

ELDER JUSTICE COORDINATING COUNCIL

PANEL ONE: FINANCIAL EXPLOITATION

Paul Smocer

Paul Greenwood

Erica Wood

Thursday, October 11, 2012

Renaissance Hotel
999 Ninth Street, NW
Washington, D.C. 20001

1

2

Speakers Panel: Financial Exploitation

3

MS. GREENLEE: So we'll turn to our first

4

panel. I hadn't had a chance to meet before this

5

morning Mr. Tiller or Mr. Harwood. Many of the people

6

in the audience have heard me talk before that my

7

introduction to financial exploitation of seniors was

8

as Assistant Attorney General in the State of Kansas

9

where someone brought to me a grocery bag full of these

10

scam puzzles and sweepstakes, and it's how I began to

11

learn as well. So our partnership and my interest in

12

this with your agencies is long held.

13

So we are going to turn to our first panel,

14

on financial exploitation. So let me introduce them to

15

you.

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

61

1 Paul Smocer is the President of BITS, with
2 The Financial Services Roundtable. Good to see you
3 again.

4 MR. SMOCER: Thank you.

5 MS. GREENLEE: And Paul Greenwood. We've got
6 Paul, he's the Deputy District Attorney, head of the
7 Elder Abuse Prosecutions in San Diego, California.

8 MR. GREENWOOD: Good morning.

9 MS. GREENLEE: Welcome.

10 And Erica Wood. Erica is with the American
11 Bar Association, Commission on Law and Aging, where she
12 is a senior attorney.

13 Three people well versed in financial
14 exploitation. We will, panelists, hear their comments,
15 and then we have set this up so that we can have an
16 opportunity for those of here to ask them questions. So
17 you might take notes. And we'll hear from all three
18 and then question them as a group, if we can.

19 So, Paul, I think we're going with you first.

20 MR. SMOCER: Okay, thank you. First, good
21 morning, and thank you to the members of the Elder
22 Justice Coordinating Council for providing this

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

62

1 opportunity for us to speak on the subject of financial
2 exploitation of older Americans and actions we can
3 collectively take to reduce that exploitation. As
4 Kathy said, my name is Paul Smocer, and I am the
5 President of BITS, which is the Technology Policy
6 Division of The Financial Services Roundtable. The
7 Roundtable and its members are committed to encouraging
8 their employees to comply with high standards of
9 conduct when providing financial advice to customers,
10 including older Americans and their families. Helping
11 ensure a secure financial system and retirement for
12 millions of Americans is central to the mission of the
13 financial services industry.

14 We are all here because we understand the
15 magnitude of this issue. Unfortunately, the threat to
16 elder Americans is only increasing as the population
17 ages, creating a potentially larger pool of victims for
18 financial exploitation. Since many older customers
19 still prefer to conduct transactions in person,
20 financial services employees can often detect older
21 customers' behavior and have the opportunity to react
22 appropriately in the event of financial exploitation.

1 In identifying and reacting to cases of suspected
2 abuse, it is essential for the institutions to work
3 with Adult Protective Services and local law
4 enforcement. To accomplish this, many institutions
5 participate in local and regional task forces composed
6 of those groups. Working with our member institutions,
7 the Roundtable's BITS organization previously released
8 a white paper to help financial institutions and their
9 customers identify and combat elder abuse. In
10 addition, the Roundtable was proud to participate in
11 the 7th Annual World Elder Abuse Awareness Day.

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

20 In discussing this issue more generally, the
21 group has identified a number of areas where they feel
22 impediments exist to improving prevention wherein the

1 assistance of the Council's members would be very
2 helpful. I will outline each of these briefly, but my
3 written comments have more detail on each of them.

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

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

22 Another substantial yet similar challenge

1 occurs when an individual with a duly executed power of
2 attorney to act on behalf of the elder is suspected
3 that they're trying to perpetrate fraudulent activity
4 or activity not in the best interest of the elder.

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

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

20 Fifth, institutions currently file suspicious
21 activity reports to the Financial Crimes Enforcement
22 Network, but state requirements differ greatly. It is

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

66

1 necessary to clarify and standardize as appropriate
2 these reporting requirements. Improvements could also
3 be made to the suspicious activity report process to
4 identify more quickly elder involved abuse.

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

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

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

22 So thank you.

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

67

1 MS. GREENLEE: Thank you. Thank you very
2 much, Mr. Smocer, for now and for helping us on the
3 event in June. You were very helpful.

4 Paul Greenwood, we would like to hear from
5 you next.

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

9 (Laughter.)

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

14 (Laughter.)

