

Testimony of
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Before the:
U.S. Senate Committee on the Judiciary
hearing on
Protecting Older Americans from Financial Exploitation
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Chairman Grassley and distinguished Committee members, thank you for inviting me to address the significant problem of financial exploitation among older Americans. Thank you, as well, for the Committee's continuing leadership and focus on elder justice issues.

My name is Donna Harvey and I serve as the Director of the Iowa Department on Aging, whose mission is to develop a comprehensive, cost-effective system of home and community-based services to help older Iowans achieve their goals for long-term health and independence. Over the past several years, as part of the Administration of Governor Branstad and Lt. Governor Reynolds, the Department has worked closely with the Iowa Commission on Aging, the state's six Area Agencies on Aging, local and national stakeholders, and aging advocates at all levels to systemically improve the quality of care and life for older Iowans.

Yet, despite all the work we have done to better protect the health, the rights, and the safety of older adults, a persistent problem faces our state and the nation: elder financial exploitation. This issue threatens to leave older adults feeling attacked, ashamed, frightened and, in some cases, destitute.

Nationally, financial exploitation is estimated to affect between 3.5 and 5.6% of Americans who are 60 or older. Extrapolated to Iowa, that would translate to between 17,000 and 27,500 cases of financial exploitation each year.

This exploitation may be done at the hands of scam artists leveraging modern technologies and living in other states or countries, misleading financial advisors, or family members who believe they have a justified claim to their relative's estate. Exploitation may come in the form of coercions or threats, or it may occur when a representative payee mishandles money and writes checks for personal gain instead of paying the nursing home bill.

Financial exploitation is a significant concern and is especially problematic because it too often goes underreported. Like many crime victims, older adults who have been financially exploited often feel that they are in some way to blame, or do not recognize the severity of the situation until it is too late. But that does not make financial exploitation any less "real" to the older adults whose quality of life it diminishes, or to their families, friends,

advocates, and communities, who struggle to make sense of how and why this type of crime so commonly occurs.

The following stories are accounts of elder financial exploitation that happened in Iowa over the past few years¹:

Scenario I

“Maria” is the 83-year-old owner of a 300-acre farm in Floyd County. Years ago, due to her mental incapacity, Maria moved into a nursing facility and began renting her land to a tenant farmer, using the rental income to subsidize her care. In an effort to assist Maria in managing her assets and paying her bills, the court appointed “Laura” to serve as her guardian/conservator.

Early last year, Maria was being threatened with involuntary discharge from her nursing facility for lack of payment. The Office of the State Long-Term Care Ombudsman was notified, which led to further investigation and a petition to remove Laura as Maria’s guardian. Despite Maria’s farm rental income, payments from the Conservation Reserve Program, and a mortgage on her property facilitated by Laura, Maria was in arrears to the nursing facility for more than \$15,000 and had missed at least two property tax payments on her farm.

In addition, Laura had neglected to have the utilities at Maria’s uninhabited farmhouse turned off, used funds to pay credit card bills in her own name, and purchased vehicles and gasoline Maria never knew about.

When Laura attempted to refinance Maria’s mortgage and buy additional property in Maria’s name that was conveniently adjacent to her own land, she followed procedures to petition the court. Yet, because there are no federal guidelines to enhance judicial understanding and oversight of guardianships/conservatorships, the court did not question some of the tell-tale signs of estate mismanagement.

Regretfully, it is not uncommon for individuals who are given authority over vulnerable older adults’ assets to abuse that power – either because they do not know or are unwilling to act in accordance with their responsibilities as a guardian.

Scenario II

67-year-old “Olivia” of Muscatine County became the victim of financial exploitation shortly after her husband died. She was self-sufficient and living in her own home, but Olivia had always depended on her late husband to make financial decisions.

Following the death of her husband, Olivia was “befriended” by “John,” who offered to “help her out” with her finances. He soon had control of her bank accounts and quickly went through all of the money Olivia had received from her husband’s life insurance policies. Once that was gone, John had Olivia unknowingly sign over the title to her house, which

¹ Stories are factual, but names have been changed to protect the dignity of the victims.

had been paid off for years, and then made Olivia pay rent to him to stay in her own home. (John signed the now-penniless Olivia up for rent assistance to help her make the monthly payments.)

Meanwhile, John took out a substantial loan in Olivia's name and a mortgage on the house, on which he soon defaulted, leaving Olivia homeless once the bank seized the forfeited property. It was only then that concerned acquaintances of Olivia realized the magnitude of the exploitation and helped her report the matter to the police and social services.

Eventually, John was found guilty of first-degree theft and ongoing criminal conduct and sentenced to prison, but never made any restitution payments to Olivia, who lost a total of \$128,000 over a very short period of time. As a result of the exploitation and John's ability to manipulate Olivia, she, who was once financially independent, ended up living in a rental unit, supported by government assistance, until she died in 2012.

Scenario III

Although these stories are shocking and hard to believe, they represent not only what is happening in Iowa, but the types of crimes being committed against older adults living in every state in our country. Almost 90% of elder abuse incidents are perpetrated by an individual the older adult knows and trusts², like Maria's guardian or Olivia's friend. But I also want to share a story about a woman who lives in northeast Iowa and is the victim of a financial exploitation scam at the hands of a complete stranger.

