is bogus. Meanwhile, the victim has already withdrawn funds to pay for the taxes.

The following e-mail [published with permission] illustrates the frustration felt by many families across the country:

"My husband, Mark was recently diagnosed with frontal temporal lobe degeneration (FTD), an early-onset form of dementia. FTD affects the part of the brain that governs the executive functioning skills such as reasoning, decision making, problem solving and planning. People with FTD often appear to be mentally sound until the disease has progressed to its later stages.

Because FTD is often undiagnosed for years, our family was unaware that my husband had the disease. We only became aware of the problem when I learned that my husband had made financial decisions that have had disastrous effects on him and our family:

* Mark became involved in an Internet scam -- some thing so out of character, that it was our first inkling that something was seriously wrong.

* Mark always had been extremely frugal and conscientious with money. Suddenly, he failed to make payments on monthly bills. Where he had always paid the full amount on the monthly credit card bills, he failed to do so for months, amassing large interest and penalty payments. In addition, Mark began running up huge bills on the credit cards. In less than a year, he amassed almost $60,000 in debt.

Mark depleted almost all our liquid assets: our children¹s trust fund and his IRA.

He used the liquid assets to wire almost $400,000 overseas to an entity he believes is a China-based trucking company - but which is actually an internet scam which has promised him a large percentage of a $10 million payoff at some future date. Because of the FTD, no one - no family member, no doctor, no lawyer, no friend - can convince my husband that this is a scam. To this day, my husband believes this is a viable business investment.

Mark continues to attempt to redirect his monthly pension and social security payments, as well as my work income to this internet scam. Mark also has applied for numerous loans against the house and tried to get new credit cards. Fortunately, so far, I have been able to use the revocable Power of Attorney to block these actions: this power is revocable at will by Mark so my ability to keep our home safe from the scam is tenuous. Presently I am attempting to obtain guardianship.

I am writing this letter because I need assistance in recapturing some of our funds from these internet scam artists, and in forcing them to stop contacting my husband and pressuring him for more money. And, while one can put curbs on our home computer, he gains access to a computer and these scammers at the library.

I have contacted the FBI via the on-line complaint form. But, to date, the FBI has not responded. State and local police offices state they have no jurisdiction. I have requested assistance from the ....Attorney General's office, national and local agencies charged with assisting the elderly and persons with disabilities; the banks and lending offices involved; and our financial advisor. These entities either offered no assistance or did not respond.

I know there must be a Federal agency or office with the Federal system that can assist us with the internet scam problem. But, I am unable to find that office."

It is clear that there are system gaps that hinder successful investigation and prosecution of those who prey upon our elderly population. But the writer invites the federal authorities to consider implementing the following:

1. The creation of multi-disciplinary task forces in major urban areas involving federal, state and local law enforcement and adult protective agencies, as well as representatives from financial institutions and wire transfer merchants. Such task forces should be established primarily to provide a rapid response to any report of suspected elder financial exploitation involving an out of state or cross border suspect where monies have been wired. The local

prosecutor's office should be willing to seek extradition when a suspect is identified and there is a likelihood of a state prison commitment.

2. The implementation of mandated reporting laws nationwide for suspected financial elder exploitation - such as already exists in California for all employees of financial institutions. Since the introduction of this law in 2007 there has been a concerted effort by some banks and credit unions to train their staff to have more interaction with an elderly customer or member who requests withdrawal of a large amount of cash. Such proactivity occasionally leads to early intervention, thus protecting the senior's assets.But this law should be expanded to include all employees of wire transfer entities.

3. A requirement for more stringent anti-fraud measures such as non-destruction of video surveillance tapes at ATM machines, and at wire transfer outlets for a minimum of nine months. Preservation of potential identifying evidence is crucial. Additionally, far stricter regulations surrounding the collection of wired funds are necessary. There should be compulsory photo ID and fingerprinting for all recipients of such wire transfers.

4. The establishing of a national committee of law enforcement experts who would create a database accessible by approved members. Such a database would contain useful contact information of key law enforcement representatives throughout the United States, Canada, Jamaica, the UK and other countries where these scams are known to originate. Moreover, the database would contain names of known suspects, aliases, and any addresses or telephone numbers used in the scam.

5. The creation of a system that would process quickly any search warrants to identify the location of known telephone numbers used by the scammer.

State and County officials can also improve system responses by :

1. Encouraging their police chiefs to designate one or more detective[s] to actively investigate reports of suspected elder financial abuse. San Diego Police Department made such a courageous decision back in 1999 and now has an Elder Abuse Unit staffed with five detectives and a sergeant.

2. Encouraging their elected or appointed prosecutors to designate one or more prosecutor[s] to tackle these crimes and develop an expertise in presenting testimony through elderly victims.