15 MR. GREENWOOD: But I want to thank you so
16 much for, first of all, giving us the opportunity to
17 meet together as a group. This is really excellent.
18 Sometimes you feel you're on your own and you're
19 battling going uphill, but to see good faces again and
20 just to be reminded that we're all in it together is
21 very helpful. So I want to thank you just for that in
22 itself. The networking is just terrific.

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

68

1 I've had the privilege of prosecuting crimes
2 committed against seniors for the last 17 years. I'm
3 one of two county prosecutors that is on your panels
4 today, along with Page, from Seattle, and it really is
5 a privilege to address you on behalf of many other
6 prosecutors around the country. When I started 17
7 years ago, there were very few prosecutors dedicated
8 to, on the local level, prosecuting these crimes, but
9 I'm pleased to tell you that that group is growing, and
10 we're all learning so much from the cases that we put
11 on in court.

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

19 (Applause.)

20 MR. GREENWOOD: For example, travel plans permitting tonight,
22 I'll be in court tomorrow morning at 8:30 on a typical

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

69

1 elder theft case, and we do those regularly, but
2 where I've become frustrated over the last 17 years is
3 our inability to apprehend these crooks that you've
4 seen on video who perpetrate scams against our elders,
5 and they range from the "grandma" scam, and you all are
6 familiar with that one, where the perpetrator calls up,
7 pretends to be the grandson, he's in an out-of-state
8 jail, he needs \$5,000 bail money to get him out of
9 jail, and this happens constantly. And then we've got
10 the sweepstakes scams that go on all the time. We've
11 now got -- recently I've had several timeshare sales
12 scams where elders are trying to divest themselves of
13 these timeshares and are being ripped off by out-of-
14 state crooks.

15 And these crooks hide behind anonymity, they
16 have cell phones, they're so hard to track, and they
17 always cause a loss of about \$5,000. And the problem
18 that I've had over the last 17 years is that we've been
19 unable to coordinate efforts on the federal level and
20 on the local level to actually go after these crooks.
21 I'm proud that my office is willing to extradite crooks
22 from out-of-state and out-of-country, even for \$5,000.

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

70

1 If I can probably commit to getting a judge to send
2 that predator to state prison, my office will probably
3 extradite from out-of-state certainly, and out-of-
4 country hopefully.

5 So what I am here to ask you about is whether
6 we can do more together to coordinate these efforts.
7 And I applaud the federal agencies for what they've
8 done, for their awareness level, but there is so much
9 more, as we all recognize, that we can do together.

10 And one of the major areas -- I see five
11 major areas actually that I would like to address as
12 being things that we could remedy.

13 Number one, I would love to see in major
14 urban areas like San Diego the creation of a
15 multidisciplinary task force involving the U.S. Postal
16 Service, the U.S. Attorney's Office, local law
17 enforcement, financial institutions, and, of course,
18 MoneyGram and Western Union. And in addition to that,
19 there is one other agency that has cropped up in the
20 last few weeks in my cases that I'm prosecuting. We're
21 seeing a lot of now victimization where the victims are
22 being asked to go to Walmart and CVS to buy prepaid

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

71

1 Green Dot cards because the crooks have figured out
2 that Western Union and MoneyGram are doing a little bit
3 better now in trying to screen out the wire transfers,
4 but these prepaid cards you buy for \$500, and then you
5 scratch out on the back, just like an iTunes card, and
6 there are 14 digits, and all you have to do is give
7 those 14 digits to the crook over the phone, and he's
8 got the money, and he's got it like instantly.

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

22 So the second thing I would recommend is

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

72

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

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

19 We need better regulations when a recipient
20 goes in to pick up the money. Can't we mandate
21 fingerprints and photographs and drivers licenses so
22 that we can at least track who it is who is picking up

1 this money?

2 Fourthly, I would love to see the
3 establishment of a national committee of law
4 enforcement experts creating a database which could be
5 accessed by people like me and Page Ulrey containing
6 contact information as to who we could call in other
7 countries or in this country, Canada, Jamaica, the
8 United Kingdom, other countries where scams originate.
9 It would be terrific to have that kind of resource
10 available so that we could, as part of the rapid
11 response team, pick up the phone and say, "Okay, can
12 you help me here?"

13 And, fifthly, I would urge for some kind of
14 creation of a system that would allow search warrants
15 to be processed quickly to identify known telephone
16 numbers that are being used by the scammer. I have in
17 my office back in San Diego a whole list of phone
18 numbers that I've called in Jamaica and in Las Vegas,
19 area codes 876, and 702. I've spoken to these
20 crooks, and I have their phone numbers, but I can't do
21 anything about it, and it's so frustrating when you
22 actually talk to the crooks on the phone, and they

1 laugh at you. Most of the time I call myself Richard
2 Chamberlain, I don't know why, except that I grew up
3 with "Dr. Kildare."

4 (Laughter.)