A few months ago, I attended a Fraud Fighters event hosted by the Iowa Insurance Commission, where older Iowans and their families were invited to learn about common financial exploitation scams occurring throughout the state and tips they could take to better protect themselves. I sat at a table with a family of three adult children that was deeply concerned about their mother, who was caught up in a false lottery scam.

She had received a letter telling her she had won a substantial lottery prize and was instructed to call a number for instructions to claim her prize. The number belonged to the perpetrator, who, over the course of time, established a relationship with the woman and began instructing her to limit her interactions with her family, change banks, and send a series of payments to cover the "fees" associated with finalizing her win. There were times when the perpetrator called several times a day to pressure the woman into complying.

The woman had gotten to the point where she was selling off assets and incurring new debt when she began to sense that something was wrong. However, now 78 years old, she had always thought of herself as capable and independent, which made it extremely difficult to tell anyone about the situation. She was still hopeful she would be receiving the prize, which would help her fix all the problems she had found herself in; she did not want to believe she had been duped and deal with the embarrassment of asking for help.

² Peterson, J., Burnes, D., Caccamise, P., Mason, A., Henderson, C., Wells, M., & Lachs, M. (2014). Financial exploitation of older adults: A population-based prevalence study. *Journal of General Internal Medicine, 29*(12), 1615-23. doi: 10.1007/s11606-014-2946-2

When she finally admitted what was going on to her children, she was still too ashamed to admit she had been scammed. Thankfully, the joint efforts of the county sheriff, the Iowa Attorney General's Consumer Protection Division, the Iowa Department on Aging's Elder Abuse Division, the local Area Agency on Aging's elder abuse intervention specialist, a Department of Criminal Investigations agent, and her very supportive family helped her see how she had been victimized. She is now in the process of making herself safe and moving forward, but it recently came to light that she is only one of several widowed, elderly farmers living in that corner of the state who were targeted by the same scam.

Overall Recommendations

As you can see by these examples, Iowans are, in fact, independent, trusting, proud people who tend to believe in others. But these characteristics are common of all older Americans, as reported by the AARP³, which found most individuals over the age of 50 tend to expect honesty in the marketplace, are less likely to take action when defrauded, and are less knowledgeable of their consumer rights. Coupled with the fact that many older adults tend to have steady incomes from Social Security or other means and access to large sums of cash from investments or nest eggs, the traits that make them so honest make them easy targets for those who are dishonest. In short, their financial independence and trust in others make many older Iowans prime targets for financial exploitation.

We have all heard stories about famous individuals, like Mickey Rooney, who were affected by financial exploitation, but we seldom hear about the widowed farmers in northeast Iowa who fall prey to scams, or the countless older adults who suffer at the hands of the friends and family members who are supposed to be caring for them. In a nation where budgetary concerns continue to stretch the dollars available to support those most in need, millions of older adults who were once financially secure have found themselves dependent on state and federal assistance because of financial exploitation.

In Iowa, we know that work done by the Senior Medicare Patrol, the Senior Health Insurance and Information Program, the Aging and Disability Resource Centers, the Iowa Insurance Division's Fraud Fighters series, and more have helped raise public awareness of the financial scams directed at older adults. In many cases, educational campaigns are the best way to prevent new crimes from being committed, as just being aware of common schemes and tactics and noticing those tell-tale red flags can empower someone to be more skeptical, ask more questions, and report suspicious activity. For that reason, I think it is critically important for the federal government to continue to support programs designed to elevate public awareness through outreach and education.

But protecting older adults who have already fallen victim to these crimes, or who are being financially exploited and do not know it or are unwilling to report it, is a different story entirely. Earlier this month, Congressman, David Young of Iowa's Third Congressional District introduced the Justice for Victims of IRS Scams and Identity Theft Act (H.R. 5345), legislation which requires the Department of Justice to produce a plan to expedite the

³ AARP (2011). *AARP Foundation National Fraud Victim Study*. AARP Foundation.

review of identity theft or IRS fraud-related cases referred to them. Although this addresses just one piece of the financial exploitation landscape, legislation like this can help protect older Americans and provide a path to more timely justice.

Additionally, the continued support of elected officials to talk about elder abuse – including Iowa Senators Chuck Grassley and Joni Ernst – will play a key role in promoting more stringent oversight of powers of attorney, guardianships, and conservatorships, so that they are used in the manner in which they were intended: to protect the safety and welfare of older adults.

Senator Grassley and distinguished Committee members, I am pleased that you are interested in protecting older Americans from financial exploitation, and now is the right time to take action. We need to take a united stand at all levels of government, across all agencies, to better inform and educate the public on appropriate steps that can and should be taken when financial exploitation is suspected.

Additionally, we need to work to ensure our legal system is well-equipped and nimble because those who seek to take advantage of others financially will always find a target. One of the biggest challenges to combatting financial exploitation is and will always be the individual's right to make poor decisions regarding his/her own money. Still, some ideas I would encourage you to consider include:

- Developing a nationwide marketing campaign to increase public awareness about elder abuse and advertising the existing Senior Medicare Patrol toll free “safe” number as the place for seniors and caregivers to call when financial exploitation is suspected or occurs; and
- Creating a system to alert professionals when a new scam is circulating or an old one has resurfaced, as detected by law enforcement's review of Suspicious Activity Reports (SARs).

Thank you for this opportunity to speak on behalf of all those who advocate every day for the quality of life and safety of our most honored citizens – our nation's elders. Chairman Grassley, distinguished Committee members, I look forward to your questions.