

FTC SENIOR ID THEFT WORKSHOP  
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TRANSCRIPT  
SEGMENT 3

LISA WEINTRAUB SCHIFFERLE: Good afternoon everyone. Thanks for coming back for the second half of the FTC's forum on senior identity theft. This panel is going to focus on the unique challenges of identity theft in the long-term care context. In some respects, seniors in long term care are the most vulnerable seniors there are. So it makes sense that we're building up to this panel throughout the day.

When we talk about long-term care this afternoon, we're going to talk about it broadly to include nursing homes and assisted living and even in-home care, because seniors in all of these different long-term care settings are particularly vulnerable to identity theft. First they're vulnerable because there are at greater risk of identity theft, because their personal information is available to a wide variety of people-- relatives, caregivers, and other support professionals.

Second, seniors in long-term care maybe have a harder time resolving their identity theft because of a higher prevalence of dementia or other diminished capacity issues among seniors in long-term care. So our discussion on this panel is going to be divided into three parts. First, we're going to look at the scope of the problem, including questions such as why are seniors in long-term care more vulnerable to identity theft, what types of ID theft are we seeing in these settings, and are there differences between different long-term care settings and how vulnerable seniors are in those different settings?

Second, we're going to discuss how to prevent identity theft in long-term care. And then third, we'll look at solutions to this problem. We'll also have an opportunity for questions at the end from the audience and from those of you that are participating by webcast. So please feel free to write the questions on the question card or send them in via email, and we'll get to them at the end.

We're very excited today to have a very distinguished panel, which contains some of the nation's leading experts on long-term care issues, as well as experts on identity theft and consumer advocacy. The panelists include Becky Kurtz, who's the director of the Office of Long Term Care Ombudsman programs at HHS's administration on aging, Naomi Karp, who's a policy adviser for the Consumer Financial Protection Bureau in the Office for Older Americans. Next, we have Lori Stiegel, a senior attorney at the American Bar Association's commission on law and aging, Neil Walters, who's a policy research analyst at AARP, and last but not least, Sarah Wells, who's executive director of Consumer Voice

So let's start by talking about the scope of the problem. We want to understand what makes seniors in long-term care vulnerable to ID theft, who exploits those vulnerabilities and how? So I'm going to ask each panelist a targeted question to try to explore these issues. Let me start with you, Naomi. What is it that makes seniors in long-term care vulnerable to ID theft?

Is it the higher prevalence of diminished capacity among residents in long-term care? And if so, what challenges exist when you have a senior with diminished capacity issues?

NAOMI KARP: So I would say that, by definition, older adults who receive long-term services and supports, either in nursing facilities, assisted living, or at home, have physical and or cognitive impairment. And they need assistance with activities of daily living. Cognitive impairments in particular make them vulnerable to both identity theft and financial exploitation. And I'm, in some ways, going to merge those two things in my answers, because I think there's not necessarily a really clear line sometimes.

So just to talk a little bit about the capacity issue, the capacity to handle finances is one of the first abilities to decline as cognitive impairment encroaches. And yet, older adults and their families often are unaware that those deficits are developing. One component of financial capacity is the judgment to act prudently and avoid financial exploitation. So the research suggests that diminished financial capacity definitely makes people vulnerable to scams, frauds, and ID theft.

And just to put a little bit more reality to that, declining skills in this area comes with mild cognitive impairment before you even get full blown Alzheimer's. And unfortunately, about 22% of our population 71 and over have mild cognitive impairments. And then once it progresses to Alzheimer's, their capacity goes down a whole lot more.

And we know that about half of nursing home residents and over 40% of residents in assisted living have dementia. So we can tell there's a pretty broad swath of the population.

LISA WEINTRAUB SCHIFFERLE: Thank you. And how does this affect a senior's ability to consent to access to their records or to deal with issues of misuse of their information by family members?

NAOMI KARP: Well, in terms of family members and their ability to access information, clearly, family members are very highly likely to have access to that kind of personal information. The family member may be a legally authorized surrogate, either under power of attorney, guardian and so forth, and so have actual legal authority to get at all of that person's records and documentation. They might be a joint owner of a bank account.

Or even if they don't have legal authority, a facility might treat them as a surrogate decision-maker. So they have a lot of access. We also know that financial exploitation is perpetrated pretty widely by family members. So one recent prevalent study showed that 5.2% of community dwelling Americans aged 60 and over are victims of financial mistreatment by a family members. That's pretty significant.

And I guess in terms of the consent question, obviously, if someone is impaired, they may not understand what it is that they're signing. And they may be given something to sign, which will give access to records without really having meaningful understanding of what they've consented to.

LISA WEINTRAUB SCHIFFERLE: Thanks. So given these vulnerabilities that Naomi just discussed, I'd like to ask Becky and Sarah what types of identity theft are you seeing in your organizations?

BECKY KURTZ: So thank you for the opportunity to be here today. So the long term-care ombudsman program, I want to say a couple words about it just in case some folks aren't familiar with it. States receive grants through the Older Americans Act and administered by the Administration on Aging to provide services for people who live in long term care facilities, defined as nursing homes, assisted living, board and care, and similar adult care facilities. And in those settings, long-term care ombudsman work to resolve complaints of residents and serve as a resident advocate and really have a focus on resolving the problem to the satisfaction of the resident.

So identity theft or even the broader abuse, neglect, financial exploitation categories are in total about 9% of the kinds of complaints that ombudsmen handle. They also handle quality of care issues, access to public benefits, a wide array of other issues as well. So we asked some of the long-term care ombudsmen across the country for some examples of what they're seeing in facilities where they serve residents.

