S. HRG. 108–288

SHATTERING THE SILENCE: CONFRONTING THE PERILS OF FAMILY ELDER ABUSE

HEARING

BEFORE THE

SPECIAL COMMITTEE ON AGING UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

WASHINGTON, DC

OCTOBER 20, 2003

Serial No. 108–25

Printed for the use of the Special Committee on Aging

U.S. GOVERNMENT PRINTING OFFICE

91–381 PDF WASHINGTON : 2004

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

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SHATTERING THE SILENCE: CONFRONTING THE PERILS OF FAMILY ELDER ABUSE

MONDAY, OCTOBER 20. 2003

U.S. SENATE,
SPECIAL COMMITTEE ON AGING,
Washington, DC.

The committee met, pursuant to notice, at 1:34 p.m, in room SD–628, Dirksen Senate Office Building, Hon. John Breaux, presiding.

Present: Senators Breaux, Dole, Collins and Kohl.

OPENING STATEMENT OF SENATOR JOHN BREAUX

Senator BREAUX. The committee will please come to order. Good afternoon. I would like to thank all of our witnesses for being with us and for the members that are here. I also would like to thank our committee Chairman, Senator Larry Craig, for his support throughout this investigation effort that we have embarked upon.

I would also particularly like to thank the witnesses who are here with us this afternoon. Your testimony obviously will be of great importance to the Senate Special Committee on Aging.

This committee in particular has conducted a number of hearings over the past several years on the subject of elder abuse. Our committee has examined elder abuse that has occurred in homes and institutions as well. We have also examined physical abuse, sexual abuse, as well as simple neglect of our Nation's elderly. Moreover, the committee has also examined various forms of financial abuse of older Americans as well.

Today, we will examine the subject of family elder abuse, one of the most sinister forms of elder abuse that exists. We will be looking at the very people who violated a profound trust, a trust given by one elder to his or her own flesh and blood. Family elder abuse is difficult for any of us to fathom or to try and understand, but very sadly, it occurs.

Forty years ago, none of us wanted to believe that anyone, much less a family member, could or would abuse a child. Now we realize that child abuse obviously does occur. As a result of attention to child abuse prevention at the State and Federal levels, numerous programs aimed at addressing this issue have been developed and also successfully implemented.

I believe we are in the same situation today with regard our Nation's older Americans. It is almost impossible to believe that a family member would physically abuse or neglect a frail, older person, or take advantage of them financially. However, our witnesses this afternoon will dispel that belief.

One of the difficulties in examining the issue of family elder abuse is the lack of any available data that defines its nature and also quantifies it. The only incidence and prevalence study on the topic of elder abuse suggests that family abuse is by far the largest category. The Adult Protective Services programs in the 50 States probably has the best data available addressing abuse within the family units. The 2000 report of the National Association of Adult Protective Services Administrators reflects that almost 62 percent of the perpetrators of elder abuse are from families, as you can see from the chart that we have prepared for the audience. This data was published in 2003.

For the purposes of this hearing, we asked the Adult Protective Services Administration to prepare an interim report on data collected since the year 2000, but we were disappointed to learn that they have no plans to repeat this study at this time. This fact underscores the difficulty in obtaining elder abuse data. However, they did agree to report on some data collected in 32 States. Today, I am releasing that information, which continues to highlight the importance of finding creative solutions to this very serious national problem.

Although there is little data on the subject, we do know from our committee's previous work that something like one out of every four Americans will be a victim of elder abuse, neglect, or exploitation at some point. We know that somewhere between 500,000 to 5 million seniors are abused every year, and further, we also know that the reported abuse is only really the tip of the iceberg, since 84 percent is the estimate of elder abuse believed to go completely unreported. Clearly the Congress and the Nation must find some innovative solutions that will protect our greatest generation from abuse.

I happen to believe the Elder Justice Act, Senate bill S. 333, that I introduced along with Senator Orrin Hatch, and which is now cosponsored by some 30 additional Senators, is just the type of jump start needed to begin the complex task of developing the research and the training and programs that can aid in combatting elder abuse.

I am pleased that we now have a companion bill in the House of Representatives, H.R. 2490, which is a bipartisan bill sponsored by Representative Rahm Emanuel, Congressman Roy Blunt, Peter King, and approximately 60 additional Members of the House of Representatives.

Also solidly behind the legislation are more than 190 organizations working toward passage of the bill, through the Elder Justice Coalition. I think today's hearing will once again emphasize the need for this kind of legislation.

Before introducing the witnesses, I would like to note that we received a statement for the record from Congressmen Emanuel, Blunt and King, and I would like to insert that in the record, and also thank them for their support.

[The prepared statement of Senator Breaux follows along with prepared joint statement from the Honorable Rahm Emanuel, the Honorable Peter T. King, and the Honorable Roy Blunt and prepared statement from Senator Larry Craig:]

PREPARED STATEMENT OF SENATOR JOHN BREAUX

Good morning. I would like to thank all of you for attending today's investigative hearing. I would also like to thank the Committee's Chairman, Senator Larry Craig, for his support throughout this investigation. Most importantly, I would like to thank the witnesses for being here today. Your testimony will assist the Committee greatly in building a strong record on the need for solutions to combat the growing problem of elder abuse, neglect and exploitation.

The Committee has conducted a number of hearings over the years on the subject of elder abuse. The Committee has examined elder abuse in homes and institutions. The Committee has examined physical and sexual abuse, as well as neglect of the elderly. Moreover, the Committee has examined various forms of financial exploitation of the elderly.

Today, we will examine the subject of family elder abuse—one of the most sinister forms of elder abuse. We will be looking at the very people who violate a profound trust, a trust given by an elder to his or her flesh and blood. Family elder abuse is difficult for any of us to fathom, but sadly it occurs. Forty years ago, none of us wanted to believe that anyone, much less a family member, could or would abuse a child. Now, we realize that child abuse does occur. As a result of attention to child abuse prevention at the state and federal levels, numerous programs aimed at addressing this issue have been developed and successfully implemented. I believe we are in the same situation today with regard to our older Americans. It is almost impossible to believe that a family member would physically abuse or neglect a frail, older person, or take advantage of them financially. However, our witnesses this morning will dispel that belief.

One of the difficulties in examining family elder abuse is the lack of available data that defines its nature and quantifies it. The only incidence and prevalence study on the topic of elder abuse suggests that family abuse is, by far, the largest category. Adult Protective Services programs in the 50 states probably have the best available data addressing abuse within family units. The 2000 report of the National Association of Adult Protective Service Administrators reflects that 61.7% of the perpetrators of elder abuse are from families, as you can see from the chart we prepared. This APS data was published in 2003. For purposes of this hearing, I asked APS to prepare an interim report on data collected since the year 2000. I was disappointed to learn that there are no plans to repeat the APS study at this point. This fact underscores the difficulties in obtaining data elder abuse. However, APS did agree to report on some data collected in 32 states. Today, I am releasing that APS information which continues to highlight the importance of finding creative solutions to preventing elder abuse.

Although there is little data on the subject of family elder abuse, we know from the Committee's previous work that one out of four Americans will be a victim of elder abuse, neglect and exploitation at some point. We know that 500,000 to five million seniors are abused every year. Further, we know that reported abuse is only the "tip of the iceberg," since 84% of elder abuse is believed to go unreported. Clearly, the Congress and the Nation must find innovative solutions that will protect our greatest generation from abuse.

I believe that the Elder Justice Act, S. 333, that I introduced along with Senator Orrin Hatch and which is co-sponsored by 30 additional senators, is just the type of jump-start needed to begin the complex task of developing research, training and programs that can aid in combating elder abuse. I am pleased that we have a companion bill in the House, H.R. 2490, a bi-partisan bill sponsored by Representatives Rahm Emmanuel, Roy Blunt, Peter King and approximately 60 additional representatives. Also solidly behind the bill are more than 190 organizations working toward passage of the bill through the Elder Justice Coalition. Today's hearing will, once again, emphasize the need for this kind of legislation to help us ensure the protection of all older Americans against elder abuse.

Before introducing the witnesses, I would like to note that I received a statement for the record from the Representatives Emanuel, Blunt & King and would like to thank them for their support. I would also like to recognize other Senators for any opening remarks.

PREPARED JOINT STATEMENT FROM THE HONORABLE RAHM EMANUEL, THE HONORABLE PETER T. KING, AND THE HONORABLE ROY BLUNT

Chairman Craig and Ranking Member Breaux, we commend you for calling this important hearing to address the problem of family elder abuse in the United States. As sponsors of the *"Elder Justice Act"* (H.R. 2490) in the U.S. House of Representatives, we are keenly aware that the growth in the senior population has coin-

cided with a rise in family elder abuse. As people live longer and require more assistance in old age, the problem of family elder abuse is likely to intensify.

We also recognize the painful choices that abused elderly must face once they accept that a beloved child, grandchild, or spouse is causing harm to them. We are hopeful that this hearing will shatter the silence and shed light on the fragile balance caseworkers strike as they strive to provide individuals with healthy options while respecting their right to autonomy. We believe this hearing will go a long way to raising awareness surrounding the tragedy of elder abuse to the same level as awareness of child abuse.

Although most cases of family elder abuse go unreported, it is believed that the most frequent abusers of elderly victims are relatives who are usually adult children or spouses. We recognize that many victims of elder abuse and neglect often deny or downplay the mistreatment they are receiving. Some seniors do so out of fear of rejection and disruption of their lives; some out of pride, embarrassment or shame; some out of concern about their family's privacy and some out of concern that legal action might be taken against the alleged abuser. For the mentally infirm, many may not have the capacity to report abuse. In any event, it is clear that families can have undue influence over older Americans in a family setting. It is essential that we provide families with the necessary training, as well as options, to ensure that seniors are properly cared for and afforded a high quality of life.

Family elder abuse includes more than physical mistreatment. It also includes psychological and emotional abuse and neglect. Yet, the most prevalent form of abuse may in fact be financial exploitation. We support a comprehensive public health and law enforcement approach to providing resources to support State and community efforts on the front lines dedicated to fighting elder abuse with scares resources and fragmented systems.

Mr. Chairman, we look forward to working with you and the distinguished members of this Committee to respond to the perils of family elder abuse, and we once again commend you for convening this panel today.

PREPARED STATEMENT OF SENATOR LARRY CRAIG

I am pleased that Ranking member Senator Breaux has called for this important hearing today. As you know, crimes of abuse and exploitation perpetrated against the elderly are issues of high priority to me as Chairman of this committee.

The abuse of our most vulnerable Senior citizens is a reprehensible crime and those who commit such offenses should be prosecuted to the full extent of the law. It is important to note, however, that there are various forms of abuse. As Chairman, I have convened several hearings on crimes which harm the elderly. We have explored abuses perpetrated by court-appointed guardians; financial exploitation by Social Security representative payees; identity theft targeting seniors where life savings have been lost; and Elder Abuse arising in the homes and communities of our nation's Seniors.

According to nationwide statistics, over 60 percent of those who commit Elder Abuse are family members of the victim. This shocking fact highlights the need to punish offenders as well as taking steps to prevent the abuse from occurring in the first place. The support of our nation's caregivers, who are largely family members, is an important way to prevent instances of abuse and neglect.

We in Congress are considering a number of other important initiatives that protect senior citizens from those who prey upon them. We must continue to explore ways to coordinate federal and state efforts to resolve these devastating crimes.

In addition, I continue to work with Senator Breaux on Elder Justice issues. He and I both agree that we must provide protections from abuse as well as preserve the dignity and freedoms of our most vulnerable citizens.

I look forward to hearing today's testimony.

Senator BREAUX. I recognize any of my colleagues for any opening statements that they might have.

Senator Dole.

STATEMENT OF SENATOR ELIZABETH DOLE

Senator DOLE. Thank you, Mr. Chairman. I am grateful to all of those who are participating in this hearing today on family elder abuse.

This topic is extremely disturbing to me. I was truly horrified to read of the abuse that is being committed against seniors, an estimated 500,000 a year, and that the majority of this abuse comes at the hands of a member of the victim's family.

What does this say about the way we treat our mothers and our fathers when they are most in need? The pain that these seniors endure when they are most vulnerable and most in need is unfathomable. Fortunately, my State has temporary housing options once it's discovered that a senior is a victim of elder abuse. But key to assisting a victim, of course, is finding and investigating cases where seniors are being abused, financially, physically, sexually, mentally.

Even more important, how do we stop the abuse from occurring in the first place? Our seniors suffering in silence, especially at the hands of family members, deserve our full attention. Those in our communities who are equipped to help must communicate with each other, assisting family members who are caretakers and mobilizing when an injustice is committed. We must act early and as often as necessary to protect our seniors.

I certainly look forward to working with my colleagues to address these horrific abuses, and I want to thank you again, Mr. Chairman, and also thanks to the panel, for your courage in coming forth and your commitment to assisting those most in need.

Thank you.

Senator BREAUX. Thank you, Senator Dole.

If there are no other opening comments, we would like to welcome our panelists. We have this afternoon with us three individuals who are representing victims of physical and elder abuse, and also three experts which will share their research with us.