3. Establishing statewide Financial Abuse Specialist Teams [FAST] consisting of key representatives from the community with a stake in protecting elders from fraud.

4. Creating Public Service Announcement campaigns to educate the public about current scams and frauds and to provide a 24/7 telephone number where reports can be made to Adult Protective Services.

Successful collaboration that leads to the apprehension of suspects needs to be shared as an encouragement. Recently, the following press release appeared on the FBI Los Angeles Division website:

"LOS ANGELES—A Canadian man who is among six defendants charged with defrauding elderly Americans in a scheme in which victims were convinced their grandchildren were in danger in a foreign country was arrested Thursday in Los Angeles and is due in court today for an initial appearance, announced André Birotte Jr., the United States Attorney in Los Angeles; and Timothy Delaney, Special Agent in Charge of the FBI's Los Angeles Field Office.
Pascal Goyer, 29, whose last known residence was Montreal, was arrested at Los Angeles International Airport when his flight landed from Mexico late yesterday afternoon. Following an investigation by the Royal Canadian Mounted Police in 2011, Goyer and others were identified as participants in an advance fee scheme, known as the "grandparent scam," which they allegedly operated from a boiler room in Montreal. On September 25, 2012, a federal grand jury returned an indictment in United States District Court in Los Angeles charging Goyer and five co-defendants with multiple counts of wire fraud, attempted wire fraud, and aiding and abetting.

According to the indictment, Goyer and his co-defendants telephonically contacted elderly victims in Southern California and invented scenarios involving legal or financial crises they claimed had befallen the grandchildren or other relatives of the victims. During the telephone calls, one of the defendants would impersonate the purported relative of the victim and claim to be located in a foreign country and in need of money in order to resolve the purported crisis. While perpetrating the fraud, defendants allegedly fabricated perilous situations that included car accidents or arrest scenarios, where bail money or repair expenses were immediately required. The indictment further alleges that the defendants also impersonated third parties during the telephone scheme whom they introduced as an attorney or official acting in the best interest of the individual they claimed was the distressed relative.

The defendants would then instruct victims where and to whom the funds should be sent via a wire transfer service. The indictment alleges the defendants obtained enough information from the victim to fraudulently authenticate the wire transaction by either assuming a false identity or by advising the victim to send funds to the person identified as the third party introduced to the victim.

In none of the cases alleged in the indictment were the defendants related to the victims or associated with any relatives of the victims. The indictment alleges that none of the funds collected from the victims were used to assist relatives of the victims and that all of the funds collected were used for the collective benefit of the defendants.

Investigators have determined that the victims were identified through mass-produced lead lists that targeted a specific victim demographic.

The 23-count indictment alleges that the defendants successfully convinced victims from across Southern California to use wire transfer services to send money each time they agreed to help what they thought was a relative overseas and in dire need of financial assistance. According to the indictment, victims wired amounts between $2,000 to $3,000, in most cases.

In some cases, victims were contacted after sending money and convinced that additional funding would be necessary to completely resolve the purported problem, according to the indictment.

Information developed during the investigation indicated that Goyer recently traveled to Mexico. On Thursday, Goyer was located and deported by Mexican authorities. Goyer was taken into custody upon his arrival at Los Angeles International Airport.

Goyer will appear before a federal magistrate in United States District Court in Los Angeles today for an initial appearance on the charges. Arrest warrants have been issued for the additional defendants charged in the indictment. The statutory maximum penalty for each of the 23 counts in the indictment is 20 years in federal prison.

The charges and arrest of Goyer are the result an ongoing joint investigation by multiple agencies in Canada and the United States that participate in Project Colt, one of the many binational task forces dedicated to combating cross border and mass marketing fraud. The Royal Canadian Mounted Police, the United States Secret Service, the Federal Trade Commission, and the FBI provided significant resources to the investigation, as did the United States Attorney’s Office in Los Angeles, which is prosecuting this case.

During the past year, officials in the Central District of California publicly warned potential victims how to identify and protect themselves from fraud similar to the scheme alleged in the indictment.

An indictment is merely an allegation, and the defendants are presumed innocent unless and until proven guilty beyond a reasonable doubt in a court of law."

This is an example of collaboration at its best. It needs to be replicated all over the country. Until that happens we will continue to hear stories of victims such as 81 year old Antonia Becerra. After working for more than 40 years as a waitress at a well known French restaurant in Los Angeles she was ready to retire. But after falling victim to a lottery scam that depleted her life savings, Ms Becerra has been forced to continue working.

The crooks are targeting our elders without fear of detection. It is time for us to go on the offensive.

Paul Greenwood

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Head of Elder Abuse Prosecutions

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