And they gave us examples that you might expect, things like staff accessing social security numbers, staff accessing credit cards, misusing checks, even finding keys that are hidden to locked cabinets and going through and collecting lots of information from lots of residents, have been some examples. There have been a couple of more creative approaches that have been shared with us, for example, where a couple of women went into an assisted living facility saying that they were there to search for care for a loved one.

One person is having a conversation with the staff about this. The other one goes around and in all the unoccupied rooms, goes through and takes credit cards out of wallets and uses them in retail establishments throughout metro Atlanta afterwards. Another example that was very colorful, I thought, was a crime ring a few years ago in Colorado, Louisiana, Georgia, Texas, Kansas, and Alabama, that we know of, where a group of men would you go into long-term care facilities dressed as female nurses and go into the rooms of the residents and take their credit cards, and again, utilize those throughout a number of retail establishments. And this was multi-state.

So there have been a variety of the examples of staff and strangers in addition to family members that misuse residents' funds without their permission that happened to individuals living in long-term care facilities. I should mention that we receive from long-term care ombudsmen, at the federal level, we receive data about the kinds of complaints that they work on and work to resolve.

We don't have a category specifically on identity theft. But if you look at cases that involve financial exploitation, personal funds being mismanaged or accessed denied to one's own personal funds, personal property lost or stolen, and also third parties, including family members financially exploiting, last year in FY 11, I should say, over 12,000 complaints were brought to the attention of ombudsman programs to work to resolve. So that's not really a prevalence figure,

but it gives you a sense of the kinds of issues and the commonality among long-term ombudsman programs across the country.

LISA WEINTRAUB SCHIFFERLE: Thanks. Those are some very interesting and unique example. Sarah, can you tell us a little bit about what Consumer Voice is and the types of example of ID theft that you're seeing?

SARAH WELLS: Yes, absolutely. Thank you so much for having us here. We're the National Consumer Voice for quality long-term care. We're an organization that represents consumers in all the long-term care settings that were mentioned early on. We have what we call focus groups regularly. We bring nursing home residents, assisted living consumers, home-care consumers, and also one for families as well together by phone at least quarterly to talk about pressing issues.

So in our most recent, we posed this question about identity theft and got some really interesting stories. I brought three of them to share with you now. The first we heard from Sandy. Her father is in assisted living. And a few months after he moved in, there was a strange charge on his bank account. Sandy had provided a canceled check to the facility to allow automatic withdrawal of funds for his monthly rent.

This canceled check was compromised by someone who worked within the facility. Sandy immediately froze the account, let the facility know, got an affidavit of fraud, which had the name of the person who had taken the account information, and they went through the process of closing the account. Now they no longer allow funds to be automatically withdrawn, and they also decided that every few years, they'll have the accounts re-numbered. And they moved everything over to a more modernized bank.

The person who stole the account information was a volunteer who was working off community service hours in the facility. And the facility had given access to financials without a background check. The facility did alert the local police, but did not report it to anyone else.

The next story I thought was an interesting one, because it really speaks to the need for consumer education. We heard from Lisa about another way that identity theft could impact a long-term care consumer. Her mother-in-law lives in a nursing home. But Lisa often comes and takes her out to lunch.

Her mom her your credit card at the table in the restaurant. And when she realized she had done it, she told Lisa, no, they'll just send me another one. Lisa's mother-in-law had been married for 65 years and didn't handle her own finances until after her husband passed away. She asked for help in dealing with her finances at the nursing facility, but the information they gave her was not comprehensive and not about identity theft.

And finally, we heard really a sad story of a bookkeeper in a facility that had access to secure information-- date of birth, social security number, maiden names, et cetera-- of residents who were dying in hospice. Once hospice started serving the resident, the bookkeeper knew that the

end was near, and she would steal the residents' identities. She'd get credit cards in their names and fill up those cards by purchasing things for herself, booking trips, buying cars.

The bookkeeper also handled all the incoming mail at the facility. So therefore, she was able to intercept any mail related to the fraudulent credit card transactions before anyone else could see them. Eventually, a family member in a state settlement discovered the problem because their mother who had passed away was charging things actively on her credit card. The bookkeeper was prosecuted for the crime and ordered to pay restitution.

These are really just a few of a number of examples we got. I think really quite sad that this is happening. And it's very real for these consumers.

LISA WEINTRAUB SCHIFFERLE: Thank you. Those are great stories, and they really illustrate what Steve was saying this morning, that any amount of identity theft on seniors, and especially the most vulnerable seniors in long-term care is too much. It also leads us to the question of who is doing this. Is it organized crime?

Or is it friends and family or something else? Neal, what can you tell us about organized crime's role in identity theft in long-term care?

NEAL WALTERS: Well, right now, they have starring role, I think, because law enforcement has been able to draw pretty much a straight line between the identity theft related to tax fraud and organized crime, particularly in Florida. And it's such an issue there that all these criminals have stopped mugging people on the streets and are now switching their knives and guns for laptops and Wi-Fi connections. And they're seeing crime rates go down on the street crime, because it's just more lucrative to do this type of identity theft.

But having said that, there's always been organized crime involvement in identity theft. And these were often the groups that would try and hack into databases. Usually, these crime rings would be based overseas. But they would try and get into databases to get the information. They would distribute the malware, the malicious software that compromises people's computers. And they would also perpetrate phishing scams and the like.

Organized crime is very much a big player. And I don't think they quite get the starring role they should, because it's much easier to know the individual. The individual cases, a family member, these are the cases that are easier for the police to solve and figure out what happened, as opposed to some crime ring that stole hundreds of thousands of names and date of birth information. So I think it's hard to quantify, because so much of this, people don't know how they lost information.