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

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

16 Thank you.

17 MS. GREENLEE: Thank you very much.

18 (Applause.)

19 MS. GREENLEE: Erica Wood. It's baseball
20 season, so I'm going to say batting cleanup on this
21 panel is Erica Wood.

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

75

1 (Laughter.)

2 MS. WOOD: Well, and as long as we're
3 bragging about parents, my mother became 100 last
4 month.

5 (Applause.)

6 MS. GREENLEE: That's cool.

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

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

15 MALE SPEAKER: He had to leave.

16 MS. WOOD: Yes.

17 COMMISSIONER ASTRUE: I'll fill him in.

18 (Laughter.)

19 MS. WOOD: Thank you.

20 MS. GREENLEE: Do we have staff here from the
21 VA, though, I think, too? So, I mean, most of the
22 agencies that are here on the front also have staff.

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

76

1 MS. WOOD: Thank you. Commissioner Astrue I want
2 to recognize and congratulate you on everything that you've
3 done and build on your remarks. I am particularly excited
4 about the Philadelphia demonstration program that you
5 mentioned involving the use of outside information. I
6 think that's just the kind of thing that I want to
7 reinforce.

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

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

77

1 fiduciary program, OPM, Railroad Retirement --
2 Treasury?

3 FEMALE SPEAKER: Uh-huh.

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

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

16 Spurred by the GAO, OIG, and other studies,
17 both Social Security and the VA have taken steps in many
18 directions, within existing resources, in payee
19 screening, selection, support, monitoring, data to
20 better detect abuse, frontline staff procedures,-- and I

1 certainly defer to them on exactly where these internal
2 actions stand. Obviously more is needed.

3 But I'm really here to open the door to some
4 broader, more holistic strategies that cross agency and
5 jurisdictional lines to look through a bigger lens where
6 collaboration and coordination is the name of the game.
7 After all, that's why we're here today.

8 One option is simply to get "more eyes" on
9 payee misuse. Now, folks working in a wide range of
10 federal or federally-funded programs, and also state
11 players, routinely see beneficiaries. They might "bump into"
12 abuse and yet just not recognize it or know what to do
13 about it. Of course, I'm talking about the aging and
14 disability network players, like APS, Agencies on
15 Aging, ombudsmen, insurance counselors, long-term care
16 licensing, legal services -- but beyond that
17 think about HUD housing services coordinators,
18 even a postal worker or a Department of Labor employee,
19 an RSVP volunteer, the possibilities are endless. Could
20 we somehow open their eyes, heighten their awareness,
21 so they know what they're looking for in payee abuse
22 and tell them when and how to report? So that's one.

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

79

1 Second, another option is to look at
2 information exchange with external entities. As the
3 GAO pointed out so vividly, the payee programs in
4 Social Security and the VA are not coordinated with court
5 programs and with APS, and yet they serve pretty much the same
6 population. A rep payee may also be a guardian, or a
7 person could have two different people, one serving as
8 guardian and one as rep payee. So essentially what we've got
9 is two fiduciary systems on top of each other, one federal
10 and one state, but not hooked in, not hooked together.
11 Information on misuse of funds by a payee over *here*
12 never makes it over *here* to the court side or to APS,
13 even though it's about the same person.

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

18 But it's not just sharing information about
19 specific cases. Let's talk systems, coordination,
20 sitting down, breaking down silos among Social
21 Security, the VA, courts, APS, the aging and disability
22 network, which could be a real win-win. What if, at

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

80

1 least on a pilot basis, the court and a Social Security
2 field office could join forces on training payees and
3 guardians, could partner in public education campaigns
4 or even recruit volunteers? What if they sat down
5 studied trends, problems, egregious cases,
6 miscommunications? What if?

7 And, finally, there is an option for greater
8 external payee review. In 2009, as Commissioner
9 Astrue knows, in response to a shocking case of
10 longstanding exploitation by payees who had employed
11 individuals with intellectual disabilities in a poultry
12 plant, Social Security contracted to have state
13 Protection and Advocacy agencies conduct intensive
14 onsite reviews of certain organizational payees.
15 I think this is a "twofer" because the reviewers can
16 look not only at the funds but also at beneficiary
17 housing, employment, safety, and care. So one approach
18 could be to extend the P&A review to additional payees,
19 perhaps individual payees; and furthermore we might explore a
20 similar role for experienced advocates on the aging side.
21 We could perhaps shine a particular light on the
22 conflicting roles of payees who also provide housing

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

81

1 and long-term care.

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

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

11 (Applause.)