Our first witness is Mrs. Leanna Watts, who is currently from Georgia, Grayson, GA, but used to be from Shreveport. She is accompanied by her daughter, Diane Hamlin. We thank both of you.

I guess Mrs. Watts will be giving the testimony, so why don't you go ahead and tell us your story.

STATEMENT OF LEANNA WATTS, GRAYSON, GA.; ACCOMPANIED BY DAUGHTER DIANE HAMLIN

Mrs. WATTS. I thank you for this opportunity, first of all. I just want to say that I can't begin to tell you all of the horrible things that I have experienced. But since I only have 5 minutes, I have decided to tell you the things that are beneficial.

I moved from Louisiana to Georgia to be near family. I lived with my daughter and her husband. I decided I wanted to maintain my independence, and during my search for independent living, I found the following: you cannot have any type of savings and obtain senior assistance housing.

My son and his wife convinced me that Ohio had programs more geared towards seniors in my condition, mainly going to dialysis three times a week. They told me that they had secured me a senior apartment which was to be ready within 30 days of my arrival.

There was no apartment. Their living room became my bedroom. Absolutely no privacy.

When they found out about my life's savings of $10,000, things immediately changed. They drugged me and forced me to sign over power-of-attorney to my son and to become payee over my Social Security benefits also.

They took all of my cash. They began using my credit card, forging my signature. They took all of my identification. They forbade me to answer the door or to go outside, only on my trips to and from dialysis. They suspended my telephone privileges and told me that all calls were being monitored and recorded.

They kept me drugged for doctors appointments so that I could not answer questions or speak clearly. I had slurred speech and was slumped over my wheelchair. They constantly told me that dialysis patients do not live long and that I would soon die.

I finally got help by telling the social worker at my dialysis unit what was happening to me. She then contacted Adult Protective Services, who contacted my daughter and they made arrangements to rescue me.

We had to have a police escort to gather a few of my things at my son's apartment. We were unable to obtain any other personal belongings, such as my furniture or other clothing in storage, because my son would not disclose the location nor surrender the keys.

Since returning to Georgia, life is getting back to normal. I am beginning to take walks again and I am able to go on shopping trips and able to push a shopping cart. I am no longer confined to a walker or wheelchair. I never would have imagined that something so tragic would happen to me.

I want to say, last of all, that a word to the wise: pray and ask God for help, and when you get the answer, act on it.

Thank you.

[The prepared statement of Mrs. Watts follows:]

WATTS

In May of 2002 I relocated from Shreveport, Louisiana to Grayson, Georgia to live with my daughter, Dianne Hamlin and her husband, Pernell in order to be near family. I enjoyed my stay and felt very comfortable and accepted as part of their family. My living conditions were such that I had total privacy with my own room and a private bathroom; however I wanted to maintain my independence, and thus began my search for affordable housing in that area. I was surprised to find that having a savings account would prevent me from getting senior assisted housing with completing depleting my life's savings rendering me indigent.

After discussing my dilemma over several months with my youngest son Robert Watts and his wife, Jolita they researched and shared with me that Ohio had programs more geared toward assisting senior citizens in my condition which includes being dialyzed 3 times a week in a clinic setting. Therefore, I was invited to move to Ohio to live with them until my apartment was ready within 30 days of my arrival. They then requested that I send them all pertinent information such as, rental history, prescription receipts, and social security benefits, etc. in order to secure my apartment and receive senior citizen benefits. I was anxious to see he and his family for I had not seen him in over 12 years, and also looking forward to seeing 2 of my grandchildren for the first time. With that in mind my daughter and her husband moved me to Ohio during the month of March, 2003.

Upon arrival I learned that my son and his family lived in government subsidized housing, of which there was really no room for me with four children and two adults already living in a 3 bedroom apartment. Their living room area became my bedroom, therefore I had no sense of privacy. Anyone entering their apartment through the front door was immediately in my room. This arrangement was neither discussed nor expected by me. I was under the impression that I would at least have a bedroom in their apartment until my apartment was ready within the 30 days of my arrival as promised. I later found that they had another plan for me. There was never any attempt to get me an apartment, and they began to suggest that I live with them indefinitely because of my age and physical condition. They told me that they were planning to buy a new home with adequate space for me. I knew that I was able to live alone. I had lived alone for at least 5 years while on dialysis prior to moving to Georgia. My only reason for relocating from Louisiana was to be near family.

Things began to change after I had settled in and decided to cope with the over-crowded deployable living conditions that I was subjected to live in. Since I new that I was relocating to a new area, I withdrew my life's savings of ten thousand in cash to deposit in a bank near my new residence. With that in mind I asked my son to take me to the bank to obtain a safe deposit box to secure my funds until I could decide what next steps to take protect my savings. After my son found out that I had that sum of money in cash, he and his wife changed dramatically. I was given drugs and forced to sign a "Power of Attorney" form with my son as appointee which gave him control over all of my assets, namely my cash.

Shortly thereafter, one night he and his wife attacked me by standing over my bed yelling and demanding that I give them my safe deposit box keys. After fearing for my life I gave in and surrendered the keys. He and his wife went to the bank took my $10,000.00 and opened an account in his name at the same bank (Bank One) with my money.

Prior to each visit to all doctors, I was given drugs, which made me very sluggish and impeded my understanding and ability to effectively answer questions about my own personal being. My speech was very slurred and I could hear the questions, but was unable to hold my head upright and answer while sitting slumped over in a wheel chair. While taking the excessive amounts of drugs my health deteriorated to a point that I only had enough strength to walk back and forth to the bathroom, while being totally confined to a wheelchair and/or walker. (This was totally in contrast with my condition while in Georgia, as I frequently took morning strolls through the neighborhood.) They repeatedly told the doctors that attended me that I was "**slightly demented**". Since I was unable to speak for myself, my son was able to convince the doctors that I was demented, and later obtained a letter from one of them stating that I needed a representative to take care of my personal affairs. He immediately became the payee of my Social Security benefits, therefore I never saw another Social Security check during my entire stay in Ohio.

I began to feel as though I was in prison. I was not allowed to prepare meals for myself. I was also forbidden to answer the door or go outside. The only times I was allowed outside was on my trips to and from my dialysis clinic to receive my treatment. All of my telephone privileges were suspended and I was even unable to call my daughter. When she called she was told that I was asleep. In most cases I was asleep because of constantly being given drugs. My son also told me that any conversations that were made on any phones in his house were being monitored and recorded. Subsequently all of the phones were locked in their bedroom while they were away from home. They made all attempts to prevent me from telling anyone about my horrible living conditions.

As my physical condition began to deteriorate they would tell me repeatedly that most dialysis patients die shortly after being on dialysis, and that my death was imminent (at no time did I believe that, since I have been on dialysis for the last 12 years leading a normal life to include traveling on occasions). They then contacted an insurance agent to come to the apartment for them to purchase life insurance on me as they planned my funeral. So they purchased a life insurance policy on me and I was not allowed to speak to the agent or comment on anything regarding my welfare. They sat in the kitchen made arrangements as I sat on the side of my bed helpless and ignored.

To insure that I would not escape I was threatened by my son and told that if I spoke to anyone about what was going on in that apartment, that he would know about it. Robert and Jolita took all of my identification, to include by Social Security card, State ID, Medicare card, credit cards, and of course all of my cash. I was stripped of all of my dignity and independence. The entire, family to include my grandchildren were told not

to do anything for me as they treated me with little or no respect by ignoring anything I asked them to do (things as little as bringing me a glass of water).

Robert and Jolita immediately begin spending my money and using my credit cards while forging my name. They began to buy new wardrobes for the entire family, of course except for me. I was given my daughter-in-laws old shoes to wear that were too small and hurt my feet. To continue with insults, Jolita, without my consent cut my hair very short so that I would not have a need to go to a salon. This was yet another attempt to reduce my changes of having contact with the public to seek help and possibly escape this environment.

Penniless and begging for a coke at my dialysis clinic, I was asked by the social worker if everything was ok at home. I explained my horrible life threatening situation, and the pleaded to her for help. The social worker contacted the Department of Adult Protective Services who spoke with me and immediately contacted my daughter, Dianne to make arrangements to take me back to Georgia.

During one of my routine visits to my gynecologist I was left alone by Robert during my examination long enough to explain my situation to the doctor. She allowed me to call my daughter and explained the situation. My daughter then told me that she had already spoken to the social worker and was making arrangements to pick me up in a couple of days.

When my daughter arrived she met with the representative of Adult Protective Services, Judy Depew at my dialysis clinic. Judy contacted the police for an escort to my son's apartment to gather a few of my personal belongings to include medications, and finally my personal documents and credit cards which were severely over the limit, and delinquent. We were unable to get access to any of my other personal items to include furniture and clothing because Robert refused to give us the key to the storage unit where my items were stored pending me getting my own apartment.

After returning to Georgia on July 22, 2003 my health has vastly improved, and I am able to occasionally take my morning strolls through the neighborhood again. I am completely mobile again without the assistance of a wheelchair or walker. I have even begun to go on shopping trips by myself pushing a shopping cart in excess of an hour, on several occasions.

I have forgiven my son and his wife for the abuse that they subjected me to; however, the only thing that I request is the return of my **money** and my additional **personal belongings** that were left in storage.

A word to the wise, ***"Do not be afraid to pray and ask for help. When you receive the answer, act upon it!"***

Senator BREAUX. Thank you very much, Miss Watts. I think all of us are so glad to see you and doing well, doing much better than before. You certainly have done a very fine job in presenting your information to our committee here in Congress. So we are very appreciative of you being with us this afternoon.

Mrs. WATTS. Thank you.

Senator BREAUX. Senator Collins, did you have some opening comments you wanted to make?

Senator COLLINS. Mr. Chairman, I will just submit it for the record. Thank you.

[The prepared statement of Senator Collins follows:

PREPARED STATEMENT OF SENATOR SUSAN COLLINS

Mr. Chairman, thank you for calling this afternoon's hearing to discuss elder abuse, a crime that threatens too many older Americans. Like all other forms of domestic violence, this abuse is hidden behind closed doors.

Violence in the home has reached alarming proportions in the United States, and vulnerable seniors are among the victims. It is estimated that at least 500,000 of our nation's elderly are abused, neglected, or exploited each year. Moreover, the actual number of elder abuse and neglect cases may well be higher. For every incident reported to the authorities, another five go unreported.

Abused and neglected seniors are possibly the most isolated victims of family violence. They are abused by the loved ones that they depend on the most to care for them—their spouses or adult children. Victims of elder abuse may be too physically or mentally disabled to seek help, or they may not want to report a member of their own family for mistreating them. As a consequence, many seniors are not able to get the help that they need, despite the well-intentioned efforts of Adult Protective Services and laws in many states, including Maine, that require mandatory reporting of suspected elder abuse and neglect cases.

In my home state, it is estimated that there are 13,100 seniors who suffer some measure of abuse and neglect. Only about one in five cases are referred to Adult Protective Services. Moreover, the Maine Department of Human Services reports that substantiated cases of elder abuse have risen to 45 percent of all referrals and that the nature of the abuse is becoming more severe.

Maine's problem is compounded by the fact that many of our elderly live in rural areas, making abuse less visible and possibly putting advocacy programs, social networks, and shelters out of reach. In addition, because Mainers pride themselves on self-sufficiency and value their privacy, they may even be less likely to report abuse or neglect or ask for help.

Clearly, elder abuse is a complex problem that does not have a simple solution. I am pleased to be an original cosponsor of Senator Breaux's Elder Justice Act, which takes steps to address this under-reported, under-researched, and underfunded problem. The bill unites the social service, health, and law enforcement communities in analyzing elder abuse, improving the prevention and detection of elder victimization, and making sure that mistreated seniors are able to receive needed services.

Mr. Chairman, I commend you for calling this important hearing. I look forward to hearing the testimony of the witnesses today and to working with you and other members of the Committee on this problem that will increase exponentially as the Baby Boom generation ages.

Senator BREAUX. Our next witness is from New Berlin, WI, somewhere up in Senator Kohl's territory. Senator Kohl, do you have any comments?

STATEMENT OF SENATOR HERB KOHL

Senator KOHL. Thank you, Senator Breaux.

It is my pleasure today to introduce Officer Joseph K. Lofy as a distinguished member of our first panel. Wisconsin is lucky to have people like Officer Lofy working in law enforcement, and the Aging Committee is lucky to have the benefit of your expertise here today.

Officer Lofy comes from a strong law enforcement family. His father is a retired police supervisor, and his mother and sister both work for the Milwaukee office of the FBI.

Officer Lofy has continued that record of service. He served in the Village of Shorewood Police Department from 1990 to 2002 as a patrol officer and investigator. He also currently serves as a patrol officer in the city of New Berlin Police Department.

Throughout his service, Officer Lofy has attained a wealth of expertise. He has attended numerous training schools on child abuse and neglect, and he participated in the Wisconsin Department of Criminal Investigation's death investigation school. He has also distinguished himself as a Dare instructor, a fire investigator, a police composite artist, an evidence technician, a police photographer, and as part of the New Berlin Police Department Honor Guard.