I think they play a pretty big role in it.

LISA WEINTRAUB SCHIFFERLE: In addition to organized crime, obviously, friends and family are sometimes the perpetrators. We're fortunate to have Lori Stiegel with us here today, who's one of the nation's leading experts on power of attorney abuse. So I'm going to ask you Lori, what issues come into play when someone has power of attorney over a senior?

LORI STIEGEL: Thank you, Lisa. It's an honor to be here. So in case anybody doesn't know what a power of attorney is, let me give a little bit of background real quickly. A power of attorney is a legal document that you give to someone else-- your agent, or your attorney, in fact-- to enable that person to act for you. And they can make financial decisions or health care decisions or both.

I'm going to talk, of course, about financial decisions. And normally, historically, a power of attorney terminated automatically if you became incapable of revoking it yourself. And the law did that to protect you from what we now call power of attorney abuse. But that also meant that you could not use a power of attorney as a tool for planning for the possibility of incapacity, which is, of course, a critical issue to the population that we're talking about. It's really a critical issue for everybody, because we all face that risk no matter what age we are.

So the law created what's called a durable power of attorney. It's durable because it outlasts incapacity. It stays in effect. And the language is changing right now. We're shifting, and the law is beginning to presume that all powers of attorney are durable. So I'm just going to use power of attorney.

But that adds a little complexity, certainly, in terms of education and outreach. So problems with power of attorney abuse come at the front end and the back end. And I'm going to focus more on the front end. But quickly, the back end is, you've given the authority to someone. You've done that intentionally, and they misuse that authority.

They act in ways that you never intended for them to act. The front end problems come more in the preparing of the document, the signing of the document. So it could be if somebody just forges a power of attorney, signs your name, and begins to act for you and make financial decisions as if they were you. It could be in other ways getting the power of attorney when not authorized.

It could be sliding the document in among a bunch of documents that you're signing and really tricking you into signing it. If you really already have diminished capacity, and you shouldn't be signing this document because you don't understand it, that happens a lot, where somebody just has you do that. And unfortunately, we see too many cases of lawyers who are preparing documents, either because an adult child comes in and says, mom needs a power of attorney, wants to give it to me.

And lawyer never talks to mom. Lawyer never really stops to assess who his client actually is. We also see cases where lawyers probably prepare documents even though the person who is mom has come to see them, but mom's capacity really is diminished. And maybe it's too late to prepare that document. But the lawyer goes ahead and does it for a variety of reasons.

LISA WEINTRAUB SCHIFFERLE: Thank you. Now, so far we've talked about long-term care broadly to include all different types of long-term care. Now I want to break it down a little and ask Becky what are some of the differences between different long-term care settings, and how does that affect seniors' vulnerability to identity theft? And particularly I'm interested in the differences in Medicaid or Medicare reimbursement structure.

We talked about this morning on the medical ID theft panel how if your Medicare number is your social security number, that can lead to some greater vulnerability. So if a senior is in a nursing home and may have the government paying the bill, are they at greater risk than a senior in assisted living who may be paying the bill through their own private funds?

BECKY KURTZ: So there's a few different risks to look at. First of all, as Naomi indicated, you've got the challenge of so many individuals, whether they're receiving long-term services and supports in their home or in a facility, having cognitive impairment or functional impairments that make them more vulnerable to the exploitation. So if you're in your own home, you have the risk of isolation, that nobody will be there to catch it, that nobody will be there to intervene. Nobody's watching.

So there's more isolation opportunity. The flip side is that in a facility, particularly larger facilities, there are more people around. That gives more opportunity for a bad actor to be one of those people. So there are different kinds of risks. One is isolation, one is enhanced opportunity, depending on the setting, but cognitive impairment being one of those risk factors that goes across every setting.

One of the things that makes a big difference, though, I think is the way that regulatory oversight and also involvement of a long-term care ombudsman program-- the differences in how they play. So for example, in the nursing home world, you are looking at the vast majority of nursing homes receiving Medicare and or Medicaid and therefore being certified and having to meet federal regulation. That means that they are going to have at least every year an annual survey for federal regulations.

And just as an example, just the federal regulations alone on the protection of resident funds in a personal needs account or a resident fund account are about 15 pages of guidance to surveyors and guidance to facilities of what should happen with those resident funds. The facility has to have a surety bond. There are all kinds of requirements on what the facility needs to be doing.

And then they're surveyed to make sure there's compliance. And then there's an enforcement mechanism. It doesn't always work perfectly, but there's a system there for it. There are also frequently visits by long-term ombudsmen not only in addition to complaint visits, but by having a regular presence in nursing homes. And across the country, long-term ombudsmen are in nursing homes at least once a quarter in about 70% to 80% of the nursing homes.

So even if there's not a complaint, there's someone going in there on behalf of the resident, watching what's going on, asking what's going on, being present, and hopefully preventing, but certainly being there to respond when there are challenges. Assisted living, boarding care, residential care facilities-- there are a variety of names for things that are not nursing home, but are congregate settings. And those settings are regulated, if it all-- and in a few cases, not at all-- but in most states, those various kinds of entities are regulated by the state. That's why they're called different things.

They're regulated at very different levels from state to state. So the variability there is huge from state to state in terms of whether there's regulation, whether there's enforcement. The level of

ability for long-term care ombudsmen to be present is less. Even though ombudsmen do have a role there, they have never had, in many states, sufficient resources to provide the level of service. So it's more like between 40% and 50% of those facilities that get regular visits from ombudsman.

So that's the kind of just disparity that there is between the various levels of facilities.