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

14 COMMISSIONER ASTRUE: Yeah, let me just
15 respond briefly to Ms. Wood, and then I'll have an
16 actual question. I mean, I think that we're in central
17 alignment. One of the things that concerns me when I
18 talk particularly to members of Congress and their
19 staff is that there is an idyllic view and a dated view
20 of what a Social Security field office looks like. With
21 the budget cuts and the huge increases in workloads,
22 these are swamped offices, and there are actually very

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

82

1 few older Americans in the waiting rooms and coming in
2 these days. In part, that's because Treasury has been
3 so successful on our behalf with direct deposit, but I
4 actually do this with members of Congress, and they
5 hate it, when I take them into their own field offices
6 and I say, "Is there anything here that surprises you?"
7 and then I count, one potato, two potato, three potato,
8 and I say, "How many people over the age of 60 do you
9 see in the room?" and typically these days, in an urban
10 office in particular, it's less than 10 percent. There
11 are usually more children in the waiting room than
12 older Americans, and it's because they're in for
13 authentication and that type of thing. That's a
14 problem.

15 The reason I'm bringing this up is there is
16 this image in many quarters that we have this constant
17 regular interaction with our retirees, and actually we
18 don't. And so what is really important -- and this is
19 actually going to lead up to my question -- is the key
20 interaction we have is when they first come on to the
21 rolls, and sometimes they don't even come into the -- I
22 mean, I think something like 43 percent are applying

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

83

1 online now. So those initial interactions when people
2 first come on are critically important in terms of any
3 information transfer that we give about avoiding fraud
4 or reporting abuse or anything like that. So I guess
5 the question -- you all come from different
6 perspectives, the financial industry deals with people
7 analogously, you deal with the problems, the ABA looks
8 at it sort of broadly -- is there any learning from
9 other organizations' experience if we don't have many
10 opportunities to interact face-to-face with the people
11 that we're trying to serve as to what's critically
12 important to get across? And is there anything that we
13 should be saying? Is there a piece of paper that we
14 should be handing to people? Is there a website that
15 we should have up that we should be telling them is
16 going to be there if they ever have a problem? Is
17 there anything in terms of information exchange as
18 people are coming into the system that perhaps we're
19 not doing now that we should be thinking hard about
20 doing?

21 MS. GREENLEE: Mr. Smocer?

22 MR. SMOCKER: Let me comment in a couple ways.

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

84

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

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

17 The one thing I would react to in your
18 comment is that, yes, I think there is an opportunity
19 to do some education at the point of them first
20 entering the system. The one thing that struck me
21 today as I listened to the members and listened to at
22 least the testimony to date is it seems like a lot of

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

85

1 us are trying to focus on this kind of awareness and
2 education piece, and it seems to be different agencies
3 are working on perhaps different aspects of this, and I
4 wonder if there is some way for us to figure out a way
5 to coordinate that, because I don't think the messaging
6 is significantly different. There may be specifics
7 related to how to handle your Social Security payment,
8 there may be something specific, but I think the basic
9 cautions and messaging and awareness that we're trying
10 to convey is essentially the same. And my staff
11 sometimes hears me make this analogy, that a lot of
12 times we seem to react like a group of 6-year-olds
13 playing soccer -- right? -- everybody wants to go to
14 the same ball.

15 (Laughter.)

16 MR. SMOCER: It's important that we go there,
17 it's important we're trying to score, but we're all
18 using resources that are precious to us to try and
19 accomplish the same end. So I wonder if there is some
20 way that we can think about collectively a way to kind
21 of create that educational messaging with maybe some
22 lead agency, and the rest of us kind of playing a

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

86

1 supportive role in that process, because we're about to
2 launch something, CFPB is launching something, USPS is
3 launching something, SSA is thinking of something,
4 Treasury is working on something, and I think we're
5 going to end up with a lot of the same words in
6 probably different packaging, but we're trying to
7 accomplish the same goal, and it would be great if we
8 could figure out a way to work together to get that
9 done.

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

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

14 MS. KOIDE: But it is this question, and it's
15 something that we are grappling with in the broader
16 context of education. In the particular elderly
17 population, what do we know in terms of what is
18 effective education? And really, what are the cohorts
19 of elderly who are being abused? And how confident are
20 we that if we are educating in the form of a document,
21 a website, that we're actually going to be effective of
22 it? That seems like a first order question, and I

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

87

1 don't know the answer to it.

