

Statement of Anne Malak
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Hearing before the U.S. Senate Special Committee on Aging
Albany, New York

Thank you for this opportunity to submit testimony at this important hearing of the Senate Aging Committee.

I joined the Legal Aid Society of Northeastern New York (LASNNY) in 1997 as its first Senior Legal Services Program staff attorney for Albany County. This project was funded by the Albany County Department for Aging, New York State Office for Aging, and United States Administration on Aging, among other sources. Our Senior Legal Services Programs now include a number of counties in northeastern New York including Fulton, Hamilton, Rensselaer, Schenectady, St. Lawrence, Warren, Washington, and the St. Regis Mohawk Reserve, and provide free assistance on civil legal service issues to county residents who are at least 60 years of age.

We provide individual advice and representation as well as talks to groups on subjects of common interest, including avoiding and remediating scams. Our Senior Legal Services Programs also collaborate with other LASNNY projects, including our Low-Income Taxpayer Clinic, Enhanced Multi-Disciplinary Teams focused on elder abuse, and housing projects to provide more holistic service. In the last five years, LASNNY opened more than 10,000 cases for older adults in our service area.

LASNNY conducted a “priority setting” review in Fall 2020 to gather opinions about the legal needs in our communities. As part of the review, Senior Legal Services staff led a virtual focus group including older adults at several senior centers, online, and on the telephone. These participants specifically identified scams as an area of particular concern to them.

We often see scammers exploiting older adults’ fears or sense of duty to pay bills on time or to take care of others in order to take advantage of them. Often, they create a false sense of urgency by threatening dire consequences if action is not taken immediately. Clients have contacted our tax clinic after scammers claiming to be the IRS threatened to send the police to arrest them if the older adult does not immediately provide a gift card number to pay a (nonexistent) tax bill. Other scammers take advantage of older adults’ worries about perceptions and memory

issues as they age with remarks like "You probably don't remember your Medicare Number..." to elicit personal identification information.

Some scammers spoof numbers of common businesses such as telephone and television providers. With a trusted number displayed on caller ID, the scammer tells the older adult that there is a problem with their payments and that their service will be cut off immediately unless a credit card or check number is provided right away. These numbers are then used to generate additional false charges and fake checks with fake "authorized" signatures.

Some scammers appear to have used conference calling with the older adult to reach financial institutions to order new credit cards and gather personal identifying information. Egregiously, some even use this system to reach telephone services to forward an older adult's number to themselves. In this way, credit card authorization calls bypass the older adult and go to the scammers themselves. Some have claimed to be calling from an internet provider and demand remote access to a computer to fix a supposed problem. Scammers can be relentless, trying different avenues or placing multiple phone calls spoofing different numbers until answered.

Recently older adults from multiple counties called us with issues they initially identified as eviction matters, before our investigations revealed scams at their root. Scammers had preyed on these clients to the extent that they could no longer pay their daily living expenses.

One of these clients told us that she followed an online advertisement to a website offering puppies for sale. After paying for the puppy, additional fees were demanded for expenses such as a crate, immunizations, then, medicines for the puppy's supposed illness. Although more than a year passed, the puppy never materialized. It is my understanding that law enforcement was able to shut down the site; however, the scammers simply began contacting the client by phone and playing on her emotions and desire for an animal companion. After discussions with LASNNY staff and community partners, the client was able to change her phone number to stop the calls and is receiving other assistance. Unfortunately, it can be difficult to locate scammers and impossible to collect any judgment against them.

Even unsuccessful scams often leave older adults wary and unsure of whom to trust. Successful scams can eat away at older adults' confidence, independence, agency, and sense of self.

Remedying these security breaches can be cumbersome and time consuming. For example, direct deposits and autopay arrangements may need to be changed if an account is compromised, disputes must be placed (sometimes at more than one location), and identity theft reports and fraud alerts placed.

Some older adults are able to negotiate online portals, apps, or phone systems to resolve these situations relatively quickly. For others, especially those with significant health issues or without cell phone or email, resolutions can be more difficult or impossible to address on their own. The digital divide plays a role here and even people who once used computers and emails regularly may experience a loss of access or skills in these areas due to health issues. An older adult may also have lost familiarity with bills and financial processes if one spouse took care of these matters and then passed away.

Without internet access, it can be difficult to know where to start to rectify a problem. Scammers take advantage of 800#s which are not available 24 hours by acting right before the helplines shut down. Confirmation calls cannot be sent to landlines and mailing requests for information and disputes back and forth causes delays and gives a scammer ample opportunity to take advantage of information before a report is confirmed. Even with internet access, there can be difficulties in ordering credit reports or placing fraud reports or freezes.

Older adults don't always know whom to trust and they can be inundated with solicitations from marketing firms as well as from scammers. They may be embarrassed or have difficulty accepting that they have been taken in.

LASNYY staff attorneys work with trusted community partners to educate older adults about scams and help guide them in steps to resolve problems and manage fallout, including representing in eviction cases. Reports generally must be made by the older adults themselves; however, which may entail contacts with multiple locations. Phone reports and disputes can require hours spent on hold or being transferred from department to department, an exhausting and overwhelming process.

What might help?

A well-staffed free 24 hour hotline with no wrong door access for older adults to place fraud reports, freezes, and disputes as well as receive education and assistance with next steps.

Increased simple to understand education about what to look out for and what to do if scammed.

Action taken against scammers whenever possible.

All older adults should be able to live in peace without incessant attacks on their financial security and independence but, if such attacks come, free, easy-to-understand and -follow assistance should come, too. We will all be older adults someday, if we live long enough, so this is really a problem and a solution for all of us. The Senior Financial Empowerment Act provides needed resources in this area.