LISA WEINTRAUB SCHIFFERLE: Thank you. That's very interesting. And we did find in our early calls with people in planning this conference that they said I hope you're going to include in-home care, because that's not regulated, and that's a bigger problem than nursing homes and assisted living. So that's why we're talking about it broadly and trying to understand globally what are the problems in long-term care as well as what are the differences between the different types of long-term care.

So now that we've talked about the scope of the problem, I'd like to move on to prevention. And how do we prevent identity theft in the long-term care context, especially when there is such a high prevalence of people with diminished capacity, as Naomi explained? We'll talk some about advice to seniors and their loved ones, as well as advice to nursing homes and assisted living facility. So I'd like to start with Sarah.

In your role at Consumer Voice, what advice do you have to seniors and their loved ones about how to prevent identity theft in long-term care?

SARAH WELLS: So again, during our recent focus groups, we actually asked consumers and families this question. They themselves had some really good ideas. And I think best practices, I'm going to share those with you. Lauren, a family member of a young adult with developmental disabilities in a nursing home, said that hearing horror stories from other families made they realize early on that they needed to be proactive for their child.

And so what they did is they obtained a limited balance credit card for his daughter to use with a \$500 maximum on it to limit her liability. Lisa, whose mother-in-law I told you about earlier, the one that left the credit card on the restaurant table and didn't think too much of it, said she really thinks that there needs to be some sort of financial literacy component for both consumers and family members. For example, what are the identity theft risks, and what easy steps might you take to limit your risk?

Some of the other things they told us are simple, but I think, again, important reminders. Be aware of what you leave out and around. Know where your important documents and credit cards are. Realize that identity theft can happen to anyone and that people tend to be trusting. Do your due diligence in finding out who it is that you're entrusting with your important information. One of the consumers suggested a good idea, I think, that the administrator in their facility has a safe in his office, where residents are permitted to keep their belongings.

And he felt good about leaving his things there and felt that was a great way to keep them locked up during his stay. Several families recommended getting some kind of identity protection for your loved one. I think we're going to talk about this in a minute, but freezing credit and so forth.



And then going back to this home-care idea, it was interesting, we heard from home-care consumers and family members that in some ways, they really felt the most vulnerable.

I was thinking about my own home even. And you think about the number of documents with your social security number, all of your identification, your own computer sitting in your house and how vulnerable that is all the people who are coming in and out, not just your family, your friends and your professional caregivers perhaps, but also there might be somebody that cleans your house. There might be somebody that's helping bring groceries.

So there's a lot of people in and out of a house that you previously maybe didn't have to keep things as secure. One consumer also pointed out, there are things in your own home that you may not take to a nursing home, like a passport. So knowing where these things are, putting them in a locked filing cabinet or putting them in a safe deposit box, making sure you have a password on your computer are all simple ways that you really can protect yourself.

LISA WEINTRAUB SCHIFFERLE: Great, thank you. And Naomi, are there any red flags that people can look out for to suggest that their loved one might be a victim of senior identity theft or other elder financial exploitation?

NAOMI KARP: I'm sure there are probably many warning signs that might indicate either identity theft or some other type of financial exploitation. And it's striking me just through listening to our discussion and the constant theme of diminished capacity, which, obviously, for a lot of these recipients of long-term services and supports, is a big issue. When the victim or the potential victim has diminished capacity, some of these warning signs might actually be harder to spot, because the resident is maybe less observant themselves. They may be less communicative about these things.

And so it probably takes even more vigilance to actually spot them. But that being said, some of these things are pretty specific to financial transactions. For example, a resident might report or a family member might discover missing checkbooks, credit cards, or other important papers. Monthly bank statements or credit card bills might go missing.

Credit card charges obviously might show up on a resident's account for things that the resident didn't buy, particularly if we know this person has some severe limitations on their mobility and then we start seeing transactions from a casino or something, we're going to be pretty sure that the resident wasn't there. Again, bank statements might reflect unauthorized transactions. One that we've been paying a lot of attention to that you might not think of is that facility bills, the monthly charge for the assisted living or the nursing home or even the home-care attendant, might be gone unpaid, because someone is siphoning off of those funds, and the resident doesn't have the money to pay their bills.

And that's obviously pretty disastrous, because they may end up being threatened with eviction, which is a big problem, too. The resident might be receiving phone calls about a variety of scams. You hear about the lottery winnings that, oh, if you just pay some fees, you're going to get a \$1 million. Older people are targeted for the grandparents scam-- someone posing as the grandchild in another country.

Oh my god, I'm in trouble. I've been arrested, and you need to wire me \$3,000 right away, or else I'm going to be in the clink in some third world country. Other kinds of unsolicited sales calls or visits, or even the resident might lack some basic possessions or needs, but we find that their personal needs accounts that Becky referred to are depleted. The money should've been there for those things, but someone's not using the money for that.

Some other warning signs might be more indirect, so we might need to work a little harder to make the connection. For example, a resident might become secretive and suddenly start hiding things or hoarding possessions. And that might actually be a sign that something is going awry. And that's how they are manifesting what's going on.

Then we have the favorite, the new acquaintance who suddenly is showing intense affection for the resident and perhaps trying to isolate the resident from other people. Lori mentioned that the power of attorney. All of a sudden there's a new pair of attorney document, and we know the person doesn't have capacity.

And then there's something called chaperoning, which means a family member or another person, again, is only letting other people visit when they're there. They're really trying to hide something, so they're just hovering all the time. Those could all be signs of either ID theft or other types of financial exploitation.

LISA WEINTRAUB SCHIFFERLE: And we often get questions from consumers or even colleagues about how do they avoid getting in that position. When they're trying to pick a facility for a loved one, is there anything they can look to or any tips for picking a facility for a loved one?

