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TESTIMONY OF

NANCY SHAFFER, STATE OMBUDSMAN

CONNECTICUT STATE DEPARTMENT ON AGING

OFFICE OF THE STATE LONG-TERM CARE OMBUDSMAN

BEFORE THE

U.S. SENATE COMMITTEE ON THE JUDICIARY

HEARING ON

*“PROTECTING OLDER AMERICANS FROM FINANCIAL EXPLOITATION”*

JUNE 29, 2016

DIRKSEN SENATE OFFICE BUILDING, ROOM 226

WASHINGTON, D.C.

Good morning Chairman Grassley, Ranking Member Leahy, and distinguished Members of the Committee. My name is Nancy Shaffer and I am the Connecticut State Long-Term Care Ombudsman. The Office of the State Long-Term Care Ombudsman is a part of the Connecticut State Department on Aging which also includes the State Unit on Aging. Together, the two units of the Agency provide a wide range of services and programs for older Connecticut citizens, including programs targeted for community elders such as nutrition programs, respite services and our CHOICES program (in some states this program is called SHIPs/State Health Insurance Assistance Programs) which provides unbiased, reliable, and personalized health benefits information and counseling to Medicare beneficiaries. The other unit of the Agency is the Long-Term Care Ombudsman Program which provides advocacy services for Connecticut residents who live in skilled nursing facilities, residential care homes and assisted living facilities.

Per Governor Dannel Malloy's 2014 Executive Order No. 42, the Coalition for Elder Justice in Connecticut was formed. The Coalition's mission is to prevent elder abuse and protect the rights, independence, security, and well-being of vulnerable elders and it is modeled after the federal Elder Justice Coordinating Council. I also co-chair the Coalition for Elder Justice in Connecticut along with the State Unit on Aging's Legal Services Developer, Ms. Mimi Peck-Llewellyn. Over the past three years, the Coalition has brought together state agencies, private entities, including philanthropic organizations, medical and other health related associations, academic institutions, business and banking organizations and faith communities in a collaborative effort to strengthen and improve the programs and services available to elder abuse victims in Connecticut. We have had success in outreach and awareness, law enforcement education, consumer fraud and training of financial institutions. We recognize that banking staff may be first responders to elder financial exploitation and have fostered collaborative efforts with professionals from banking, social service/aging and criminal justice entities. And we have gleaned best practices from some grass roots multi-disciplinary initiatives to combat elder abuse in all its forms.

It is a well-known fact that our aging population is increasing at an astounding rate. In the United States another "baby-boomer" turns 65 years old every second. These statistics seem especially relevant for a state like Connecticut which is the 7<sup>th</sup> oldest state in the nation, based on median age. Connecticut has the third longest-lived constituency, with an average life expectancy of 80.8 years for residents born in Connecticut today. Connecticut is consistently ranked in the top tier of states in the percentage of residents age 65 and older and as high as 5<sup>th</sup> (2010 census) in the percentage of population age 85 and older. The overall "aging" picture of the country is equally astonishing. By the year 2030, the U.S. population of 65 plus year olds will have tripled. Per U.S. Census QuickFacts National Data in July 2014, 14.5% of the national population was age 65-plus. In the context of these staggering numbers it is important to consider that elder abuse in general is highly underreported and financial exploitation is not only the fastest growing area of elder abuse it is also the most prevalent form of elder abuse. By some

estimates persons over the age of 50 control over 70% of the nation's wealth. And many of these individuals do not realize the value of their assets.

To further complicate the picture is the financial exploitation of older people with dementia. Studies indicate that 50% of individuals with dementia are victims of some kind of abuse. Often the first sign of onset of this disease is the person's difficulty managing their financial affairs, a situation which lends itself especially to financial exploitation from family members and formal and informal caregivers, from fraud and scam artists and even from professionals who are otherwise charged with ensuring their safety and care. We know that elder financial exploitation is largely underreported. Individuals with dementia are likely unaware they are victims of exploitation. Individuals who are aware or suspect they are being exploited are often reticent to report the exploitation due to fears of retaliation, loss of family relationships, shame or fear of further harm to themselves.

Financial exploitation of older adults is real, it is prevalent in American society and it takes a costly toll both emotionally and physically on its victims and it takes a toll on our society as a whole.

Though it is unfortunate, it is my honor to talk about some of the financial exploitation experiences of Connecticut elders and how these situations affect them, their families, their greater communities and the state in which they reside. The effects of financial exploitation on individuals are significant and often life-changing. Individuals frequently suffer personal degradation, depression, isolation and fear. Some have called it the "silent epidemic." As the State Ombudsman it is my responsibility to be a voice for these individuals and tell their stories in order to inform policy makers and legislators in order to improve the quality of their lives.