2 MR. SMOCER: And I'm not sure I do either. I
3 mean, certainly speaking for our industry, I don't know
4 that we have access to all the research that suggests,
5 as we heard some of the members say today, as we heard
6 some of the panelists say today, kind of, what are the
7 brain effects going on in the elderly, and what might
8 be the more effective approach to getting that message
9 across? I mean, we kind of know the fraud schemes, we
10 know how people are being exploited, and we can put out
11 cautions around doing that, but one of the comments
12 that was made earlier this morning was -- and I don't
13 remember who made it, I apologize -- but the comment
14 essentially was one of the first things to go is the
15 ability to differentiate when someone is lying to you.
16 Well, you know, kind of a lot of education that says
17 these are the lies to somebody who may not be able to
18 differentiate it --

19 MS. KOIDE: Exactly.

20 MS. GREENLEE: So we have a couple of
21 questions. Let me broaden it to Erica and Paul, if you
22 want to kind of weigh in, Commissioner Astrue asking

Capital Reporting
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

88

1 about sort of that initial point of entry, and Ms.
2 Koide asking about kind of what works, and just make
3 sure we have -- and we'll keep it moving, but to make
4 sure the other two have a chance.

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

18 The other thing that I just wanted to bring
19 from the guardianship side is that there have been
20 pilots sending out volunteers to monitor guardians. Who

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

89

1 knows? It might work on the rep payee side, too.

2 That's totally untested, but I just throw it out for
3 what it's worth.

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

11 I guess the other thing I would just want to
12 say -- and maybe people can react to this -- I mean,
13 it's an unfashionable thing to say perhaps, but there
14 are some limits to education. I mean, if you think
15 about the videotape from the Postal Service we just
16 saw, my bet is if that woman entered our system between
17 the ages of 62 and 70, we could have transferred a lot
18 of this information and she would have processed it,
19 and it wouldn't have been a problem, but the problem is
20 -- I don't know what age she is now, but clearly there
21 is at least early stages of dementia, and there are
22 limits to education. I mean, obviously someone was

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

90

1 trying very hard, and it was no use.

2 And that goes back to the other point, that I
3 think one of the biggest problems we have is people
4 like that fall through the cracks. There are people
5 who know that somebody is vulnerable and no longer
6 capable of managing their affairs, and yet there are so
7 many legal and cultural barriers to sharing that
8 information that somebody like the woman in the video
9 is probably not going to have that information
10 communicated so agencies can try to respond and help
11 her. I mean, I would not be stunned if the Postal
12 Service told me that's one of my beneficiaries and she
13 doesn't have a representative payee even though it's
14 very clear from the video that she's not capable of
15 managing her own finances.

16 MR. GREENWOOD: And can I just weigh in?

17 MS. GREENLEE: Yes. Go ahead.

18 MR. GREENWOOD: A couple of points. I think
19 that's why training the gatekeepers of the money is so
20 important, because with regard to that victim on that video,
21 the next day she withdrew more money to send to Jamaica.
22 We need to do a better job at training the tellers

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

91

1 who are giving out that money, who see this lady coming
2 in day after day. These crooks are using other
3 sophisticated methods. I just had a case where now the
4 crook out-of-state is calling up a cabdriver to
5 pick up my victim on six different occasions --
6 because she no longer has a car because she's disabled.
7 See, they're arranging the cabs to take them to the
8 credit union and to withdraw the money, and thankfully
9 it was a trained credit union teller who spotted this
10 and brought it to the attention of the authorities.

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

20 (Laughter.)

21 MR. GREENWOOD: -- as a conduit to bring all

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

92

1 these different aspects of training and projects
2 together under this one umbrella of the national center
3 would be a terrific idea.

4 MS. GREENLEE: So for the rest of you on the
5 panels, we're going to expect you to answer all of the
6 questions that have been asked before you get here,
7 don't you think? So keep track because this is good
8 follow-up.

9 (Laughter.)

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

12 MS. GREENLEE: Yeah, yeah, because they get
13 harder as the day goes.

14 (Laughter.)

15 MS. GREENLEE: Commissioner, do you have more
16 questions before I open this up to the panel?

17 COMMISSIONER ASTRUE: No, no. I think I
18 should share.

19 MS. GREENLEE: Secretary Koide, do you have
20 more? Let me come back to you since you had asked and
21 see if you have --

22 MS. KOIDE: No.

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

93

1 MS. GREENLEE: Anybody else?

2 MR. TILLER: May I, please?

3 MS. GREENLEE: Yes.

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

17 What I worry about is the law enforcement
18 officer in the middle of Kansas. They need to be a
19 social worker now. They need to know how to interact
20 with the elderly, educate them, interact with the
21 caregivers. We're doing our catch-up ourselves, with
22 Mr. Smocer's comment, we have to do the same with our

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

94

1 window clerks at the post office because they come in
2 and mail \$10,000 via Express Mail to Jamaica, that is
3 not uncommon. My brother down the table here from FTC,
4 they've done a tremendous job with MoneyGram, the wire
5 transfer companies. There is a recent change with
6 Green Dot we should probably discuss at some point.
7 We're all playing catch-up. Corporate America is
8 playing catch-up on how to stop this misuse of their
9 own products, but this is what we have to do, is talk
10 about it. But I almost think we have two tracks, the
11 education track and the law enforcement track, and
12 again we could be here all week and discuss these.