BECKY KURTZ: Well this is a tough one, because typically, when an individual or a family are selecting a long-term care facility, they're paying more attention to-- and should be paying more attention to-- are the services that the individual needs going to be provided by that facility? Is it an appropriate fit for the needs of the individual, both in terms of services and the environment? What's the adequacy of the staffing?

Visit the facility, get a sense of the environment of the facility and the interactions between staff and residents. And even among residents, what's the environment of the facility? And those are the kinds of things that ombudsmen typically advise to family members or to individuals themselves looking for facilities. It's pretty rare that you're going to get down to the level of looking at-- although these would be the things you probably would want to look at for identity theft protections-- what are the policies and the protocols around safeguarding valuables and private information?

And are there ways that the facility-- do they have a policy about that? Have they even thought through how they handle those kinds of issues? Do they do background checks? Some states require that for some types of facilities, others don't. It takes some looking into what is your state do.

But realistically, I don't think families are going to go there. I think they're going to be focused on, what's the proximity of this place to the community where this person's from or to family, so they come visit. And what are the services and the quality of services? And that really ought to be what it's focused on. More often, I think the advice that needs to be given is resident, family members, do you know how to get help if a problem happens?

And all of the examples we've been giving about staying vigilant, paying attention to what's happening with the financial circumstances around that resident are probably better than choosing a facility based on whether they have a background check, for example.

LISA WEINTRAUB SCHIFFERLE: Most people aren't really going to be inclined to take a facility based on ID theft concerns primarily. And we need to, as Becky said, focus on what to do you once someone's become a victim of ID theft or how to prevent them from becoming a victim of ID theft. One tool we often hear about is a credit freeze. So I'd like to ask Neal, when would you recommend a credit freeze for someone in long term care?

NEAL WALTERS: Well, first let me just define what a credit freeze is, so we're all on the same page. Legislatively, it's known as a security freeze if you're looking at state laws. But the way it works is, a consumer can opt to have their credit report limited in how it's distributed. It's called the freeze.

You call up the bureaus, and you have to call each bureau individually, identify yourself. And then request a freeze and sometimes pay a fee. It depends on the state laws and circumstance. Identity theft victims are usually allowed to do this free.

And what they'll do is issue you a pin number. And so when you want to unfreeze your report, you use your pin number, and you go back through the process of identifying yourself. You put in the pin number, and they'll thaw the report, as it's called-- or unfreeze it. And this will allow it to be distributed.

And the theory here is that an identity thief can have all your information-- your name, your date of birth, your mother's maiden name, social security number-- but they're not going to be able to get a new account without a credit report. And if you have to credit report frozen, then they'll be denied credit. So it's a way to try to protect yourself from new account fraud.

It's not going to work for any other types of identity theft, unfortunately. It's really only limited to the types of identity theft that involve a credit report. So AARP's been a big supporter of this legislation. When it was making its rounds in the states-- I think every state except Michigan has a law on the books for security freeze. But credit bureaus let everyone do it anyway just by sheer weight of it being passed everywhere.

People can choose to do this. But they have to understand it's going to delay credit. And when you think about it, credit gets used a little more often than you think. If you want to rent an apartment, people are going to want to see your credit report. Or if you want a new cellphone plan, again, that's a credit report.

So it's really an individual choice. If you know you're not getting a lot of credit, you're not to be taking out mortgages or new credit cards or things like that, it's probably good proactive step to take. It'll at least prevent you from this kind of new account fraud. And of course, if you're a victim and you know someone's using your information actively, then you would definitely want to use the security freeze that's going to be free in most cases.

And this will protect your credit report from getting any further damage.

LISA WEINTRAUB SCHIFFERLE: Thanks. That's a tip that we often give to consumers, especially seniors as well. Lori, you talked before about power of attorney abuse. Are there any tips on how to prevent power of attorney abuse? And in particular, a lot of people also always ask, how do you identify someone who's a good trusted person to have power of attorney?

LORI STIEGEL: Well, let me distinguish again between the front end-- the forgery, the tricking, the capacities already diminished. And then I'll come back to the other side of the misuse of authority. It's harder, of course, to protect against those things. But I think you can try and pick up on the result of those things happening-- the forgery and so forth-- through a lot of the monitoring tips that you've been hearing about all day.

So watching to see if the credit card statements are arriving in the mail in the first place or the bank statements and then checking them. And if you can't do that yourself, maybe there's somebody else who can do those things. For the back end of the power of attorney abuse, the misuse of authority, there are tools either where the law in your state may help protect you, or where you can write into, if you have actively creative power of attorney document, not been forged, then you can write in there that a third party can check and monitor the actions of the person who you have named as agent and be an extra set of eyes for you when you're no longer able to do that yourself.

And if those things are fail, that's when you may end up going to court and having a guardian or conservator appointed, which is really what you're trying to avoid having happen in the first place by making the power of attorney. But sometimes that's what's necessary. And unfortunately, that's pretty much the only remedy right now.

So all that comes back to Lisa's point of, how do you pick the right person to act as your agent in the first place? And that can be really difficult. For some of us, there is no one. There's no family left. Or the family and loved ones who are left are maybe not real trustworthy and not the people who you want in this position.

And if you're naming someone as agent, but at the same time you're writing into your document I want someone to monitor the actions of my agent, you got to wonder if they're the right person to name in the first place. Again, that may be all you have. And something may be better than nothing.

There are also aging services programs that may help-- daily money management and other types of services available in the community that may be able to do some of the tasks that the agent would do or to monitor what's going on out there. I used to, when I practiced, I was a legal

services lawyer, I would have people come in who want to make a power of attorney, and I would talk to them about the pros and cons of doing this. And that education is critical.