Over the years, Officer Lofy has successfully solved cases involving arson, bank robberies, child abuse, international kidnapping, serial burglars, and many other offices. Today his experience in the case of the death of Mary Graichen will help us shed light on a disturbing but very real tragedy of family elder abuse.

Office Lofy, we welcome you here today. We thank you for your participation and we look forward to your testimony.

Senator BREAUX. Thank you, Senator Kohl.

Before your testimony, Mr. Lofy, I think we have a short video we would like to show prior to your statement.

[Video Presentation.]

OK, Mr. Lofy.

STATEMENT OF OFFICER JOSEPH K. LOFY, CITY OF NEW BERLIN POLICE DEPARTMENT, NEW BERLIN, WI

Mr. LOFY. Yes, sir. The first involvement the Village of Shorewood Police Department had in this case was in response to a request from the North Shore Fire Department. This is common in cases of individuals that are in need of being placed in protective custody for various reasons.

The North Shore Fire Department was sent to the Graichen residence for a call of a woman with infected legs. The original callers were two caseworkers from the Milwaukee County Department of Aging. The caseworkers had been assigned to investigate a report that Edward Graichen was neglecting the needs of his mother.

On Monday, January 10, 2000, at 1:24 p.m., the caseworkers arrived at the Graichen residence. They were able to get Edward Graichen to open the door and gain entry to the house. The conditions they encountered and the condition of Mary Graichen prompted the 911 call for an ambulance.

The Graichen house, located at 4261 North Farwell Avenue in Shorewood, WI, is in a middle class to upper middle class neighborhood. The duplex and yard appear to be well kept on the outside. You can refer to figure 1 in the packet. Edward Graichen and his mother lived in the lower unit. The upper unit of the duplex was unoccupied at the time of this incident.

The inside of the house, however, was a different and tragic story. All of the rooms were almost nearly impossible to enter, much less use in their designed function. Figures 2 through 6 will

illustrate this. Each room had items piled three to five feet deep covering the entire room.

Something else not evident from the outside was the overpowering odor of urine, feces and decaying human body. Police and fire personnel had to use masks covering their mouths and noses, and also had to wear protective garments. Other fire personnel had to use Vick's vapor rub beneath their noses to reduce the effect of the stench so they could work.

While medical personnel worked to remove the victim from an overstuffed armchair, exhaust fans were set up at the front door to blow in fresh air and vent the air and odors from the house out the windows of the residence. Officers who had been at the scene for some time, when they returned to the police station, the odor of the house was still lingering on their uniforms for several hours.

The refrigerator in the house contained several bunches of bananas, a sub sandwich, several cans of Chunky soup, and some bags from the Hardee's fast food restaurant. There was no evidence found at the house that a proper meal had been prepared for some time. Inside of the freezer was empty ice cube trays and insulated drinking cups.

The victim, Mary Graichen, was 88-years-old. It was reported by family members that Mary had once weighed over 200 pounds. At the time she was discovered, she was under 100 pounds in weight.

Mary Graichen was discovered sitting in a chair in the living room of her house in her own waste. Mary Graichen was clothed and covered with blankets. She could barely lift her head up, as it hung down. Her dentures were sitting next to her, along with some food wrappers. Workers described Mary's hair as being one big snarly knot. They observed that Mary's eyes were open, but full of matter. She was filthy and smelled of rotting flesh. She had open wounds on her legs that were weeping fluid and blood. The workers were told that Mary Graichen had been fed soft foods, such as the bananas, and would only drink Diet Rite soda. She had been reported to be eating very little at the time she was discovered.

The firefighters described Mary Graichen as having the appearance of "melting" into her chair. The firefighters aiding Mary Graichen again had to wear full firefighting garments and self-contained breathing apparatus to be able to stay close to her to render aid. When they lifted Mary from her chair, they discovered that her legs retained the pattern in the shape of the chair she had been seated in, and that the fabric beneath her had been disintegrating.

Once at the hospital, doctors and staff discovered that Mary's sores had gone right down to the bone. Doctors stated that Mary was severely infected, septic, malnourished and dehydrated. Hospital staff said that her wounds were so severe that all they could do was to make Mary comfortable. You can refer to figures 7 and 8.

Mary Graichen's son, Edward Graichen, was a 66-year-old male who worked part time at a fast food restaurant. When Edward Graichen was interviewed, he had told us he didn't want to get any help for his mother due to the fact that he had promised her she would not go into a nursing home. Edward Graichen told us that he had taken some classes at the Milwaukee Area Technical College to become a nurse's aid, and had been employed for some time

in the past as a nurse's aid in a nursing home. He decided that he had taken proper care of his mother.

How did this happen? The Graichen family was a family that had slipped through the cracks of society. The Village of Shorewood did not replace the village social worker upon her retirement. This was a missed opportunity to make personal contact, as she commonly did, and possibly prevent the situation from occurring. The Village of Shorewood health department made only telephone checks to attempt to follow up on the Graichen family.

I have also assisted the North Shore Fire Department on several other incidents similar to this. I recall the case of an elderly woman who had open sores on her ankles that also contained maggots at the time, and also there was a disabled elderly gentleman whose walls of his apartment were covered with his own feces as he attempted to care for himself.

The police agency that I am currently working for has a "find a way" attitude about solving community problems. Our department employs two police social workers who make contact and follow-ups with citizens that may be on the verge of needing services that Waukasha County can provide them. They also assist with officers making the correct referrals to the correct county agencies.

Thank you.

[The prepared statement of Mr. Lofy follows:]

Presentation of

MARY GRAICHEN CASE

ELDER ABUSE RESULTIG IN DEATH

Presented to the U.S. Senate Special Committee on Aging

October 20, 2003

Presented by: Officer Joseph K. Lofy

City of New Berlin Police Department

New Berlin, Wisconsin

Formerly an Investigator with the

Village of Shorewood Police Department

Victim: Mary Graichen 88-year-old female

Suspect: Edward Graichen 66-year-old male (son of victim)

Assisting Agencies:

Milwaukee County Departing of Aging

North Shore Fire Department

Village of Shorewood Police Department

Milwaukee County Medical Examiners Office

Milwaukee County District Attorney's Office

Medical Staff of Freodtert Hospital

Village of Shorewood Health Department Staff

The first invovlment the Village of Shorewood Police Department had in this case was in response to a request from the North Shore Fire Department. This is common in cases of individuals that are in need of being placed in "Protective Custody" for various reasons.

The North Shore Fire Department was sent to the Graichen residence for woman with infected legs. The callers in this case were two Case Workers for the Milwaukee County Department of Aging. The Case Workers had been assigned to investigate a report that Edward Graichen was neglecting the needs of his mother. On Monday, 01/10/00, at 1:24 PM, the caseworkers arrived at the Graichen residents. They were able to get Edward Graichen to open the door and allow them into the house. The conditions they encountered, and the condition of Mary Graichen, prompted the 911 for an ambulance.

The Graichen house at 4261 N Farwell Av. in Shorewood, Wisconsin is in a middle class to upper middle class neighborhood. The duplex and yard appear to well kept on the outside. Fig. 1 Edward Graichen and his mother Mary Graichen lived in the lower unit. The upper unit was empty at the time of this incident.

The inside of the house was a different and tragic story. All of the rooms were almost impossible to enter, much less use in their designed function. Figs. 2-6 Each room had items piled 3 to 5 feet deep, covering the entire rooms. Something else not evident from the outside was the overpowering odor of urine, feces, and decaying human body. Fire and police personal had to wear masks covering their mouths and noses. Other fire personal used "Vick's vapor rub" beneath their noses to reduce the effect of the stench. While Medical personal worked to remove the victim from the overstuffed armchair, an exhaust fan was set up to blow fresh air into through the front door. The "French doors" next to where the victim's chair was were opened to allow for venting of the overpowering odor. When officers that had been in the house during this incident, returned to the station, the odor of the house could still be smelled on their uniforms for sometime afterwards.

The refrigerator contained six separate bunches of bananas (still yellow in color), four unopened cans of Campbell's chunky soup, a packaged ham sub sandwich, and unopened jar of mayonnaise, and two paper bags from "Hardee's" restaurant. There was no evidence that a meal had been prepared in the kitchen for a while. Inside the freezer section there was observed, empty ice cube trays and insulated drinking cups inside.

The victim was Mary Graichen, an 88-year-old female. It was reported by family members that Mary Graichen, had once weighed over 200 lbs, she was now, under 100 lbs.

Mary Graichen was discovered sitting in chair, in the living room in her own waste. Mary Graichen was clothed and covered with a blanket. Mary Graichen could barely lift her head up, as it hung down. Her dentures were sitting on her chest along with food wrappers from Hardees. The workers described her hair and "One big snarly knot." They observed that Mary Graichen's eyes were open, but full of matter. Mary Graichen was filthy and smelled of rotting flesh. She had open wounds on her legs that were open and weeping fluid and blood. The workers were told that Mary Graichen was fed soft food, like bananas and would drink Diet Rite Soda. Mary Graichen was reportedly only eating "a little". The Case Workers called 911 to summon medical assistance for Mary Graichen.

Fire Fighters described Mary Graichen as having the appearance of "melting" into her chair. The Fire Fighters aiding Mary Graichen had to wear full fire fighting gear include self-contained breathing apparatus, in order to remain near her. As Fire Fighters and Paramedics removed Mary Graichen from the chair they observed that Mary Graichen's legs retained the shape of the chair. The fabric of the chair she had been sitting was deteriorated.

Once at the Hospital, the staff discovered that Mary Graichen had sores on her body that went right down to the bone. Doctors stated that Mary Graichen was severely infected, spectic, malnourished, and dehydrated. Hospital staff said that her wounds were so severe that all they could do was to keep Mary Graichen comfortable. Fig 7-8

Mary Graichen's son, Edward Graichen, was a 66-year-old male, who worked part time at a fast food restaurant. When Edward Graichen was interviewed, he stated that he did not know where to get help for his mother. Edward Graichen also knew that in home care was very expensive and had promised his mother that she would not go into a nursing home. Edward Graichen informed us that he had taken a course at MATC, to become a nurse's aid. He informed us that he had worked for sometime at a nursing home. Edward Graichen believed in his heart that he took good care of his mother.

How does this happen?

The Graichen's were a family that slipped through the cracks of society. The Village of Shorewood did not replace the Village Social Worker, when she retired. This was a missed opportunity to make personal contact at the house and possibly prevent this situation. The Village of Shorewood Health Dept. made only telephone checks to attempt to follow up with the Graichen's.

I have also assisted North Shore Fire Department personal on other incidents such as this. I recall two incidents similar to this case. The first was an elderly woman, who had open sores on her ankle that were infected and had maggots in the wound. The next case was a disabled male whose apartment walls were covered in his feces.

The police agency where I am currently employed has a "Find A Way" to solve community problems attitude. Our department employs two Police Social Workers who would make contact with citizens who maybe on verge of needing Services. They also assist in making referrals to the correct County Agencies.

Senator BREAUX. Just in conclusion, what was the outcome of this case with regard to the son?

Mr. LOFY. The son was given 7 years probation and ordered not to conduct any care for any additional elderly people.

Senator BREAUX. We will have other questions later that we want to ask. It is an incredibly tragic story, and it's not the only one that's out there.

Mr. LOFY. Correct.

Senator BREAUX. Next we would like to hear a statement from Mr. Robert Stein, from San Diego, the Deputy District Attorney. We welcome you, and thank you so much for traveling across the country to be with us.

I understand you have a power point presentation and would like to present that.

STATEMENT OF ROBERT M. STEIN, DEPUTY DISTRICT ATTORNEY, ELDER ABUSE PROSECUTION UNIT, SAN DIEGO COUNTY, CA

Mr. STEIN. I have been a Deputy District Attorney for over 14 years. I am currently a prosecutor in the Elder Abuse Unit. I prosecute cases of elder neglect.

Unfortunately, these types of cases are not uncommon in San Diego County. Typically, the elderly victim is neglected by a family member, usually the elder's adult son or daughter. While working as the victim's caretaker, the perpetrator's real intent is clear: to live off the elderly victim.

One such case is *People* v. *Donnell Gilliam.* I have Mrs. Gilliam's picture displayed on the first slide. For 13 years, Mr. Gilliam's only job was the sole caretaker for his mom. Mr. Gilliam neglected his mom, contributing to her death. It is an understatement to say that Mrs. Gilliam lived the last months of her life severely neglected by her son.

Paramedics who first arrived at Mrs. Gilliam's home smelled an overpowering odor. A police officer described the odor—and these are his exact words during his testimony at trial—"smelling like death." Mrs. Gilliam was lying in our own feces. Mrs. Gilliam was found unconscious. Mr. Gilliam did not clean his mom or bathe his mom.

Paramedics at the hospital emergency room smelled an overpowering odor. The odor was so bad that hospital staff could not remain very long in the emergency room. They took turns coming in and out. Mrs. Gilliam was so dehydrated that her skin was peeling off. Pus was oozing out of a bed sore in her spine. I will show you a photo of the bed sore in a moment.

Mrs. Gilliam's toe nails were so long that they did not look like toe nails. They looked like large growths, a large mass. I will show you all a picture of that in a moment.