While we are beginning at the federal and state levels to focus on combatting financial exploitation of older adults we currently do not have a federal definition of financial exploitation of older Americans. An inclusive definition of financial exploitation of Americans would be an important step toward providing a foundation from which authorities, including prosecutors, can work to identify and prosecute perpetrators. It is so important to bear in mind that financial exploitation takes many forms such as unauthorized use of credit cards, identity theft, undue influence and outright theft. And it can happen to elders from a wide variety of sources and perpetrators.

We need a proactive approach to combatting elder financial exploitation through education and awareness. And we also need a reactive system that provides the necessary tools to bring perpetrators to justice. According to San Diego District Attorney, Mr. Paul Greenwood, a major issue he faces in his role as a prosecutor of crimes against elders, is "the lack of strong deterrents for predators; courts are under pressure not to send elder financial abusers to prison because of overcrowding issues and because elder financial abuse is considered to be a non-violent crime." There is also a pervasive attitude amongst law enforcement that "this is just a civil matter." Mr.

Greenwood frequently reminds us that law enforcement should not be asking victims if they want to “press charges.” They must not be allowed to pick and choose which crimes get prosecuted, because so often victims will “decline prosecution” especially when the perpetrator is a relative. And finally, Mr. Greenwood urges greater law enforcement training as well as training of prosecutors.

Examples of abuse and misuse of an elder’s funds abound in Connecticut and I suspect across the country. The following are examples of what we know. What we don’t know is likely even more egregious.

- In Connecticut a POA was appointed by an elder to manage her finances. The POA was discovered to be using the elder’s funds to purchase goods for the POA’s business, make personal purchases and to pay the POA’s student loans.
- In Connecticut a POA/son admitted mother to a nursing home, paid the initial deposit and failed to pay after her admission. The elder’s income was sent directly to the POA and he did not provide her the funds to pay for necessities. The POA did not respond to the facility’s calls, letters, or even to the notice of eviction proceedings. An investigation found that the son sold his mother’s home and depleted her assets to such a degree that she would be unable to pay for any of her care into the future. As a result, the Medicaid Agency had no choice but to grant her Medicaid in order to ensure that she was not evicted and continued to receive the care she required, shifting the cost to the state.
- A Connecticut nursing home resident received an eviction notice by a State Marshal for an apartment she had not resided in for several months. The elder reported that her daughter, her POA, paid all of her bills. The POA had not terminated the lease on the elder’s apartment, had simply abandoned it, however was using her mother’s funds to pay her own bills.
- In Connecticut a grandson/POA convinced his grandmother to sign her home over to him with life use and convinced her to share a key to her safety deposit box. Shortly after she confronted her grandson about taking the money from the bank security box she was dropped off at a nursing home. The resident refused to contact police as her husband had been a town official and she did not want to bring shame to the family.
- A Connecticut resident was admitted to a nursing home for a short-term rehabilitation stay. While residing at the home her daughter/POA sold valuable property and livestock and “gutted” her mother’s home, making it uninhabitable and with no plans or funds for renovation. The mother was unable to return to her home. Reportedly, the home and other property were valued at approximately \$700,000.
- In Connecticut, a residential care home was fined \$1,000 and placed on probation for two years after one of its owners was accused of stealing funds from two residents. The owner was charged with fourth-degree larceny, sixth-degree larceny, third-degree forgery, two counts of issuing a bad check, auto teller fraud and identification theft. Upon further investigation lapses in care were also found at this home.

- Around the country, The Office of the Long-Term Care Ombudsman receives complaints from nursing home residents and even from nursing home staff about financial exploitation. There are sad examples of long-term care employees exploiting their positions of authority for personal gain. A USA TODAY review of nursing home inspection records, court files and prosecution reports found that lax oversight often allows “trust fund thieves” to operate undetected and there are minimal regulations requiring greater oversight of employees. Advocates for long-term care consumers maintain that better oversight by way of mandated audits may be the response to such exploitation activities. Generally speaking, licensure and certification entities which provide oversight of Medicare and Medicaid rules, include a review of Resident Personal Trust Accounts during the annual survey process. For the most part these professionals do not have the forensic auditing skills to provide better oversight in this area.

Thank you for this opportunity to talk with you about an important subject and one that so many of us are truly passionate about. Abuse, neglect and exploitation of vulnerable older individuals is, as Senator Blumenthal reminds us, a scourge on our society. Now is the time to collectively join forces to make a difference combatting elder abuse in all its forms. One of my personal heroes is Ms. Kathy Greenlee, Assistant Secretary of Health and Human Services and Administrator of the Administration on Community Living. Her commitment to services and supports to maintain elder independence and quality of life is an example for all of us. She is committed to combatting elder abuse and raises this issue in every speech she gives. I have often heard her say in a speech, “I accept the challenge to commit myself professionally and personally to this cause.” And she asks her audience “What about you?” And so now I repeat her question to all of us in this room: What about you?

Respectfully,



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