I could always sense if somebody really wasn't quite sure. They were naming one kid to do the financial affairs and the other day to do the health care, just because they thought they wanted to be fair to the kids. That's not real smart. I would talk about, well, what if your son? Well, my son would never do this to me.

What if your son marries a bad woman? And their eyes would sort of, yeah, I could see that happening. Just read about the Brooke Astor case if you want to see what happens when that happens. But then they sort of oh no no, but he would make sure she wouldn't do anything like that.

Some of this is pretty hard to avoid. But trying to build in some third-party and monitoring yourself is the way to do it.

LISA WEINTRAUB SCHIFFERLE: Thanks. So our advice so far has been targeted towards seniors and their loved ones. I want to ask Naomi to talk a little bit about advice to nursing homes and assisted living facilities, and the work that the CFPB is doing in those areas.

NAOMI KARP: Sure, and before I do that, I just want to add one thing to all the great things that Lori just said. One thing that I've done a lot of work on guardianship issues and power of attorney issues. There's a growing cadre of professional guardians who can be appointed by the court, because as Lori mentioned, so many people are either outliving their family members or they don't have any family members.

And somebody needs to step in when they become incapacitated. I've learned that some of the people who are serving as court appointed guardians, now there's actually a growing business of people serving as paid agents under power of attorney. So there is the possibility that people could find a professional to whom they'd have to pay a fee. But hopefully, they would be a reputable person.

That's another option. So now, turning back to your question, I just want to mention quickly one project that we are doing right now at the Consumer Financial Protection Bureau's Office for Older Americans. And that is creating a guide for operators of congregate living facilities, such as assisted living and nursing homes to address these issues of identity theft and financial exploitation.

What we learned was, I alluded before to the situation where someone's bills for their residential care are not being paid, because the money's being diverted somewhere else. And we've learned from the field that this is a common occurrence. And what happens is sometimes the person just goes really, really far into arrears, because the facility either isn't top of it, or they don't know what to do about it, or they're in denial.

So it could be six months or a year, and all of a sudden, the facility has a crisis. And they're like, oh, we have to kick Mrs. so and so out because we just can't keep on carrying her. We want them

to be more proactive and not let that happen and start catching these things upstream. So we are creating a guide for operators at facilities on how to identify and intervene in elder financial exploitation cases.

So the guide will include an extensive list of warning signs, such as once we talked about earlier, tips for how to train your staff, how to put on educational programs for residents and their families, a model protocol for effective response, how to work with agencies in your community, including long-term care ombudsmen, adult protective services, law enforcement, all of the people who should be the first responders in these cases, how to distinguish exploitation from just confusion, like someone needs to make a Medicaid application. And they're not on top of it. And so there's a big gap in payment.

And how to find other resources. And we plan to release this guide later this year and we hope many of you will be interested in seeing it and helping us to disseminate it.

LISA WEINTRAUB SCHIFFERLE: Thanks. We'll definitely be looking forward to seeing that. Part of prevention, in addition to advice, is outreach. So I want to ask Sarah, what's the best way to reach seniors in long-term care, in particular with ID theft prevention messages?

SARAH WELLS: While we know that family and friends and such can be perpetrators, in general, consumers told us that they really trust their family and friends. They trust their caregivers and the providers that they've chosen in a nursing home to really be on the lookout for them, to keep an eye on things, to help secure belongings. So I think one of the underlying messages that we heard from folks is that it's important to both reach consumers, residents, et cetera directly with messages, but reaching the people around them with the education is critical as well.

Some specific things that came up for us were maybe working with nursing home resident and family councils by making identity theft perhaps a topic of conversation at one of those meetings, providing educational materials to resident and family council, so that they can disseminate it to other people in the facility. Definitely working with other consumer advocacy organizations. So our organization is on the national level and has resources.

But there are many, many state and local consumer advocacy organizations across the nation that, I think, are very interested in educating consumers about issues like this and that people locally turn to when they're having a problem or suspect a problem. So I think the more we can do to make sure that those organizations have these kinds of resources on their website and have a simple one page fact sheet and such available, that will go a long way in reaching consumers. And then as Becky was talking about, while this may not be the center point of choosing a nursing home, the resources people look to when you're choosing a nursing home may very well be the same organizational resources they go back to when they're having a problem.

So making sure that we do put information around identity theft, maybe up on the websites, again, of these national organizations or tools and checklists that people are going to entrust, I think would go a long way in helping to reach seniors on this issue.

LISA WEINTRAUB SCHIFFERLE: Thanks. And we're about to have a whole panel on outreach. So I don't want to go too much further into this, but before we get into solutions, I did want to quickly ask Naomi, what are the challenges to effective prevention when a senior has diminished capacity? How can you give outreach to someone when you're giving them a message and they may forget that message a moment later?

NAOMI KARP: This is a huge, huge challenge that we recognize. Whether it be for short term memory deficits or just inability to understand more complex concepts, there really are limits to consumer financial education. And so we do have to figure out ways to deal with that. Every time I talk about this, I think of what I think is an amazing video that the US Postal Inspection Service has. Some of my colleagues are over here.

It's a one minute little video that a daughter took of her mother. Her mother was a victim of a Jamaican lottery scam or one of the other offshore scams and was repeatedly sending checks. And in the video, you can hear the voice the daughter, and she's saying to her mother, so now what did we learn? And the mother keeps saying, don't write any more checks. Don't send any more checks.

And then at the end of the video, the words come up, the next day she sent a check. So it's really, really tough. So I think the one way that our office is dealing with that is just thinking about who else can we be messaging and educating. And we think there's a huge spectrum of stakeholders who can be involved, whether it be what we call lay fiduciaries, agents under power of attorney, guardians, social security representative payees, VA fiduciaries, people who have legal authority to handle someone else's money.