The emergency room doctor who treated Mrs. Gilliam diagnosed her to be suffering from severe dehydration which affected both her body and her mind, from severe malnutrition, a stage III decubitus ulcer, the bed sore at her spine, and a fever and infection which were caused by the bed sore.

During the trial of Mr. Gilliam, the ER doctor opined that the Gilliam case was the worst case of neglect he had ever seen. Unfor-

tunately, the Gilliam case is not the worst case of elder neglect that we have seen in the County of San Diego.

This is a photograph of the stage III decubitus ulcer at Mrs. Gilliam's spine. A decubitus ulcer is caused when the victim remains lying in one place for a long period of time, cutting off circulation at the affected area. This is why the elderly victim must be regularly moved so that he or she is lying in different positions. Otherwise, the skin dies and eats away at the affected area.

According to the emergency room doctor who treated Mrs. Gilliam, he said that it took over one month for this bed sore to develop, as it is shown here in the photograph.

Finally, this is a photograph of Mrs. Gilliam's toe nails. According to the emergency room doctor, this picture is obviously evidence of severe neglect. The doctor could only testify that it took a long time for the nails to grow that long.

Mr. Donnell Gilliam was charged with one count of felony elder neglect under California Penal Code section 368(b)(1). He requested a jury trial and we had a jury trial. At the conclusion of that jury trial, Mr. Gilliam was found guilty of elder neglect. He was granted probation for 3 years and was sentenced to 120 days in local custody and was not allowed to act as a caretaker.

Thank you all very much for inviting me to appear before you today.

[The prepared statement of Mr. Stein follows:]

STATEMENT OF ROBERT M. STEIN, DEPUTY DISTRICT ATTORNEY, ELDER ABUSE PROSECUTION UNIT, SAN DIEGO COUNTY DISTRICT ATTORNEY'S OFFICE

Good morning, Mr Chairman and distinguished members of the United States Senate Special Committee on Aging. My name is Robert Stein, and I am a Deputy District Attorney in the County of San Diego, California. I am currently a prosecutor in the Elder Abuse Unit, which is part of the Family Protection Division. The Family Protection Division prosecutes cases of domestic violence and child abuse, as well as cases of elder abuse.

Paul Greenwood, a Deputy District Attorney who currently leads the unit, and who previously testified before this committee, started our Elder Abuse Unit in 1996. Our unit currently has four full time prosecutors, two investigators, three victim witness advocates and two support staff.

I have been a Deputy District Attorney for over 14 years. I have been a prosecutor in the elder abuse unit for nearly 4 years. I have tried over 100 felony jury trials. I have prosecuted over 150 felony cases of elder abuse, ranging from cases of theft, acts of physical violence, neglect and murder. It is an honor to be invited to appear before you and share my observations and perspectives as a prosecutor who has dealt with the varied issues of elder abuse prosecution for the past four years.

Unfortunately, elder neglect is an ongoing and serious problem in San Diego. Typically, a non-working family member agrees to be the care giver for an elderly relative, typically a parent or relative in declining health. The abuser lives in the victim's home with free room and board. The abuser is often paid by the County. The abuser, rather than properly caring for the elderly relative, neglects the elderly victim. The abuser's real motive is clear – to live off the vulnerable elder.

One such case I prosecuted is *People v. Donnell Gilliam*, San Diego County Superior Court Case Number SCD169357. After a jury trial, the defendant was found guilty of felony elder neglect. The victim, Dorothy Gilliam, was born on July 20, 1917. She died on September 13, 2002. The Medical Examiner determined the manner of death as natural. Contributing to her death was a stage IV sacral decubitus ulcer, commonly known as a bed sore.

The defendant is Mrs. Gilliam's son. Since 1989, the defendant's sole employment was working as his mother's caretaker. Ms. Gilliam paid the defendant money for his services. In addition, the defendant was provided free room and board. The defendant did not have any other job since 1989.

On August 16, 2002, at about 2:10 a.m., the defendant called 911. The defendant told the 911 operator that "She (Victim) hasn't walked in four months . . . She was having difficulty breathing." When the 911 operator asked the defendant why his mother hasn't walked in four months, the defendant answered "Well, who knows, she won't go to the doctor, she has no doctor."

About 10 minutes later, an Oceanside Police Technician arrived at the residence. He saw Mrs. Gilliam lying on her back, in her own feces. She was unconscious and unresponsive. The defendant was also present inside of the home. The Evidence Technician testified that upon entry, "there was a very overpowering odor that, at times, we had to basically take turns going outside to get some fresh air, It's - it's similar to the odor that we have found in - in houses or places where basically somebody's been found dead a couple of days." He also testified in substance "I can honestly say that I've never experienced anything this bad. She carried the smell with her. It wasn't just the house. When we took her into the ambulance, the smell persisted in the ambulance. And as I stated, I worked the next day. And it stayed in the ambulance for the duration of the next day, and it followed her into the hospital."

Within an hour Mrs. Gilliam was transported to the emergency room at Tri-City Medical Center. She was diagnosed with sever dehydration, malnourishment, renal insufficiency, bacteremia, stage III-IV sacral decubitis ulcer and neglect.

Mrs. Gilliam was laying in feces and urine. She had long toe nails such that some of them had curled up underneath her toes, impinging on her neighboring toes. They appeared as a large mass. The medical staff concluded that Mrs. Gilliam's condition was caused by neglect. The treating doctor testified that "She could have died" from the injuries. He described Mrs. Gilliam's case as "the worst case that I've seen of neglect." He further testified "The odor [Mrs. Gilliam's] was so intense most of the people working in the emergency room, including myself, it was almost hard to be

in the department on that entire side of the department because the odor was so intense."

Unfortunately, the fate of Dorothy Gilliam is not uncommon. In my experience, the Gilliam case is ***not*** the worst case of neglect that our Elder Abuse Unit has seen.

For example, in one case paramedics responded to a radio call of the death of a 91 year old woman. This victim had about 20 decubitus ulcers, mostly on her back and hips. Two of the bedsores exposed her bones. One of these bedsores caused an infection in the victim's bone marrow. The victim was also lying in her own feces. During court testimony the medical examiner concluded that the death was a natural but that a "cause of death" was "chronic debilitated state and cachexia with decubitus ulcers." The Medical examiner also testified that neglect contributed to her death. The victim's son was her care taker.

In both of the elder neglect cases summarized above, the first law enforcement personnel who arrived at the crime scene were the paramedics. Paramedics who first arrive at the crime scene play a critical role in both treating the elderly victim, if still alive, and in investigating the crime. In order that paramedics and law enforcement properly treat the victim and investigate the crime, they must be properly trained. In this regard, our unit regularly trains law enforcement, mostly by way of live training. Our unit is currently making a video to be used to train paramedics.

It is an understatement to say that lack of proper training could lead to disastrous results. In one case, an elderly man was found dead in his living room by his wife. The victim had been strangled. A law enforcement officer and paramedics arrived at the crime scene. None of them were able to identify petechiae on the victim's neck, face, eyes and gums. Petechiae is commonly found on strangulation victims. As a result, both the law enforcement officer and the paramedics concluded that the victim died of a heart attack! Luckily, subsequent investigation later that day led detectives to conclude that the victim was murdered. In a case that I prosecuted, the killer was tried and convicted of first degree murder. She was sentenced to life without the possibility of parole. (*People v. Yolanda Fay Harden SCN124346.)*

It is my belief that elder abuse, whether it is by way of neglect, theft, or intentional physical abuse, is one of the most serious issues facing law enforcement and prosecutors in this country. Our senior citizens are vulnerable to physical abuse, theft, scams, and neglect. The way abusers treat our elderly continues to anger and frustrate me. I strongly believe that passage of the Elder Justice Act is essential in the fight against elder abuse.

PEOPLE V. DONNEL GILLIAM

SCD169357/AAT829

Defendant is Guilty!

- Defendant lived off his mom for years.
- Defendant neglected his mom for years.
- Defendant's neglect contributed to his mom's death!
- **DEFENDANT IS GUILTY OF NEGLECT!**

Elder Neglect

(PC 368(b)(1)

- A person who had care and custody of an elder;
- Willfully caused or, as a result of criminal negligence, permitted the person or health of the elder to be injured; or
- Willfully caused or, as a result of criminal negligence, permitted the elder to be placed in a situation in which her person or health was endangered;

Elder Neglect

(PC 368(b)(1)

- The perpetrator's conduct occurred under circumstances likely to produce great bodily harm or death; and
- The perpetrator knew the other person was an elder.

Defendant had Care and Custody of his Mom

- Caregiver for 85 year old mom, Dorothy Gilliam.
- Unemployed since late 1980's.
- Lived off his mom since late 1980's.
  - Lived Rent free.
  - Mom supplied food.
  - Mom supplied necessities of life.
  - Mom **paid** the defendant to be her caregiver.
- DEFENDANT HAD DUTY OF CARE!

Defendant had a Duty of Care!

- Defendant has a legal duty to:
- Feed his mom.
- Bathe his mom.
- Not let mom live in a filthy house.
- Change his mom's diapers.
- Cut her toenails.
- Avoid his mom getting bedsores.
- Provide his mom with proper medical attention if needed.
- Clean decubitis ulcer, if necessary.

Defendant had a Duty of Care!

- NO DEFENSE THAT:
- Dorothy Gilliam refused to see a doctor;
- Dorothy Gilliam refused to have her toe nails cut;
- Dorothy Gilliam refused medical treatment.
- **Defendant is legally responsible!**

Defendant Neglected His Mom!

- Willfully caused or, as a result of **criminal negligence**, permitted the person or health of the elder to be injured; or
- Willfully caused or, as a result of **criminal negligence**, permitted the elder to be placed in a situation in which her person or health was endangered.

Criminal Negligence:

- "Criminal Negligence" means conduct which is more than ordinary negligence, the failure to exercise ordinary care.
- Acts which are aggravated, reckless or flagrant; and
- Such a departure from what would be the conduct of an ordinarily prudent, careful person under the same circumstances as to be contrary to a proper regard for human life or danger to human life, or to constitute indifference to the consequences of those acts.

Criminal Negligence:

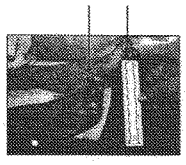
- The facts must be such that the consequences of the negligent act or acts could reasonably have been foreseen; and
- It must appear that the death or danger to human life was not the result of inattention, mistaken judgment or misadventure but;
- The natural and probable result of an aggravated, reckless or flagrantly negligent act.

Def Criminally Neglected His Mom!

- He refused to bathe mom.
- He refused to clean mom.
- He refused to clean mom's bed sore.
- He did not give mom enough food or drink.
- He did not take mom to see a doctor.

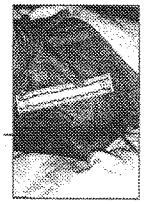
Def Criminally Neglected His Mom!

- Mrs. Gilliam toe nails on 8-16-02.
- Feces on toe nails.
- "Years of neglect."
- Dr. Steven Gabriel: She can't walk with toe nails that long.

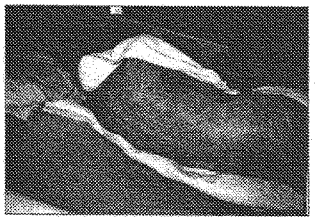


Def Criminally Neglected His Mom!

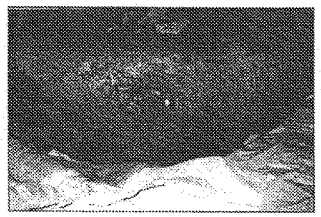
- Sacral Decubitus Ulcer, Stage III - IV.
- Wound extends through all layers of the skin.
- Infected upon arrival at ER.
- Cause: Neglect.
- **Contributed to his Mom's death!**



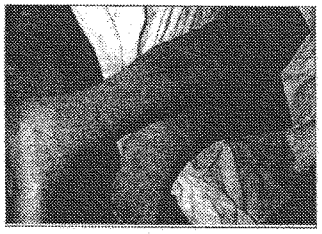
Def Criminally Neglected His Mom!



Def Criminally Neglected His Mom!



Def Criminally Neglected His Mom!



Def Criminally Neglected His Mom!

Dr. Steven Gabriel:

- Decubitus Ulcer.
- Fever & Sepsis. (Infection.)
- Toenails.
- Severe Dehydration.
- Malnutrition
- Altered Mental Status.
- Extreme Body Odor.
- ***"The worst case of neglect I have ever seen."***

Def Criminally Neglected His Mom!

Travis Krueger, Emergency Medical Technician:

- Overpowering odor in victim's house.
- Odor stayed in ambulance next day.
- Victim lying in feces.
- Feces in her toenails.
- Victim Unconscious.
- House cluttered.

Def Criminally Neglected His Mom!

Jonathon Maldanado, Emergency Medical Technician:

- Overpowering odor throughout ER.
- Skin peeling off.
- Toenails.
- Puss color oozing from decubitis ulcer.
- Laying in feces.

Def Criminally Neglected His Mom!

Michael Kos, OPD:

- "Smelled like death."