13 MR. SMOCER: And if I could.

14 MS. GREENLEE: Yes. I was going to say
15 comments are completely welcome. Do you have
16 questions, too? Because I want to make sure that they
17 can respond.

18 MR. SMOCER: So two thoughts come to mind.
19 One is -- and I mentioned the kind of whole suspicious
20 activity reporting in FinCEN. I think there is a very
21 practical thing that could be done easily, which is to
22 kind of update that reporting to very specifically call

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

95

1 out elder abuse or suspected elder abuse. Right now,
2 if I'm still correct, it is a textual entry as opposed
3 to one of the categories of what you're reporting is
4 suspicious activity. So just kind of making it a
5 category so that we could collectively do some analysis
6 that suggests that maybe the same suspect over here in
7 California is also being victimized by someone in New
8 Jersey, so we can kind of start to gather that data.
9 And to the extent that we can, I mean, that is a
10 relatively good and mature process for reporting
11 suspicious financial activity to the extent that we can
12 get other industry players into that space, whether
13 it's USPS following through it, whether it's Green Dot
14 and some of the others following through it. I think
15 that would be helpful to build the database that Paul
16 was trying to look for, which is, can we consolidate
17 this information and realize the same criminal actors
18 are many times operating across various jurisdictions?
19 I think that would be a very helpful thing to look into
20 if we could.

21 MS. GREENLEE: Other people on the panel?

22 Skip?

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

96

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

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

17 MR. GREENWOOD: And Skip mentioned the FAST
18 team, which is an acronym for Financial Abuse
19 Specialist Teams, and there are many of those spreading
20 around the country, and we have them in California,
21 and, yes, I've been actively involved in one for the
22 last 17 years.

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

97

1 Unfortunately it's always these sad stories the FAST team
2 shares, but ultimately they look to me for trying to,
3 solve it, investigate it and prosecute it. And
4 that's where the frustration comes in, and I think just
5 the fact that I hear that you have a postal inspector
6 representative out in Jamaica, I mean, I hope you don't
7 mind, I'm going to be asking you for the name and the
8 phone number because this is great, this is what we
9 need, is points of contact in all these areas so that I
10 can contact the FBI and then we can contact the U.S.
11 Postal Service. And I don't think it would take much
12 to get on a regional level a series of people and a
13 task force to get this going. And speed is of the
14 essence, you know, if we can do it. And I think you
15 said -- one case at a time is fine with me. If we can
16 just do one case next month, and then the month after,
17 the word will spread in that predatory community, and I
18 think we can do it that way.

19 MS. GREENLEE: Mr. Harwood, do you have any
20 questions?

21 MR. HARWOOD: Yeah, thank you, a couple
22 different questions. First, let me just follow up on

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

98

1 the comment that Mr. Smocer made of guardian
2 coordination. Actually, the Federal Trade Commission
3 has a law enforcement database that receives complaints
4 from both Western Union and MoneyGram, and we make that
5 database available to any law enforcement agency, and
6 it's for free, and anyone who is not -- it's called
7 Consumer Sentinel, and if you're a law enforcement
8 agency and want to gain access, we would be happy to
9 give it to you. We've been working with Western Union
10 and MoneyGram over the past year to feed all of their
11 consumer complaints into the system so it's a way now
12 that law enforcement can go and compare information.

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

1 offshore frequently?

2 MR. GREENWOOD: Well, I mean, they are doing
3 it now, as you said, by warning them. I think
4 a personal approach is needed, just by having somebody at the
5 counter saying, "Have you been contacted today? Has
6 somebody promised you a prize or has a grandson told
7 you he's in jail?" Just having that personal interaction,
8 which might cause some of these people to hesitate.
9 When I speak to the victims, that's one of the first questions
10 I ask them, "Did anybody come up to you and ask you if
11 you needed help and why you were sending the money?"
12 and in most of the cases they said no. And I said,
13 "Well, if they had said anything to you, would that
14 have made you stop and think?" and they said,
15 "Possibly." They're not going to say it's going to
16 happen all the time. I also think, though, that these
17 three agencies should do more to make it more difficult
18 for the recipients to pick up the money.

19 I mean, I remember going to the bank a few
20 years ago with my son, he was like 12 at the time, and
21 he had his first check as a recreational referee at the
22 soccer, and the hoops we had to go through to prove who

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

100

1 he was to cash like a \$24 check, and I think, how
2 ironic, you know, we do that for a 12-year-old kid, but
3 when a stranger comes in and picks up a large sum of
4 money we should have some rules in place.