We need to educate them about ID theft and scams and frauds. We need to educate financial professionals about diminished capacity and about warning signs for financial exploitation. We need to educate family members and other service providers. And then we also need to educate people as they age. And Lori mentioned this before, that you need to think ahead to the fact that you might become incapacitated and you do need to plan.

And power of attorney abuse notwithstanding, you definitely want to put some tools in place so that you'll have a reliable decision-maker.

LISA WEINTRAUB SCHIFFERLE: Thanks. So that moves us on to the solutions portion of our panel. And there are a lot of players who can provide solutions. There are financial institutions, law enforcement, the legislation angle, and the long term care ombudsman program. So I'll start with Lori.

What role does law enforcement and organizations like ASP or lawyers, what role do we play?

LORI STIEGEL: APS hates powers of attorney. They only see the bad ones. We say if you want to make them foam at the mouth, just mention the words power of attorney. And lawyers, I think, look at them a little too lackadaisically. It's become this is not a money maker, but a freebie that you throw in if somebody comes to you to make a will or something.

Oh, we'll make you a power of attorney too and don't counsel your clients about the cons as well as the pros of them. Law enforcement just look at them as being similar civil. It's a civil legal document. It's a civil legal problem. Go to civil court.

Don't think they don't think of it as regular theft, let alone identity theft. And I think for everybody in the elder abuse field-- APS, elder law attorneys, and others-- we really need to make the leap now to we're learning about power of attorney abuse, we need to make the connection that we're making today to think of it also as identity theft, because that would open up I think a lot more remedies to victims, the greater possibility of getting victims assistance services for victims, and compensation. Now, that sad, and this may relate to outreach, I noticed that a lot of the services that are available to help ID theft victims require them to make a power of attorney so that the helping agency can act for them in doing everything you have to do to deal with the problem.

That certainly makes challenges in terms of messaging there about the good and the bad of powers of attorney. We are certainly trying to educate all the professionals who have talked about today about power of attorney abuse and including ID theft as an offshoot or as a part of that.

LISA WEINTRAUB SCHIFFERLE: Thank you. And what about legislative efforts, Sarah? Are there any legislative efforts on the national level to address long term care ID theft or financial exploitation in long term care?

SARAH WELLS: So specific to ID theft in long-term care in our research, there wasn't any national efforts really directly aimed at that. But of course, there are a number of national efforts that relate, including the Elder Justice Act, which compels long-term care facilities to report instances of abuse, neglect, or exploitation or face penalties, as well as, of course, any of the national legislation and support for the ombudsman program and their role. The Patient Safety and Abuse Prevention Act creates a national program of criminal background checks for people that are seeking employment in long-term care facilities and in other facilities as well.

So I think that, again, increasing the background check and knowing a bit more about the workers could go a long way on the identity theft route. Also, there are many general identity theft laws, which whether you're a consumer of long term care or not, apply to you. I'm sure on our website and probably other panelists' websites here, you can get more information about those or just Google identity theft legislation.

But there are a number of consumer protections out there and growing.

LISA WEINTRAUB SCHIFFERLE: Thank you. Another player in solution-making are financial institutions. So I'll ask Naomi, what role can financial institutions play in solving this problem?

NAOMI KARP: So there is a growing recognition that financial institutions really can play a role in preventing or at least minimizing losses from ID theft or financial exploitation. So trained staff, and that could be traditionally the teller, who's at the window, or it could be people on the



back office who are monitoring things like ATM transactions or electronic funds transfers, can be trained to recognize red flags and report suspected financial exploitation to APS and law enforcement.

Also, something that I think a lot of people don't know about is something called suspicious activity reports which banks have to file for a number of different things. We usually think of them in terms of money laundering, that they're filing reports of something that may be money laundering. But in 2011, FinCEN, which is part of the Department of the Treasury, issued an advisory saying that you can use these suspicious activity reports to report suspected financial exploitation.

And in fact, if the amount in question is \$5,000 or more, it's mandatory. So there's a whole vehicle for financial institutions to report these. Now, these suspicious activity reports or SARS, go into a database, and that doesn't guarantee that anything is going to happen with them. But they're available to all kinds of law enforcement entities-- federal, state, local.

So I think this is a new tool if we can work to increase the awareness of these SARS and who's accessing them and people acting on them. And there are a lot of discussions among the 12 federal agencies that are part of the Elder Justice Coordinating Council on how we can work more closely with financial institutions to address these problems. So I think you'll see a lot more activity to come.

LISA WEINTRAUB SCHIFFERLE: The long-term care ombudsman program is probably one of the leading players who's been finding solutions for years to these issues. How does a long-term care ombudsmen program help?

BECKY KURTZ: I'd say there's two major categories of ways that ombudsmen help. First of all, there's resolving individual complaints with and for residents. So for example, if you have an individual whose family member or representative payee is taking the social security check and using it for purposes other than the resident's care and taking off with the money, the individual becomes in arrears. And then Naomi was talking about the example where the individual resident then loses the possibility of staying there.

They get a discharge notice. And this creates a huge crisis for the individual. What's going to happen? Where am I going to go? This is my home. I've lived here for years.

Ombudsmen frequently, in fact, this is the most frequent complaint that ombudsmen get in nursing homes is the issue around discharge and eviction, not always related to identity theft, but for a variety of reasons. The ombudsmen can assist that individual in knowing what their options are, help them think through the appeals process and whether they want to avail themselves of that process, try to work on resolving the financial problem for the future, and referring, as appropriate, to law enforcement or other entities that can then follow up on the problem and stop the bleeding to get the resolution that the resident requests. So there's that individual complaint resolution process.