Defendant:

- ***"I know I'm probably in trouble, I'm just glad I got her in the hospital."***

GBI or Death:

- The perpetrator's conduct occurred under circumstances likely to produce great bodily harm or death.
- ***Steven Gabriel, M.D.***
- ***Bethann Shaber, M.D.***

Knowledge:

- The perpetrator knew the other person was an elder.

Reasonable Doubt

(Caljic 2.90)

- "Reasonable doubt" is defined as follows:

  "It is **not** a mere **possible** doubt; because everything relating to human affairs is open to some **possible or imaginary doubt**."

Reasonable Doubt

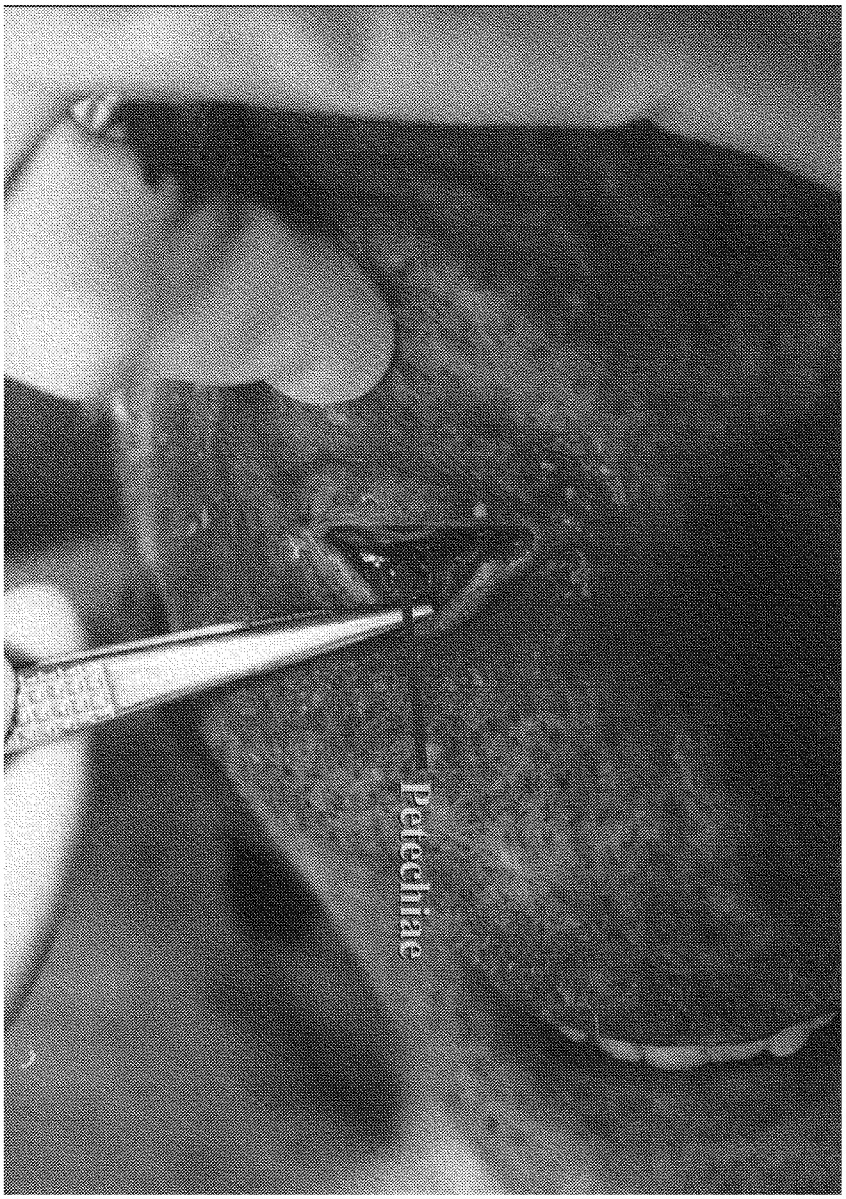
- Verdict of not guilty requires **reasonable** doubt;
- **NOT** just a reason to doubt;
- **NOT** an unreasonable doubt;
- Actual reasonable doubt, after consideration of **all** the evidence;
- **Consider all the evidence** - the big picture.
- Do not ignore evidence;
- Then ask do you have a reasonable doubt?

Evidence Proves Defendant Is Guilty!

- Evidence has proven the crime occurred;
- Elements proven, beyond a reasonable doubt;
- Evidence has proven Defendant criminally neglected his mom;
- When deliberate, discuss all evidence, and how the evidence proves, beyond a reasonable doubt, that the defendant is guilty!

Defendant is Guilty!

- Count 1.
- PC 368(b)(1).
- Elder Neglect of his Mom.


Petechiae

Senator BREAUX. Thank you as well, Mr. Stein.

The next witness will be Mr. Kenneth Connor, who is a partner with the law firm of Wilkes & McHugh, and former president of the Family Research Council.

Mr. Connor, we are delighted to have you with us and look forward to your statement.

STATEMENT OF KENNETH L. CONNOR, ESQ., LAW FIRM OF WILKES & MCHUGH, AND PAST IMMEDIATE PRESIDENT, FAMILY RESEARCH COUNCIL

Mr. CONNOR. Thank you, Mr. Chairman, members of the committee. I appreciate your willingness to address the problems of neglect, abuse and financial exploitation of the elderly in our society. In my experience, these are problems of enormous magnitude but about which public law enforcement and law makers frequently are largely uninformed.

I have been intimately involved with these problems for over 20 years. As a trial lawyer, I have represented many victims of elder abuse and neglect. As a member of Florida's Task Force on the Affordability and Availability of Long Term Care, I have wrestled first hand with the tensions that emerge from the need to hold caregivers fully accountable for wrongdoing toward the elderly, while at the same time preserving the affordability of their services.

As President of the Family Research Council, I sought to increase public awareness of the plight of the elderly in our society and to drive home the proposition that those who claim to be "pro life" or "pro family" have a moral and social obligation to protect our elderly and to ensure that they are treated with dignity and respect.

Theologian Francis Schaeffer and former Surgeon General C. Everett Koop rightly observed in their book, Whatever Happened to the Human Race: "Cultures can be judged in many ways, but eventually, every nation in every age must be judged by this test: how did it treat people? Each generation, each wave of humanity, evaluates its predecessors on this basis. The final measure of mankind's humanity is how humanely people treat one another." Mr. Chairman, the judgment of history about how we treat our fellow man may well be impacted by the work of this committee.

Even though we live in the most affluent country in the world today, and during the most affluent period of human history, and in a time in which our medical technology is second to none, thousands of America's elders suffer from abuse and neglect. As you have rightly noted, Mr. Chairman, your own staff reports that one out of every four Americans will be a victim of elder abuse, neglect or exploitation at some time in the future. Sadly, reports suggest, as you have indicated, that family members represent the largest category of perpetrators of abuse against the elderly, a sobering statistic, I might add, for the former president of a public policy, pro-family group.

In truth, however, there is a dearth of data about these matters upon which you as policymakers can make informed judgments. Of one thing you can be confident, however: the magnitude and intensity of this problem will only increase in the future. Absent a seis-

mic shift, all of the ingredients that exacerbate this problem are likely to get worse.

Demographic trends are against us. Currently, there are 35 million people who are age 65 or older, and that number is expected to double in the next 30 years. The over-85 age group is the fastest growing age group in America. Presently, we have a million and a half nursing home residents. That number will likely double by the year 2035.

These demographic shifts will likely have a profoundly negative effect on the economics associated with old age. In 1967, Medicare's cost was approximately $1 billion. but in the year 2000, its cost was approximately $300 billion. Medicaid spending in 1967 was approximately $1 billion, but in 2000, it was approximately $200 billion.

When my generation, the "baby boomers" retire, estimated Medicaid costs in real dollars may well quadruple. By 2020 or 2030, Medicaid could consume the entire budget of every State in the Union.

The implications for Social Security are no less startling. In 1950, America had 16 workers for every retiree. Today, that ratio has slipped from 16:1 to 3:1. This data has intensely negative implications for the future of the elderly in a culture which has shifted from a sanctity of life to a quality of life ethic, and which increasingly calculates one's net worth in terms of cost-benefit ratios, quality of life assessments and functional capacity studies.

Given those factors, and considering the increase in families which are disintegrating because of divorce—a two parent household is in a better position to care for its elderly than a single parent home—the pressures and attitudes that incline one toward abuse will intensify.

Indeed, how long will it take for the youth of America, bending under the weight of ever-increasing costs for Medicare, Medicaid and Social Security, strained by the pressures of a single parent household, and sandwiched between caring for children and elderly parents who have the same needs as children, a generation raised on the disposable man ethic fostered by *Roe* v. *Wade*, conclude that the elderly are more of a burden than a benefit, useless eaters who are quite unwanted.

In his book, "Culture of Death: The Assault on Medical Ethics in America", Wesley J. Smith states: "Our culture is fast developing into one in which killing is beneficent, suicide is rational, natural death is undignified, and caring properly and compassionately for people who are elderly. . . disabled, despairing or dying, is a burden that wastes emotional and financial resources." If you doubt that, Mr. Chairman, please take a moment to reflect on the Terry Schiavo case that is producing a firestorm of controversy in Florida today.

Mr. Chairman, my earnest prayer for you and the members of this committee, along with that of Mrs. Watts, is that you will be accorded the wisdom to know what is right in this situation and the courage to do it.

Thank you, sir.

[The prepared statement of Mr. Connor follows:]

BEFORE THE SENATE SPECIAL COMMITTEE ON AGING

TESTIMONY OF KENNETH L. CONNOR,
OCTOBER 2O, 2003

Mr. Chairman, Members of the Committee:

Thank you for your willingness to address the problems of neglect, abuse, and financial exploitation of the elderly in our society. These are problems of enormous magnitude, but about which the public, law enforcement, and lawmakers have been largely uninformed.

I have been intimately involved with these problems for over 20 years. As a trial lawyer I have represented many victims of elder abuse and neglect. As a member of Florida's Task Force on the Affordability and Availability of Long Term Care, I have wrestled first hand with the tensions that emerge from the need to hold caregivers fully accountable for wrongdoing toward the elderly while, at the same time, preserving the affordability of their services. As President of Family Research Council, I sought to increase public awareness of the plight of the elderly in our society and to drive home the proposition that those who claim to be "pro life" and "pro family" have a moral and social obligation to protect our elderly and to ensure that they are treated with dignity and respect.

Theologian Francis Schaeffer and former Surgeon General C. Everett Koop rightly observed in their book, Whatever Happened to the Human Race:

> Cultures can be judged in many ways, but eventually every nation in every age must be judged by this test: *how did it treat people*? Each generation, each wave of humanity, evaluates its predecessors on this basis. The final measure of mankind's humanity is how humanely people treat one another.

Mr. Chairman, the judgment of history about how we treat our fellow man may well be impacted by the work of this committee.

Even though we live in the most affluent country in the world today and during the most affluent period of human history and in a time in which our medical technology is second to none, thousands of America's elders suffer from abuse and neglect. Your own staff reports that 1 out of every 4 Americans will be a victim of elder abuse, neglect or exploitation at some point in their lives. Sadly, reports suggest that family members represent the largest category of perpetrators of abuse against the elderly (a sobering statistic for the former President of a pro family public policy group) In truth, however there is a dearth of data about these matters upon which you as policy makers can make informed judgments. Of one thing you can be confident, however: the magnitude and intensity of this problem will only increase in the future. Absent a seismic shift, all of the ingredients that exacerbate this problem are likely to get worse.

Demographic trends are against us. Currently there are 35 million people who are age 65 or older. That number is expected to double in the next 30 years. The over 85 age group is the fastest growing age group in America.

Presently we have 1.5 million nursing home residents. That number will double to 3 million by 2035.

These demographic shifts will likely have a profoundly negative affect on the economics associated with old age. In 1967 Medicare's cost was approximately $1 billion. In the year 2000, its cost was approximately $300 billion. Medicaid spending in 1967 was approximately $1 billion. In 2000, it was approximately $200 billion.

When my generation (the "Baby Boomers") retire, estimated Medicaid costs in real dollars may well quadruple! By 2020 or 2030 Medicaid could consume the entire budget of every state in the union.

The implications for Social Security are no less startling. In 1950 America had 16 workers for every retiree. Today that ratio has slipped from 16:1 to 3:1.

This data has intensely negative implications for the future of the elderly in a culture which has shifted from a sanctity of life ethic to a quality of life ethic and which increasingly calculates one's net worth in terms of cost/benefit ratios, quality of life assessments and functional capacity studies.

Given those factors and considering the increase in families which are disintegrating because of divorce (a two parent household is in a better position to care for its elderly than a single parent home), the pressures and attitudes that incline one toward abuse will intensify. Indeed, how long will it take for the youth of America—bending under the weight of ever increasing costs for Medicare, Medicaid and Social Security; strained by the pressures of a single parent household and sandwiched between caring for children and elderly parents who have the same needs as children; a generation raised on the disposable man ethic fostered by *Roe v. Wade*—conclude that the elderly are more of a burden than a benefit, useless eaters who are quite unwanted?