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

10 MS. GREENLEE: Mr. Harwood?

11 MS. KOIDE: Sorry.

12 MR. HARWOOD: Go ahead.

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

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

23 MS. KOIDE: Got it.

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

101

1 MR. GREENWOOD: -- that was -- yeah,
2 obviously, as you say, when they just simply open up a
3 new account, it's not going to be so easy to make that
4 happen.

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

17 MR. GREENWOOD: Right.

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

19 MR. GREENWOOD: With apologies to the folks
20 on Jamaica, a lot of these are from the 876 area
21 code. So now if we can track down where that number
22 was coming from, then we would

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

102

1 obviously contact the Postal Service if they have their
2 representative out there and then work through them
3 with the local law enforcement in Jamaica to identify
4 who the suspect is. And then once we get that
5 information -- and I'm constantly telling the agencies,
6 "I'm here, I'm willing to prosecute this crime. You
7 show me who it is, I'll prosecute that person." I
8 think once they get that kind of commitment from a
9 local prosecutor, it will start happening.

10 MR. HARWOOD: I actually think some of that
11 may already be happening, and as Mr. Tiller has
12 mentioned and some others have mentioned, there
13 actually is an outlet for you to do that by talking
14 with the folks in Jamaica. It's called Project JOLT, I
15 believe is the name of it?

16 MR. TILLER: Yes.

17 MR. HARWOOD: And it's actually trying to do
18 exactly what you're describing, so we'll make sure you
19 get in touch with that. My sense is that one of the
20 challenges that many law enforcement agencies face is
21 not just identifying who is perpetrating the scam or
22 fraud offshore but actually effectively prosecuting

1 them because they are in fact offshore. Have you had
2 success? You talked about possibly considering
3 extradition. Have you had success with that, trying to
4 get prosecutions where the perpetrators are located
5 offshore?

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

9
10 MR. HARWOOD: So my third -- we should work
11 on that as well, I think, because that's a challenge.
12 Actually, the Department of Justice has actually been
13 our best ally with regard to international
14 prosecutions, but something that we should probably
15 discuss in the future.

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

21 MR. GREENWOOD: Oh, I love it.

22 (Laughter.)

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

104

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

13 (Laughter.)

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

20 MR. HARWOOD: I think that view is still
21 widely held. How do we overcome that, among law
22 enforcement, that older victims are really not good

1 victims to rely on?

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

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

19 MR. GREENWOOD: No, I'm sure that's workable
20 given the relationships that are obviously being built
21 by our agencies and with the local law enforcement.
22 Certainly it would be, but again it's about

1 accountability whether they would follow through, and
2 we would like to hear if these are successful
3 prosecutions. So I wouldn't say that we have exclusive
4 monopoly on how to do these cases, no, not at all, I
5 just work with any prosecutor in any country being
6 willing to do that.

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

9 Julie McEvoy, do you have questions?

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

20 I was hoping, Mr. Smocer, you could follow up
21 on your suggestion that it might be appropriate to
22 segregate elderly customers as a focus and that to do

1 that, the financial industry would be interested in
2 some sort of exemption from the ABA. Could you
3 elaborate a little bit and tell me what you had in
4 mind?

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

21 And so I think a lot of the fraud monitoring
22 kinds of systems that are in place today are very

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

108

1 strong, but I think institutions would like the
2 opportunity to think about extra steps they could do
3 germane to this population but are afraid if they
4 segregate that population, that they're going to get in
5 trouble in another way. So just kind of getting some
6 clarity around whether that's permissible, and if it's
7 not, thinking about how we might make it the way to go.

8 MS. McEVOY: Good. Okay. Thank you.

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

11 MS. McEVOY: Not right now. Thank you.

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

15 MR. GREENWOOD: Yes.

16 MS. GREENLEE: Will you talk about the
17 relationship between financial exploitation and other
18 kinds of abuse? Because I'm concerned that if we
19 measure the loss on a dollar, based on a dollar figure
20 -- and I understand prosecutors have to make decisions,
21 and so do APS workers -- that we're not fully capturing
22 the nature of the abuse if we're only looking at the

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

109

1 finances. So will you talk about what you see as the
2 correlations between financial abuse, physical abuse,
3 emotional abuse, and some of the other kind of problems
4 we're worried about?

5 MR. GREENWOOD: Sure. And actually you raise
6 a good point. Let me first of all talk about the
7 impact on the victim. To some people, the loss of
8 \$1,000 may not be too significant, but to so many of my
9 victims it is huge, and I've seen so many victims
10 spiral downhill as a result of losing \$1,000 or \$5,000,
11 and they lose the will to live. So I think generally
12 we have to assess the impact of the crimes on the
13 victims, not just by the money amount but what it
14 actually means to them in terms of having had a
15 violation of trust or whatever.

