



Opening Argument



Richard A. Brown

THE QUEENS COUNTY DISTRICT ATTORNEY'S OFFICE'S ELDER FRAUD UNIT: PROTECTING THE ELDERLY FROM FINANCIAL EXPLOITATION

Elder abuse takes many forms and, sadly, continues to be a serious and growing problem both in New York State and nationally. Over the last decade or so, prosecutor's offices have made substantial progress in acquiring the special skills, experience, techniques and staffing to address elder abuse in a comprehensive and compassionate way. The Queens County District Attorney's Office has over the last few years developed a number of innovative approaches to enhance our response to all types of elder abuse and, particularly, financial exploitation of the elderly - which make up a significant portion of these cases.

Queens County, with an elderly population of approximately 375,000, is as good an example as can be found of the extent of the problem faced by localities throughout the nation. Last year alone, our office handled over 900 cases involving elderly victims of crime. In the last few years, we have experienced substantial increases in the number of reports of financial crimes against the elderly. These reports include a wide array of criminal activity including telemarketing scams, consumer fraud, credit card fraud, mortgage and real estate fraud, identity theft, caregiver and familial financial crimes and "stranger" exploitation cases. In caregiver situations, we frequently find that while the senior may have given the caregiver some permission and authority to handle his or her finances, that the caregiver has gone beyond the expressed or implied permission and has stolen from the victim.

Our ability to respond to these cases is complicated by several factors. First, as often happens in family violence cases and other offenses involving intimate relationships, crimes against the elderly often go unreported. This occurs for many reasons. Victims may be unaware of the existence of agencies and resources available to help them; they may feel isolated or embarrassed to admit that they have been victimized; they may fear losing the economic support or physical assistance of caregivers, no matter how abusive the environment; or they may be unfamiliar with or fearful of the criminal justice system. Consequently, elderly crime victims may be reluctant to report crimes or to seek the help of law enforcement. As a result, it is likely that the number of elder abuse cases that we see represent only the tip of the iceberg.

Second, as the most ethnically diverse county in the nation, the general reluctance of elder abuse victims here in Queens to come forward is compounded by the additional challenges associated with immigrant populations -- language barriers, distrust of law enforcement based on negative experiences in their native countries and the necessity to understand and be sensitive to special cultural or religious needs of the particular community.

Third, in many of our elder abuse cases, our victims may be suffering from the infirmities of aging, both physical and mental, which pose special challenges for prosecution. Some victims are unaware or reluctant to believe that they are being victimized. Others depend on their abusers and fear losing their independence or losing the only friend or family member that they have in their life.

Finally, aggressive investigation and prosecution of financial exploitation of the elderly, which oftentimes can involve complex and sophisticated financial fraud, can be extremely labor intensive and requires the dedication of specialized resources including investigative accountants and specially trained attorneys, investigators and paralegals as well as counseling and supportive services.

All of these challenges cry out for a carefully crafted and targeted program which our office has been able to build in two important steps thanks to grant funding from both the United States Department of Justice and the New York State Crime Victims Board. Step one was the creation of the Elder Abuse Project, a social service program designed to work with individuals over the age of 60 who have been victims of financial, physical, sexual or emotional abuse or neglect and to provide needed assistance. The project is staffed by full time New York State licensed social workers and is headed by a project coordinator who is both an attorney and a social worker. Through this program, elderly victims are offered counseling, assistance with the court system, information about and referrals to social services, educational seminars, community outreach and advocacy and Crime Victims Board compensation claims assistance.

Step two was the establishment of the Elder Fraud Unit within the

office's Economic Crimes Bureau. The Economic Crimes Bureau, as its name suggests, is responsible for handling the entire gamut of financial crimes. Using federal funding from the United States Department of Justice obtained with the aid and support of Senator Hillary Rodham Clinton, our office was able to launch an initiative to focus on financial crimes which target the elderly in an effort to combat these crimes more effectively.

The initiative takes a three pronged approach. First, a specialized unit was created staffed with two assistant district attorneys, a paralegal and a detective investigator. The Elder Fraud Unit can also utilize other available resources in our Economic Crimes Bureau including forensic accountants. The unit handles elder abuse cases "vertically", i.e., from inception through to disposition in a comprehensive team approach.

Second, working closely with Elder Abuse Project social workers, additional intensive direct support services were provided to meet the social service needs of senior victims. These include counseling, hospital and/or home visits, referrals, safety planning, court accompaniment and advocacy with financial institutions, government and social service agencies, the courts and even families and other third parties. Transportation to our office or to the court is provided through the Queens District Attorney's Office's Crime Victim Advocate Program.

Third, to raise public awareness about elder abuse, help seniors better protect themselves from financial exploitation and to familiarize seniors with the services available to them through the District Attorney's office and elsewhere, our office is making an aggressive public outreach effort directed toward the under served, elderly communities in Queens County with specific emphasis on targeting the county's multi-cultural and multi-lingual population. Informational presentations for seniors are being conducted at community events, senior centers and other appropriate locations throughout the borough. Seniors are alerted to common scams and given tips on how to avoid becoming a victim. They are also informed about how the criminal justice system works and the importance of coming forward if they are victimized. These presentations are supplemented by the development of multi-lingual brochures and literature detailing available victim support services in the area of elder abuse. At the same time, training is being conducted for financial institutions and business groups to help personnel better recognize the red flags of abuse so that they can assist in the early detection and prevention of exploitation by a caregiver.

The Elder Fraud Unit has been creative in using every tool available to prosecute those who victimize the elderly. After some public attention about the successful prosecution of one woman who stole tens of thousands of dollars from a series of elderly men in a sweetheart scam, the unit began to receive complaints about an individual associated with the transient organized crime network who was intentionally targeting elderly men for victimization. In each case, the elderly victim would report that a woman who had befriended him and offered to care for and assist him, had defrauded him out of substantial amounts of money. Upon investigation, a clear pattern of victimization emerged. Using the information that the investigation had revealed, the unit obtained an indictment charging the defendant with Grand Larceny as a Hate Crime under the theory that the defendant had targeted vulnerable elderly people and intentionally selected them as victims based upon their age and upon a belief or perception that because of their age that they were most susceptible to theft. The defendant's guilty plea to Grand Larceny as a Hate Crime and subsequent sentence to jail time and restitution represented the first conviction in New York State under the Hate Crimes statute under the protected attribute of age.

Our experience to date has demonstrated that the problem of financial exploitation of the elderly represents a significant and growing challenge for law enforcement. However, with adequate funding and the application of dedicated law enforcement and support services in a coordinated and comprehensive manner, there is much we can do to help prevent financial exploitation of the elderly, effectively prosecute those who commit such crimes and provide caring and compassionate support to elderly victims in the process.