U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General *Washington, D.C. 20530*

June 28, 2016

The Honorable Charles E. Grassley
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This responds to your letter dated March 14, 2016, to the Attorney General regarding the efforts of the United States Department of Justice (the Department) to combat elder abuse in nursing homes and, in particular, the inappropriate use of social media and electronic devices in furtherance of this unlawful activity. We apologize for our delay in responding to your letter.

Protecting our nation's seniors from elder abuse, neglect, and financial exploitation has been, and continues to be, one of the Department's highest priorities. As a member of the Elder Justice Coordinating Council, the Department has worked closely with other federal agencies, including the Department of Health and Human Services and the Consumer Financial Protection Bureau, to identify ways to better coordinate and enhance our efforts to combat elder abuse and financial exploitation. Some of the Department's efforts include the following:

- ***The Department has launched an Elder Justice Website to raise awareness of and respond to elder abuse and financial exploitation.***
  - In September 2014, the Department launched its Elder Justice Website, which can be found at www.justice.gov/elderjustice. The website is a "one-stop shop" for prosecutors, researchers, practitioners, victims and families looking for resources to identify, report, and prosecute elder abuse and financial exploitation.

- ***The Department has provided essential training materials for state and federal law enforcement agents investigating and prosecuting elder abuse and financial exploitation.***
  - In addition to a wealth of legal resources on the Elder Justice Website, the Department has provided in-person and web-based training to thousands of investigators and prosecutors across the country (including a two-day training in June 2015 for 200 federal and state investigators and prosecutors on how to litigate nursing home failure of care cases and how to address financial scams targeting seniors).
  - Over the last decade the Department's Office of Violence Against Women has provided grant funding to 77 communities in 37 states and the District of Columbia to provide training for thousands of law enforcement officers, prosecutors, judges, victim service providers, and other professionals who work with older individuals.

- In November 2014, the Department, in conjunction with the American Bar Association, developed an *Elder Abuse Pocket Guide for Law Enforcement.* 13,000 copies of the guide have been distributed to over 170 law enforcement agencies to date.

- ***The Department has empowered legal aid lawyers with tools to combat elder abuse and financial exploitation.***
  - In 2014, the Department developed and launched free, online webinar programs for civil legal service providers on a range of issues, including: identifying the signs of at-risk older adults and elder abuse and understanding legal remedies available to victims of elder abuse and financial exploitation. Since the programs launched a year ago, legal aid providers have completed almost three thousand training modules.
  - In May 2015, the Department hosted a Civil Legal Aid Research Workshop, which included a panel that focused on innovative ways to address elder abuse and related research needs.
  - In January 2015, the Department piloted a five-part webinar, developed in conjunction with the American Bar Association and the National Clearinghouse on Abuse in Later Life, for civil attorneys and legal advocates that addressed the needs of older victims of domestic violence and sexual assault. Five hundred individuals registered for the webinar.

- ***The Department has funded numerous community-based efforts to address elder abuse, neglect and exploitation.***
  - The Department's Bureau of Justice Assistance provided a grant to the National Center for State Courts to develop an elder abuse "toolkit" to increase awareness and improve court responses to elder abuse, neglect, and exploitation.
  - Through a grant to the San Diego State University School of Social Work, the Department's Office for Victims of Crime is supporting critical training for adult protective services (APS) workers on topics including risk assessment of victims of elder abuse; voluntary case planning for APS and elder abuse cases; elder sexual abuse; and physical and developmental disabilities.

- ***The Department supports critical research efforts to quantify the scope of elder abuse and financial exploitation, and identifies effective prevention and intervention models.***
  - The Department's Bureau of Justice Statistics (BJS) is supporting multiple projects to quantify the extent of elder abuse reported and prosecuted, as well as the services provided to victims. These projects include an analysis of state APS data; analysis of case prosecution data from King County, Washington; and a multi-phased effort to establish a national statistical system including data on the characteristics of victims' service organizations, such as the types of victims they serve and the types of services they provide. Data from the national statistical system project will be used in conjunction with data from BJS's National Crime Victimization Survey and the FBI's Uniform Crime Reporting System and National Incident-Based Reporting System to identify gaps in the provision of services to crime victims, including the elderly.

- The Department's National Institute of Justice (NIJ) has funded 26 research projects totaling approximately $10 million in the last decade. These projects include: the development of a validated risk assessment tool for APS; research on the conceptualization and operationalization of financial exploitation and psychological abuse; screening tools for elder abuse, treatment, and referral; and an analysis of forensic markers in elder abuse cases.
- Over the past several years, NIJ has also hosted a series of webinars on forensic markers of elder abuse, the incidence and prevalence of elder mistreatment, and innovative partnerships between elder abuse practitioners and researchers. Addtionally, in 2013, NIJ published "Understanding Elder Abuse: New Directions for Developing Theories of Elder Abuse Occurring in Domestic Settings."

In addition to its efforts to combat elder abuse and financial exploitation, the Department has also dedicated significant resources to pursuing nursing homes that failed to provide Medicare and Medicaid beneficiaries with the nursing care services to which they were entitled. For example, in May 2015, the Department resolved a matter against the owners and operators of two nursing homes in Watsonville, California. As alleged in the complaint in the matter, between 2007 and 2012, the nursing homes persistently overmedicated elderly and vulnerable residents, thereby causing infection, sepsis, malnutrition, dehydration, falls, fractures, pressure ulcers, and for some residents, premature death. In addition to paying $3.8 million, the facilities entered into a five year Corporate Integrity Agreement (CIA). Similarly, in October 2014, the Department reached a $38 million settlement with Extendicare Health Services, one of the nation's largest nursing home chains, to resolve False Claims Act allegations that the company had billed Medicare and Medicaid for grossly substandard services. The Department led that nationwide investigation and worked closely with Medicaid Fraud Control Units and the Office of Inspector General of the Department of Health and Human Services, which negotiated a five-year CIA with that chain.

To further promote federal-state coordination, the Department launched ten regional Elder Justice Task Forces on March 30, 2016. These multidisciplinary teams bring together federal, state, and local prosecutors, law enforcement, victim service agencies and others in order to more quickly and effectively intercede against nursing homes that are failing to meet their obligations.

While the Department has aggressively pursued nursing homes for "failure of care" type allegations, we have not yet brought any cases involving allegations of nursing home employees misusing social media or electronic devices to record elder residents in compromising positions. We wholeheartedly agree that such conduct is deeply troubling and unacceptable and will share your letter with the Elder Justice Task Forces to ensure that they are especially attuned to allegations of such conduct. We will likewise share your letter with attorneys in non-Task Force cities that work on nursing home cases to make sure they too are on the lookout for this type of conduct.

We and hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

Peter J. Kadzik
Assistant Attorney General

cc: Patrick J. Leahy
Ranking Member