16 And, secondly, you're right, financial
17 exploitation isn't in a vacuum, it can often be part of
18 a wider picture of power and control. So you get the
19 financial exploitation as part of neglect where the
20 caregiver is basically depriving the victim and
21 weakening them to the point where now the victim signs
22 over the house, quitclaim deeds, does a reverse

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

110

1 mortgage, and they become power of attorney and have
2 total control of the assets.

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

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

21 MS. GREENLEE: This is a concern I have just
22 generally for the law enforcement approach and the

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

111

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

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

17 Skip?

18 MR. HUMPHREY: I have one question for Mr.
19 Smocer. Have you seen or are you aware of any
20 particular training program for those employees in
21 financial institutions that seem to be working? And
22 are they restricted? Have you had the sense that they

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

112

1 are restricted by the laws that may claim some basis
2 for discrimination?

3 MR. SMOCER: The training programs, yes,
4 there are some very effective ones, and I would be glad
5 to get together offline, and I think we should, and
6 kind of share what we know and what you are working on.

7 The training programs per se don't really
8 overlap the discrimination point per se. I think to
9 some extent, though, they overlap the kind of confusion
10 around -- well, confusion in a few senses. To whom do
11 you report this? Because there are so many options,
12 right? Do you take it straight to law enforcement? Do
13 you work through APS? Does it depend on what
14 particular geography you happen to be in that is most
15 effective? And even, who is the right agency if you're
16 going to take it to an agency? I mean, that's one of
17 the struggles, as all of you know, the agencies vary in
18 some cases by state, by region, by locality, et cetera,
19 which is why we are very encouraged by the work you're
20 doing on trying to gather all that information.

21 And then it is the question of trying to
22 clarify and make it clear -- and this doesn't -- I

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

113

1 mean, this will work for financial institutions, but it
2 will work for a number of other industries as well and
3 just people in general -- make it clear that you have
4 an obligation to report and that if you do, you're held
5 harmless because there is a concern whether I'm an
6 individual teller at a small institution, should I say
7 something, shouldn't I? You know, there's, I think,
8 concern more broadly. So if we can clarify that, I
9 think that would go a large way.

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

21 And one thing I wrote down earlier as the
22 panel was talking, one thing that also struck me, too,

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

114

1 and it's a point I just made a second ago, to whom do
2 you report this? I mean, I think there are a lot of
3 people who would report but it is so confusing. And
4 one idea I didn't have in either the written or the
5 oral was, is there a way to think about kind of a one
6 1-800 number, right? One toll-free number that some
7 call center then passes on, they have the information.
8 I, as a citizen, or I, as a teller, or I, as whoever,
9 don't need to think about or figure out that in my
10 community, I should probably call this number. I mean,
11 is there a way to kind of consolidate that point of
12 contact for somebody who wants to report?

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

19 MR. SMOCER: Right.

20 MR. HARWOOD: I don't want to go on much
21 more, but I just had one final question. Our sense is
22 that one of the challenges that senior consumers and

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

115

1 their caregivers face is access to adequate legal
2 representation. I'm curious if any of you have
3 thoughts or are aware of programs that are actually
4 working to ensure that elderly consumers have the kind
5 of access they need to get advice about the various
6 legal issues they face. And, Ms. Wood, maybe you might
7 have some thoughts.

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

20 MS. GREENLEE: Erica, you made a comment
21 earlier about kind of going to the places where seniors
22 are already engaged with the broader kind of aging and

1 disability networks, and you were listing a whole
2 group. It's hard to find them. It's kind of a needle
3 in a haystack, you've got such large numbers, but they
4 do see other people. And when you were describing
5 that, I just got stuck on, how? I mean,
6 operationalizing that particular idea, I'm just
7 interested in now and as follow-up, so that if we have
8 someone who comes in for services to a congregate meal
9 site, we won't know they have a rep payee. I mean, how
10 -- because it came up in the context of the abuse and
11 the rep payee situation.

12 MS. WOOD: I guess you would have
13 to look at each of those players individually to see
14 how they bump into the rep payees, but an ombudsman
15 certainly might in the course of going to a facility. A
16 legal services program might encounter them, and might
17 not know about the indicators of rep payee abuse.
18 So they each come in contact in a different way. I
19 agree that it's a scattered approach, but even a simple
20 brochure would help because for most people it's still
21 not even on their radar screen.

Capital Reporting Company
PANEL ONE: FINANCIAL EXPLOITATION
Elder Justice Coordinating Council 10-11-2012

Capital Reporting Company
Elder Justice Coordinating Council 10-11-2012

Page 60

1 MS. GREENLEE: Yeah. Okay. Anything else?

2 (No audible response.)

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

7 (Applause.)

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

10 (Laughter.)

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