In his book, Culture of Death: The Assault on Medical Ethics in America, Wesley J. Smith, states:

> "Our culture is fast devolving into one in which killing is beneficent,
> suicide is rational, natural death is undignified and caring properly and compassionately
> for people who are elderly… disabled, despairing or
> dying is a burden that wastes emotional and financial resources."

If you doubt that, please take a moment to reflect on the Terry Schiavo case that is producing a firestorm of controversy in Florida right now.

Mr. Chairman, my earnest prayer for you and the members of this committee, is that you will be accorded the wisdom to know what is right in this situation and the courage to do it.

Senator BREAUX. Thank you, Mr. Connor, for your presentation.

Our next witness will be Ms. Holly Ramsey-Klawsnik. We're delighted to have you with us.

STATEMENT OF HOLLY RAMSEY-KLAWSNIK, PH.D. KLAWSNIK & KLAWSNIK & ASSOCIATES, CANTON, MA

Dr. RAMSEY-KLAWSNIK. Thank you.

Seventy-three year old Clara T. is paralyzed and incontinent following a stroke. She spends her day in a hospital bed in her dining room. One day, her home health aide observed her crying and asking her husband to bring her medication. He told his wife to "shut up." The crying escalated. Mr. T. forcibly held a pillow over her face, stating that when he tells her to shut up, she had better do it. He then roughly grabbed her breast.

This case, like thousands each year, was reported and investigated. I evaluated Mrs. T. as a consultant for the Massachusetts Elder Protective Services program. She had been abused for 50 years. She explained, "but now it's worse" Prior to retirement, Mr. T's work provided some escape from the shoving, slapping, verbal and sexual assault. Before her stroke, she fetched the things she needed—water, medication, food. Now she only receives what her husband gives. She described humiliation when her husband changed her soiled clothing. He often took sexual advantage of these times.

Thank you for inviting me to share what I have learned from clinical work and research with hundreds of victims like Mrs. T. I have worked with family violence for a quarter century, and the past 14 years of this work has been on elder abuse.

Abuse in long-term care is intolerable. We must realize, however, that most seniors live in the community. Last year in Massachusetts, three times as many elder abuse cases were discovered in community as opposed to facility settings. Most community dwelling victims are abused by family members. In a study of 130 cases of suspected sexual abuse of elders residing in the community, I found that 77 percent of the offenders were family members.

Like Mrs. T, many seniors victimized by family members have endured long-term violence. Others experience the onset of abuse after becoming disabled. For example, 86-year-old Mrs. J. moved in with her daughter and son-in-law to recover from a broken hip. Subsequently, her daughter died and her son-in-law became her caregiver. Mrs. J. disclosed to her visiting nurse that he took nude photos of her. He instructed her to open her legs and smile for the camera. He said the photos would prove that he had not abused her and that her daughter would want her to cooperate. He "checked" her genitals by inserting objects. He forced her to sign papers naming him as her life insurance beneficiary. This abuser earned his living as a home health aide.

Much is required to end the suffering of people like Mrs. J. Suspicious cases must be recognized and reported. Reports must be competently and quickly investigated. Forensic experts must examine victims and document evidence of abuse. Many victims need medical and mental health care. Police officers and prosecutors need training to accommodate the special needs of older victims. Legal representation is needed to ensure protection of rights. Con-

crete needs range from shelter to food, medicine, transportation, assistive devices, and personal care.

Are there adequate resources available for older victims? No. Unmet needs abound. Caring helpers scramble to secure scarce resources. Many victims do without.

Across America, an army of trench workers struggle daily with unmet victim needs. This is the staff of our elder and adult protective services programs. I can personally attest that, from Florida to Oregon, Texas to New Hampshire, Hawaii to Massachusetts, they have insufficient resources to fulfill their mandate to protect the elderly, disabled and abused.

The lack of funding is pervasive, the consequences are significant. Workers must venture into dangerous homes and neighborhoods to investigate reports; yet their systems typically cannot even afford to equip them with cell phones. Their salaries are low, their case loads are high. They are insufficiently trained to handle the complex problems confronting them unceasingly.

The National Association of Adult Protective Services Administrators reports that half of the States have no protective services training budget. There are countless unmet needs among those on the front line in the inadequately financed war against elder abuse.

The study of elder abuse is in its infancy. The unknown greatly exceeds the known. Who is most at risk? How can we prevent it? What are best practice methods for case investigation, intervention and prosecution?

Research needs are extensive. For example, there has not been a national study of elder sexual abuse. How can we successfully intervene without scientific knowledge? Do victims deserve to have us show up, ready and willing to help, but lacking social science findings to inform our efforts? I think not.

I am on the board of the National Committee for the Prevention of Elder Abuse. I have learned from my board colleagues, representing fields including medicine, criminal justice and aging services, of the critical need for inter-disciplinary collaboration. Training is needed for the array of professionals who must work cooperatively when seniors are in danger.

Elder abuse victims rely upon society to respond to their suffering with kindness, knowledge and resources. I applaud you for learning about this problem. I support efforts to fund a national response to elder abuse.

The Elder Justice Act addresses many problems. With your support, this Act will result in needed changes, including the creation of safe havens for abused elders, funding for research, training of forensic experts, increased prosecution and training in protective services systems.

I urge you to support the Elder Justice Act. I can promise you that, if passed, it will make a real difference in what we can offer victims.

Thank you.

[The prepared statement of Dr. Ramsey-Klawsnik follows:]

Elder Abuse Within the Family

Statement of

Holly Ramsey-Klawsnik, Ph.D.

Submitted to

The Senate Special Committee on Aging

October 20, 2003

Seventy-three year old Clara T. resides with her husband. She had a stroke, and experiences right-side paralysis, immobility, incontinence, and difficulty speaking. She spends most of her day in a hospital bed set up in her dining room. Her home health aide observed the following: During a routine visit, Mrs. T. began to cry, stated that she did not feel well, and asked her husband to bring her a pain reliever. Mr. T. gruffly responded, "shut up!" The crying escalated. Mr. T. approached his wife with a pillow. He forcibly held the pillow over her face, angrily stating that when he tells her shut up, that is what he expects her to do. Continuing to cover her face, he roughly grabbed Mrs. T's breast.

This case, like thousands each year, was reported and investigated. I had the opportunity as a consultant to the Massachusetts Elder Protective Services Program to visit Mrs. T. and conduct a clinical assessment. I learned that Mrs. T. had experienced fifty years of domestic violence - physical abuse, emotional abuse, sexual abuse - at the hands of her husband. Her two daughters had also been abused during childhood. Mrs. T. cried as she explained, "but now it's worse." In years past her husband's work hours provided an escape from the shoving, slapping, sexual assault, and degradation. His retirement brought an end to these respites.

My comprehension deepened as Mrs. T. spoke. Prior to her stroke, she walked into her kitchen and secured the things she needed - a glass of water, medication, or something to eat. Since becoming disabled she only got what her husband was willing to bring her, when he was willing to bring it. Aside from the three hours weekly of home health aide services, she was completely dependent upon her abuser for the necessities of life. Tears streamed down her face as she described humiliation when her husband changed her soiled clothing and washed her. He often took sexual advantage at these times. Caring for her made him angry. He claimed she had wrecked his golden years by having the stroke. He dressed, bathed, and fed her roughly and with rage.

I thank the Committee for giving me the privilege of sharing with leaders of our country some of what I have learned from Mrs. T. and hundreds of older victims. As a mental health clinician, social worker, and sociologist, I have worked with family and interpersonal violence for a quarter century. For the past 14 years, my work has focused on elder abuse.

Abuse of the elderly in nursing homes and other long-term care settings is shocking and intolerable. It is important to realize, however, that most of our seniors reside in the community. The problem of elder abuse in the community is significant, and demands our attention and resources. For example, during the most recent fiscal year in Massachusetts, three times as many elder abuse cases were investigated and substantiated in community, as opposed to facility, settings. Most community-dwelling victims are abused by family members. A study of 130 cases investigated for suspected sexual abuse of elders residing in the community found that 77% of the alleged offenders were members of the elder's family (Ramsey-Klawsnik, forthcoming).

Like Mrs. T., many seniors victimized by family members have endured long-term domestic violence. The nature and consequences of ongoing abuse become more serious during advanced age due to diminished health and increased susceptibility to injury.

For others onset of family violence is during senior years after becoming disabled. For example, eighty-six year old Mrs. J. moved into the home of her daughter and son-in-law to recover from a broken hip. Several months later, her daughter died and her son-in-law became her caregiver. Mrs. J. disclosed to her visiting nurse that he took nude photos of her. He undressed her, pulled back all bed clothing, and instructed Mrs. J. to open her legs and smile for the camera. He said the photos would provide evidence that he had not abused her and that her daughter would want her to cooperate. He also "checked" her genitals by inserting objects. In addition, she was forced to sign papers without opportunity to determine the content. Upon investigation, sexual, emotional, and financial abuse was substantiated. The forcibly signed papers named the son-in-law as Mrs. J.'s life insurance beneficiary. Mrs. J. was helped to move out of the home and cooperated with the ensuing criminal prosecution. This abuser earned his living as a Home Health Aide.

Much is required to end abuse and help victims like Mrs. J. recover. First and foremost, suspicious cases must be recognized and reported. Protective services staff must competently investigate allegations, respond to crisis situations and provide case management. Medical/nursing/mental health forensic experts are needed to evaluate suspected cases, document evidence of inflicted harm, and formulate treatment plans. Ongoing medical and mental health services are often needed to help victims heal. Law enforcement officers and prosecutors trained to accommodate the special needs of victims with disabilities are required for proper criminal justice response. Legal representation and, in some cases, guardians or fiduciaries are needed to insure protection of rights. The concrete needs of victims are many. They range from emergency shelter and permanent housing, to food, medicine, transportation and assistive devices. Victims with disabilities may require personal assistants to feed, bathe, dress, and otherwise care for them, particularly if their only alternative is depending upon exploitative relatives to meet basic needs.

Are there adequate resources available to assist victims? No - unmet needs abound! Caring helpers scramble to secure scarce resources and payment mechanisms and piece together solutions for victims. Budgets and eligibility requirements are tight and getting tighter. Many victims do without.

There is an army of trench workers across America struggling daily with unmet victim needs. This is the staff of our Elder and Adult Protective Services Programs. I have had the opportunity to teach and to learn from protective services staff across the country in my frequent role as clinical consultant and staff development trainer for these systems. I can personally attest to the fact that from Florida to Oregon, Texas to New Hampshire, Hawaii to Massachusetts, as well as in-between, protective services programs have insufficient resources to fulfill their mandate: to protect and serve Americans who are elderly, disabled, and abused.

The lack of adequate funding is pervasive and disturbing, the consequences are significant. Their salaries are low and their caseloads are high. Staff are insufficiently trained and supported to skillfully handle the myriad of complex problems, allegations, and emergencies confronting them unceasingly. As a group, protective services staff are committed, compassionate, dedicated, hard working and resourceful. They venture into dangerous homes and neighborhoods to investigate reports. They tread slowly even while rushed and overworked to gain the trust of victims. They scourer their communities in search of resources for their clients. They carry beepers which interrupt their sleep, go out into the dark night to respond to emergencies, and take urgent reports of suspected abuse while the rest of us enjoy family dinners on holidays.

Protective service supervisors, managers, and administrators try to work magic with inadequate budgets, spreading resources as fairly and as far as possible. They make the hard decisions: Which case to open? Which case to close? How to get other professionals to help victims with little money to purchase required services? How to keep quality staff when inadequate compensation is offered?

Protective personnel require advanced and specialized training. They must be skilled in many areas to effectively respond to suspected and confirmed abuse. A wonderful conference takes place in San Antonio - the Annual Adult Protective Services Conference. Experts from many disciplines are brought in from around the country to provide state-of-the-art information. Alas, most protective service personnel cannot afford to attend, and their employers cannot afford to send them. This is but one of countless examples of the unmet needs of those on the front line in the inadequately financed war against elder abuse.

The abuse perpetrated by Mrs. J.'s son-in-law suggests a similarity between elder and child abuse. Child abusers frequently abuse more than one child and seek positions of authority over potential victims. Those who abuse within the family often abuse outside of the family as well. It is reasonable to assume that elder abusers are similar. The psychology of the elder abuse offender has not been researched. We know from case reports that these offenders frequently engage in multi-faceted abuse. Elders harmed by physical abuse, for example, are at high risk of also sustaining other types of victimization. Research is lacking to adequacy tease out the relationships among those who abuse children, spouses, adults with disabilities, and the elderly. We do know from casework with victims like Mrs. T. that many offenders harm individuals across these categories.

Scientific study of elder abuse is in its infancy. The unknowns greatly exceed the known. Numerous questions abound. How common is it? Who is most at risk of being victimized or of offending? Why do people abuse vulnerable elders? How can this be prevented? What are best practice methods for investigation, intervention, and prosecution? What mental health treatments are most effective to reduce post-traumatic victim suffering? The questions and research needs are extensive. For example, there has not been a national, prospective study of sexual abuse of elderly people. How can we successfully intervene without scientific knowledge? Do victims deserve to have us show up ready and willing to help, but without the benefit of social science findings to inform our efforts? I think not.

I have long been a member of the National Committee For the Prevention of Elder Abuse. In recent years, I have had the honor of serving on the committee's board. I have learned much from my esteemed colleagues on the board representing fields including medicine, law, criminal justice, social policy, research, aging and social services. The greatest lesson has been the critical need for interdisciplinary collaboration in responding to elder abuse. No one group can handle this alone. This widespread, serious problem requires the expertise of many. Training is needed for the wide array of professionals who must be prepared to work cooperatively when a person such as Mrs. J. needs their help to find safety, comfort, and justice. Victims rely upon their service providers to respond to their plight with kindness, knowledge, and competence.

Elder abuse victims, and the people working on their behalf, also rely upon our elected officials to respond with kindness, knowledge, and competence. I applaud you for holding these hearings to learn about this problem. I support and applaud efforts to fund the enormous work required to adequately respond to elder abuse. I urge you, honorable leaders, to support the Elder Justice Act. Based upon my experiences at the bedsides of people like Mrs. T, in the field with protective services staff, and in conference rooms with cross-disciplinary professionals seeking answers to hard questions, I can promise you that the Elder Justice Act will help. If passed, this legislation will make a real difference in what we can offer older victims. Thank you for your kind attention and interest in this disturbing social and family problem.

For further information, please see:

Ramsey-Klawsnik, H. (forthcoming). Elder sexual abuse within the family. *Journal of Elder Abuse and Neglect, 15*, (1).
Ramsey-Klawsnik, H. (2000). Elder abuse offenders: A typology. *Generations,14*(2), 17 - 22.
Ramsey-Klawsnik, H. (1998). Counseling interventions in identified cases of sexual violence. In Wisconsin Coalition Against Sexual Assault. *Widening the circle: Sexual assault/abuse and people with disabilities and the elderly.* Madison, WI: Author.
Ramsey-Klawsnik, H. (1996). Assessing physical and sexual abuse in health care settings. In L.A. Baumhover & S.C. Beall (Eds.) *Abuse, neglect and exploitation of older persons.* Baltimore: Health Professions Press.
Ramsey-Klawsnik, H. (1995). Investigating Suspected Elder Maltreatment. *Journal of Elder Abuse & Neglect* 7 (1), 41-67.
Ramsey-Klawsnik, H. (1993).Interviewing Elders for Suspected Sexual Abuse: Guidelines and Techniques. *Journal of Elder Abuse & Neglect, 5* (1), 5-18.
Ramsey-Klawsnik, H. (1993). Recognizing and Responding to Elder Maltreatment. *Pride Institute Journal of Long Term Home Health Care,* 12 (3), 12-20.
Ramsey-Klawsnik, H. (1991). Elder sexual abuse: Preliminary findings. *Journal of Elder Abuse & Neglect,* 3 (3), 73-90.

Senator BREAUX. Thank you so much. We appreciate your being with us.

Our final witness will be Mr. Joseph Snyder of Pennsylvania, of Philadelphia, who is here on behalf of the National Association of Adult Protective Services Administration.

Mr. Snyder.

STATEMENT OF JOSEPH SNYDER, DIRECTOR, OLDER ADULT PROTECTIVE SERVICE; APPEARING ON BEHALF OF THE NATIONAL ASSOCIATION OF ADULT PROTECTIVE SERVICE ADMINISTRATORS

Mr. SNYDER. Thank you, Senator.

Good afternoon. I am Joe Snyder, Director of Older Adult Protective Services at the Philadelphia Corporation for Aging in Philadelphia, PA. Today I am representing the National Association of Adult Protective Service Administrators, or NAAPSA.

NAAPSA is the only national association that represents APS administrators and their victims throughout the country. NAAPSA is also a member of the National Center on Elder Abuse and partners with various entities that are interested in the welfare of the most at risk adults in our society. The mission of NAAPSA is to improve the quality and availability of services for disabled adults and elderly person who are abused, neglected, or exploited, and other vulnerable adults who are unable to protect their own interest.

Adult Protective Services are those critical services provided to vulnerable adults age 18 and over, who have physical or mental disabilities which prevent them from protecting themselves from abuse, neglect and exploitation by themselves or others.

Sadly, this abuse comes mostly from family members. In the NAAPSA study referred to earlier by Senator Breaux, it was found that 62 percent of all substantiated reports involved family members.

Here are some case examples. An 85-year-old Pennsylvania woman was the victim of physical abuse for over 50 years by her husband. After repeated referrals to APS, she finally admitted the abuse, stating "he never hits me in the face. He only hits me where people can't see it. He only hits me now when I can't walk." She finally made the choice to move into a nursing home, and at my worker's last visit, said to her, "It's both good and bad being away from him."

An 84-year-old female from Tennessee lived alone with her 77 cats and dogs. The client appeared to have not bathed or changed her clothes in years. She told APS that the animals were her only company. She knew that her clothes were rotting off, but her son, a local attorney who lived nearby, charged her $20 to wash her clothes. In order to fight off the dogs and cats, an APS worker remained with the client while she ate the meals that were delivered, so that she could finish the food. APS counselors were able to put in services to clean the home and her clothes. APS contacted her daughter from out of State, who came and took her home.

A Wyoming man stands accused of intentionally abusing or neglecting his 91-year-old mother, after an investigation done by APS and the police. The woman was found sitting in a recliner, sitting in her own urine and feces, with multiple bruises all over her body.

Her son, who had been unemployed for over 4 years, had been paying himself from her Social Security check as her caregiver. Investigators found two cases of beer and a half empty liter of whiskey when they arrived to do the investigation.

These compelling stories are an everyday occurrence for APS staff and their victims. While research is scant in many areas, we do know certain things. We know that caregiver stress is not a valid cause or excuse for abuse, neglect, and exploitation. There are many caregivers under enormous stress who do not abuse or neglect. We know that the elements of power and control present and known to the folks who are in the domestic violence field are also prevalent in our cases. We also know that other characteristics of the perpetrators, like drug and alcohol addiction and mental illness, are prevalent in a lot of our casework.

APS continues to need support to serve this forgotten population, however. According to information collected from 36 States in 2002, the number of reports to APS programs jumped 14 percent from 1999 to 2001, while at the same time an informal survey of APS administrators showed that a 30 percent reduction in staff had occurred to their programs.

According to a 2000 survey of State APS programs conducted by NAAPSA, out of the 40 States that responded to the funding question, 47.5 percent of the States relied solely on the Social Services Block Grant, or SSBG, and an additional 20 percent depended only on State and local funds.

As part of welfare reform in 1996, the Congress and the Governors reduced SSBG funding from $2.8 billion to $2.38 billion, with the promise of full restoration by fiscal year 2003. The agreement was broken and SSBG funding was reduced to $1.7 billion, a reduction of more than one billion dollars from the 1996 level. This has resulted in a reduction of APS services in some States.

It is imperative that SSBG be fully restored to the $2.8 billion level. We hope that the Senate version of the CARE Act will prevail in conference and SSBG will be restored to the $2.8 billion level.

The APS community and all who care about this at-risk population would like to thank Senators Breaux and Hatch and the other cosponsors for the introduction of the Elder Justice Act. This is the most important piece of Federal legislation in the history of the adult protective services movement.

This bill provides a Federal home for adult protective services along with a consistent funding source. The Elder Justice Act provides support to State and community efforts to assure adequate resources to prevent, detect and reduce the significant social problem known as elder abuse. The Elder Justice Act will increase the knowledge base as well as support research and training activities dedicated to stopping this epidemic that will only increase in the coming years. The ability to provide a forensic capacity and increase prosecutions and collaborative efforts is essential if the field is to move forward.

NAAPSA and APS administrators across the Nation urge you to help us combat this epidemic of family violence by supporting the Elder Justice Act and restoring full funding to the Social Services Block Grant. thank you for the opportunity to speak today.

[The prepared statement of Mr. Snyder follows:]

Statement of Joseph Snyder Director, Older Adult Protective Service, Philadelphia Corporation for Aging
On behalf of the National Association of Adult Protective Service Administrators (NAAPSA)

For Senate Special Committee on Aging
Senators Breaux, Craig and Others
October 20, 2003

Good Afternoon. I'm Joe Snyder, Director of Older Adult Protective Services at the Philadelphia Corporation for Aging in Philadelphia, Pennsylvania. Today I am representing the National Association of Adult Protective Services Administrators or NAAPSA. NAAPSA is the only national association that represents the interests of Adult Protective Service Administrators and the victims they serve from across the country. NAAPSA provides leadership, technical assistance, training and support to administrators throughout the United States. NAAPSA is a member of the National Center on Elder Abuse and partners with various entities that are interested in the welfare of the most at risk adults in our society. The mission of NAAPSA is to improve the quality and availability of services for disabled adults and elderly persons who are abused, neglected, or exploited and other vulnerable adults who are unable to protect their own interest.

Adult Protective Services (APS) are those critical services provided to vulnerable adults age 18 and over, who have physical or mental disabilities which prevent them from protecting themselves from abuse, exploitation, and neglect by themselves or others.

Sadly, this abuse, neglect and exploitation come most often from family members. A survey of all 50 states, the District of Columbia and Guam was conducted by NAAPSA in 2000. It found that family members were the identified perpetrators in 62% of all substantiated abuse reports.

An 85-year old Pennsylvania woman had been a victim of physical abuse by her husband for over 50 years. After repeated APS referrals she finally admitted the abuse had taken place stating, "He never hits me in the face, only where it can't be seen by anyone else. He only hits me now when I can't walk." She finally made the choice to move into a nursing home saying, "it's both good and bad being away from him."

An 84- year old female from Tennessee lived alone with 77 cats and dogs. The client appeared to have not bathed or changed her clothes for years. She told APS that the animals were her only company. She knew that her clothes were rotting off but her son, a local attorney who lived nearby, charged her $20 to wash her clothes so there was nothing she could do. In order to fight off the dogs and cats, an APS worker remained with the client while she was eating so she could finish her food. APS counselors were able to put in services to clean the home and her clothes. APS contacted the client's daughter from out of state. She came and took the client back home to live with her.

A Wyoming man stands accused of intentionally abusing or neglecting his 91-year-old mother after an investigation done by APS and the police. The woman was found sitting in a reclining chair in her own urine and feces with multiple bruises all over her body. The son, who had not been employed for over four years, was using his mother's social security check to pay himself to care for her. Two cases of beer and a half empty liter of whiskey were found by investigators upon their arrival.

These compelling stories are an everyday occurrence for APS staff and their victims. While research is scant in many areas, we do know certain things. We know that caregiver stress is not a valid cause for the abuse, neglect and exploitation of vulnerable elders and adults. There are many caregivers who, despite enormous stress, do not abuse. We know that the elements of power and control so familiar to those in the field of Domestic Violence are present in many of our cases. We also know that other characteristics of the perpetrators, most notably addiction to drugs or alcohol or the presence of mental illness are prevalent in our casework.

APS continues to need support to serve this forgotten population and to combat this overwhelming problem of family on family violence. According to information collected from 36 states in 2002, the number of reports to APS programs increased 14% from 1999 to 2001. A recent informal NAAPSA survey of state APS administrators taken earlier this month showed that 30% of their programs had experienced staff reductions in the past year.

According to a 2000 Survey of State APS programs conducted by NAAPSA, out of the 40 states which responded to the question on sources of funding of APS programs, 47.5% of the states relied solely or in part on the Social

Services Block Grant (SSBG), and an additional 20% depended only on state and local funds. As part of Welfare reform in 1996, the Congress and the Governors reduced SSBG funding from $2.8 billion dollars to $2.38 billion dollars with the promise of restoration to the $2.8 billion dollars in FY 03. The agreement was broken and SSBG funding was reduced to $1.7 billion dollars a reduction of more than 1 billion dollars less than the 1996 level. This has resulted in a reduction of APS services in some states. It is imperative that SSBG be fully restored to the $2.8 billion dollar level. We hope that the Senate version of the CARE Act will prevail in conference and SSBG will be restored to the $2.8 billion dollar level.

The APS community and all those who care about this at risk population would like to thank Senators Breaux and Hatch and the now 58 other co-sponsors for the introduction of the Elder Justice Act. This is the most important piece of federal legislation in the history of the Adult Protective Services movement. The bill provides a federal home for adult protective services along with a consistent funding source. The Elder Justice Act provides support to state and community efforts to assure adequate resources to prevent, detect, and reduce the significant social problem known as elder abuse. The Elder Justice Act will increase the knowledge base as well as support research and training activities dedicated to stopping this epidemic that will only increase in the coming years. The ability to provide a forensic capacity and increase prosecutions and collaborative efforts is essential if the field is to move forward. NAAPSA and APS administrators across the nation urge you to help us combat this epidemic of family violence by supporting the Elder Justice Act and restoring full funding to the Social Services Block Grant. Thank you for the opportunity to speak today

Senator BREAUX. Thank you, Mr. Snyder. I thank all of the witnesses that have been with us.

You know, these stories are so tragic and so horrible and so difficult to understand, you would almost believe that they were not true if they weren't so well documented. For most Americans, the concept of having these types of tragic events occur is truly unbelievable. To think they may be the responsibility of family members is even more inconceivable to so many of us. But, in fact, they do occur. As you said, Mr. Snyder, it's almost an everyday occurrence seen by people in the protective services. It's inconceivable.

I want to first recognize Senator Kohl, who was here first, and then Senator Dole, for any questions you might have.

Senator KOHL. Thank you, Senator Breaux.

Mrs. Watts, we need to tell you how sorry we are that you had to endure such a terrible ordeal. Obviously, there is no excuse for what happened to you, and we are so glad you were finally able to get the help that you needed. It is so important that people like yourself come here and tell us your stories, and we hope that Congress will do more to make sure that we prevent further tragedies.

Can you tell us, did your son and your daughter-in-law ever face any criminal charges as a result of what they did to you?

Mrs. WATTS. No, I did not. Oh, they did not?

Senator KOHL. Did they face any criminal charges, your son and your daughter-in-law, did they face any criminal charges?

Mrs. WATTS. No, they didn't.

Senator KOHL. What happened? They just got away?

Mrs. WATTS. Well, when I left, I was so glad to get away from there, I just—I haven't done a thing about it yet. I have been suffering so, trying to get over the things that they did to me—you know, they drugged me, and they was putting drugs in my food that I didn't know about. I found out about it. When I go to the doctor, they would think that I'm mentally ill because they would tell them that, to make them turn everything over to them. It seemed like I was just a crazy person.

I was so drugged, I knew what was going on, but I just couldn't help myself, you know.

Senator KOHL. OK.

Mrs. WATTS. I was just slumped over in my wheelchair and I couldn't answer.

Senator KOHL. All right.

Mrs. WATTS. But I haven't pressed any criminal charges against them, as yet.

Senator KOHL. Officer Lofy, you have recounted the tragic story of Mary Graichen and have shown the committee these terrible pictures of the abuse and neglect that she suffered at the hands of her son. Many of us in the room are probably wondering why Edward Graichen only received probation.

Can you and District Attorney Stein help us understand the difficulty of getting harsh sentences for family members who abuse their elderly relatives?

Mr. LOFY. In the Edward Graichen sentencing, he had no criminal history. There was no sign of outward violence toward society or individuals. Because the neglect was such a nonviolent kind of sinister way of doing it, that there were no other victims, they de-

cided at his age probation would be more appropriate rather than sending a 66-year-old man, possibly sentencing him to death, by giving him a lengthy prison sentence.

Senator KOHL. Mr. Stein.

Mr. STEIN. Thank you, sir.

Those are basically the same reasons why Mr. Gilliam was granted probation. In fact, I was surprised that he received 120 days custody. He was a man in his fifties, who had no criminal record, who I can best describe as the most apathetic individual that I have ever come into contact with. I mean, totally apathetic, which explains the neglect of his mother. So I would conclude that the judge decided he was not a danger to the community and, based on his age, that's why he got probation and got the time he did.

Senator KOHL. I would like to ask the panel how important do you think the Elder Justice Act is in trying to deal with these particular problems, these terrible problems in our society. Mrs. Klawsnik, would you like to comment on that?

Dr. RAMSEY-KLAWSNIK. I believe, sir, that the Act would be of enormous benefit. One of the things that it would do is help to train police officers and prosecutors. When you have a victim, such as some of the victims we have heard about today, and some of the victims I have met in my work, they can be very challenging to interview. It can be very difficult for them to come into court and give testimony. You need special methods and you need specially trained people to investigate. These cases are very time-consuming.

I believe the Elder Justice Act would help in many, many ways, training not only for the law enforcement officers and the prosecutors, but for the protective services workers who are going to go out there, usually first, before law enforcement. If they're properly funded, they can get there quicker, they can do a better investigation.

We need to have cross-disciplinary training so the protective service workers and the police officers are working together, so we can get the cases to the prosecutors with evidence intact. The forensic experts right now are missing. We need doctors and nurses and mental health experts, trained in forensics, who know geriatrics, who know elder abuse. They can go out and assist in these investigations and assist in evidence collection, so that when we give it to someone such as Mr. Stein, he's got a case that he can take to court and win.

Senator KOHL. Does anybody else want to comment on the piece of legislation that we're trying to get passed? Mr. Connor.

Mr. CONNOR. Senator, I appreciate the opportunity.

I think this Act is of critical importance, especially in terms of educating the public as to the magnitude and degree of this problem. The way we treat our elderly in this country, both in home settings and institutional settings, is really a scandal.

I am not at all surprised by these sentences involving probation. I think they reflect, first of all, a lack of understanding about the problems of the elderly. Far too often, prosecutors and others are under the impression that just because somebody is old or in ill health, it's inevitable that they're going to experience these kinds of problems. They don't. Pressure sores can be avoided. Malnutri-

tion and dehydration can be avoided. People should not be chemically restrained because their inconvenient.

Further, and a major concern I have, is a broader societal notion that somehow the value of life diminishes with age. I think the imposition of probationary sentences in no small degree reflects poorly on the way in which our culture values the elderly and the infirm.

Senator KOHL. Any comment, Mr. Snyder?

Mr. SNYDER. Yes. Thank you, Senator Kohl.

As I said in my comment, I think it's the most important piece of Federal legislation in the adult protective service movement history, and to piggyback on what everyone else has said, it does provide us with the ability to do collaboration.

We haven't even spoken of financial exploitation today and the ability of people to understand that. I was lucky enough to partner with Temple University and the Department of Aging to get a grant from the Administration on Aging, to provide a financial exploitation specialist in my department. The results were phenomenal. We were able to put together cases to hand to the police that resulted in forgiveness of debt, restitution and arrest.

We were able to partner with Wachovia Corporation to start a project that, in the first 100 days, we have documented stopping over $1.4 million in assets from being exploited. That is one financial institution, 100 days.

Imagine what we could do with more.

Senator KOHL. Thank you, Mr. Chairman.

Senator BREAUX. Senator Dole, any questions?

Senator DOLE. Yes, thank you.

I would like to ask Dr. Ramsey-Klawsnik, tell me a little bit more about the fact that often it is the man, the males, rather than the females, who are reported as elder abusers. A hearing we had with the committee earlier highlighted the different coping mechanisms that men and women develop over the years and use to manage stressful situations. For many women, it seemed that caring for a spouse or a child may not produce the same feelings of anger or distress.

I'm curious if the frequent accounts of men committing family elder abuse relate to their ways of coping with stressful situations. How do we explain this?

Dr. RAMSEY-KLAWSNIK. Well, you're absolutely correct. Men in our society seem to engage in violence much more frequently than women when you look at who commits most of the crime.

When you look at the domestic violence statistics, most of the domestic violence is perpetrated by men against women. Not all of it, and women certainly are capable of being violent.

In terms of the relationship between stress and violence, stress didn't cause Mrs. J's son-in-law to produce pornography with her. That is not something a person does when they're stressed. We do know that caregiving is very stressful, and perhaps more stressful for the average male than female, since in our society females are more used to doing it. It is more in keeping with how we've been brought up oftentimes.

However, we don't find that as a result of caregiver stress people engage in the kind of serious horrendous acts you've heard about

today. Drugging your mother so that you can take her to the doctor and be proclaimed her money manager, for example, that's not a reaction to stress. When we do find caregiver stress involved in elder abuse and neglect, we are much more likely to find that it is an episodic kind of event as opposed to chronic.

If you're finding chronic abuse and neglect, that's typically not the result of stress. If a person is normally competent to provide quality care and committed and motivated to provide quality care to a mother, father, grandparent, they may become stressed when they've lost sleep or they're working too hard, where they're the only one doing it and they may lash out and say or do something they know they shouldn't. Usually those people have the competence to later recognize that they said or did the wrong thing, to apologize and to take steps to correct it.

When you find this chronic, severe, multifaceted abuse, the physical abuse, the sexual abuse, the financial exploitation, the profound neglect, there are other motivations and other factors at work. Some of that is personality characteristics, some of that is mental illness, some of that is substance abuse, some of that is greed. There are many factors.

Senator DOLE. What do each of you think is the next step in conducting research on the topic of family elder abuse? What is the most important next step in research?

Could I get you to start first, and then I would like to hear what Mr. Connor and Mr. Stein say about that.

Dr. RAMSEY-KLAWSNIK. Sure. There are so many research needs, it's hard to answer your question in terms of what should come first. First and foremost, we don't know enough about how much abuse actually occurs. We know what statistics Adult Protection Services have collected. Bear in mind, that's not all the cases. Those are the cases that have been reported and investigated, and then opened. Three steps.

The cases that didn't get reported we don't know about. The cases that got reported and didn't get opened, in some cases that's because there wasn't abuse, and in some cases that's because the abuse wasn't on the surface and people didn't have enough time to dig enough and it wasn't discovered.

I think my starting point with research would be some work to really go out there and determine how often this is happening, who the abusers are, who the victims are, and more about the factors you are raising, which is motive and cause.

Senator DOLE. Mr. Connor.

Mr. CONNOR. Senator Dole, one of the things that research benefits from, obviously, is having a data base from which to make judgments. My own assessment is that there is very likely a limited amount of information involved among families with respect to abuse, and there isn't much data on which to operate.

But I can tell you from experience that our nursing homes and adult congregate living facilities are virtual treasure troves of data that could be reviewed and assessed by Federal investigators who are interested in protecting the elderly. All of us are shocked by the stories we have heard here today. Elderly people lying in their urine and feces, with bed sores to the bone, malnourished and dehydrated, chemically restrained, and yet that is the stuff of exist-

ence of many, many, many of our elderly in nursing homes today. These are people who are being cared for by trained caregivers who are being paid with Federal dollars, and yet whose patients and residents are winding up in exactly the same shape and worse than what you have heard today.

I have long felt that this was a problem that government was too often willing to stick its head in the sand about, and was unwilling to confront. The institutional lobbies hold great sway in the American political process. The reality is, however, if we really are concerned about the sanctity of life, and we really do believe that these people are to be counted among the least among us, I believe we have an obligation to ferret out the data to identify the problem and to show zero tolerance, absolutely zero tolerance, for those who are willing to abuse or exploit or neglect these very vulnerable people.

Senator DOLE. You know, you're taking me back to my days on the Federal Trade Commission as you make some of these comments, because I was in charge of an investigation then of nursing homes. With the contracts we found that so often there were things in the fine print that were actually taking away all of the funds of the person who was being admitted to the nursing home. There were just unfair practices.

Mr. CONNOR. Indeed. I couldn't believe, frankly—and I don't remember the name of the fellow who was brought in initially to head up the Center for Medicare and Medicaid Services at the beginning of this administration. He indicated that he thought it was a nutty idea that the Federal Government would conduct annual inspections of nursing homes. That's the nuttiest statement I have ever heard from somebody who is charged with the responsibility of protecting the frail elderly.

The reality of it is that people in this business, and private individuals as well, respond to both "carrots" and "sticks". I think it's important for the Government to be prepared to apply the stick where it needs to be applied and when it needs to be applied.

Senator DOLE. Mr. Stein, would you add anything else, or any of you on the panel?

Mr. STEIN. Yes, thank you.

I would concur with Dr. Ramsey-Klawsnik. I think the cases that we prosecute, the cases that you heard about today, represent just the tip of the iceberg about what is really going on out there. Typically, what we find is that, believe it or not, the elderly victim often defends the abuser. They recant and ask not to prosecute. They downplay what happens, and sometimes they go into court and they just absolutely recant and deny it happened. So think there's a lot more abuse going on out there, and that's where I think research would help.

Senator DOLE. Any other comments?

Well, I want to thank all of you for your testimony today and for the tremendous work that you're doing, which is very, very difficult work. With a mother who is currently 102-years-old, I have a strong interest in protecting these seniors.

Thank you very much.

Senator BREAUX. Thank you, Senator Dole.

I would just conclude by saying we've heard these witness panels before, and there is a great deal of concern, appropriately so, in the United States as a nation on the question of child abuse. The Federal Government and the State government has devoted a great deal of attention and a great deal of resources to the question of child abuse—and rightfully so. We have done the same thing with regard to spousal abuse, and rightfully so.

But there is a real vacuum, and the vacuum is that we, as a Nation, do not give the same degree of intense research, help, coordination between the States and locals, when it comes to the question of elderly abuse. It is the fastest growing segment of our population. With the advent of the baby boom, there are 40 million Americans soon to be older Americans and moving into their golden years. This is an increasingly difficult national problem.

That's why I was so pleased to hear the cases, and your testimony, Ms. Watts, and also from the experts. I think almost every one of you thought that the concept of an Elder Justice Act is something we should be moving toward. We have over 30 cosponsors in the U.S. Senate of the legislation that Senator Hatch and I have cosponsored, and over 60 cosponsors in the House. The bill is certainly not perfect, but it is at least representative of the concept of the United States, as a nation, moving collectively toward addressing this huge national problem which, if we neglect giving it the attention it deserves, would only get much worse. So we will continue to push in that direction and say to all of you, thank you so much for helping make other people's lives hopefully a lot better in the future.

With that, this committee hearing will be adjourned.

[Whereupon, at 2:43 p.m., the committee was adjourned.]

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