That's one of many examples of how that might play out. I should just clarify that the long-term care ombudsmen program is not a regulatory agency. That's a separate licensing and regulatory entity within states. It's also not protective services. It is not going to be the primary finder of fact of whether an exploitation event has occurred. In fact, it's focused on advocacy for the individual, helping them with their goals, which may be about finding out if the neglect or the exploitation happened.

And it may be something totally different that's their goal. So the resident really has a lot of ability to direct that resolution process and work with the ombudsman. In addition to those individual complaint resolutions, ombudsmen also work on systems kind of work, both at the facility and even the bigger level. So in a number of states, long-term care ombudsmen have been working on education and outreach efforts to family councils, resident councils, and facilities around identity theft and other kinds of financial exploitation issues.

They provide a regular presence in facilities, making unannounced visits, being an outside person checking on how are the residents doing, making themselves accessible to the residents. And many ombudsmen believe that can be a very helpful prevention for problems that might have occurred if the fact that someone from the outside wasn't popping in occasionally. Working on policies and laws to improve long-term care, including financial exploitation laws are frequently something that long-term care ombudsmen work on.

And then really strengthening that coordination at the state level and the local level with law enforcement, with senior Medicare patrol projects, with adult protective services, making sure that folks know who else does what in this arena and how to make sure that residents' concerns get to the right place. So that's a few examples of ways ombudsmen are very much involved in this arena of identity theft and other financial exploitation problems for residents.

LISA WEINTRAUB SCHIFFERLE: Thank you, Becky. In addition to the long-term care ombudsman program, I want to talk about the resources that are available for victims. Now, of course, the FTC has a lot of resources for victims on identity theft, a lot of which are out in the hallway. And you're free to take samples of them back to your offices.

But I want to ask Sarah, in addition to these materials and the long-term care ombudsman program that we heard about, what resources are out there to help victims of ID theft in the long-term care context?

SARAH WELLS: Well, first, again, I point to the organization on the panel today. I know everyone here has great resources on their websites. A few additional would be the National Center on Elder Abuse has phone numbers to report elder abuse in every state and also information on the state agencies responsible for prosecuting ID theft and just a wide range of resources that may be helpful to consumers and their families. The National Consumers League Fraud Center has a specific section on scams against the elderly, with an opportunity to file an online complaint. The National Committee for the Prevention of Elder Abuse has a section for victims and those vulnerable to elder abuse.

And the National Academy of Elder Law Attorneys also provides assistance to low income elderly. And I think if you were to Google these organizations and look across their websites, I think you'd find quite a wonderful wealth of information on ID theft and some really great handouts and such that can be printed for families and consumers.

LISA WEINTRAUB SCHIFFERLE: Those are good to know about. Of course, with all these resources out there, there's always more that we could be doing. So Neal, what resources are needed but not necessarily available right now?

NEAL WALTERS: Well the first thing a victim needs is information. What do I do, is to first question. And the good news is that's covered. A lot of the sources you mentioned and the FTC has provide a lot of information. But the issue really becomes, what happens when you have the unusual case that's not getting solved. And we've all heard the horror stories of three years of trying to get the tax ID fraud taken care of.

So I think there's a real need to understand, especially in these complex cases like medical identity theft, where the roadblocks are to recovery and what we can do to help. It reminds me when I first started working identity theft in about 2001. The most common horror story you would hear is, I went to take out a loan or to get a job or whatever, and they pulled my credit report, and there's all this bad information that prevented me from getting my loan or even hired.

So the victims would be stuck trying to get this information off their credit report. And it was just, they couldn't do it. They kept trying and trying, and then when they'd get it off, it would reappear, because it would be reported. So one of the solutions was the Fair and Accurate Credit Transaction Act of 2003 had a bit of language that said if a victim produces a valid police report or the FTC identity theft affidavit duly signed, then the bureau couldn't report these fraudulent accounts, and the furnisher couldn't report them to the bureau anymore.

And that really removed the huge roadblock to recovery. So I think we need to look for ways amongst these particular-- and it would be individual to the types of identity theft, probably medicals, different laws, different problems. But how do we, from a regulatory or legislature-based approach, how do we help victims so they can recover?

LISA WEINTRAUB SCHIFFERLE: Thank you. And of course, the FTC's materials taking charge do walk through how to help a victim through the recovery process. And we also have a pro bono guide for assisting ID theft victims which is designed for advocates like many of you out there on how to assist victims in depth, step by step with sample letters and other sample material. So please do check those out.

Before we move to the audience questions, I just want to ask each panelist a closing question which is similar to the one that was asked of the medical ID theft panel. And one of them got their wish granted. So you may be that lucky today. If you could have one wish relating to identity theft in the long-term care context, what would that wish be? We'll start with Becky and move down.

BECKY KURTZ: I get my wish first-- good. Well, I wish that every individual who had cognitive and functional impairments had someone that they could trust and that is trustworthy, knowledgeable, and vigilant, who could help them with their financial management and is not a provider of the service, doesn't have any conflict of interest, but is truly available for that individual. And meanwhile, while we're waiting for that to happen, it would be awfully great if the states had adequate resources to provide enough volunteer and staff ombudsmen to be regularly present in facilities across the country so that when people needed help, they had ready access to it.

LISA WEINTRAUB SCHIFFERLE: Naomi.

NAOMI KARP: I think I must be channeling Becky, but in a slightly different way. And I know mine is not going to be solved today. But we talk a lot about ways to identify when these things are happening and how to educate people about the red flags and how we get people to report. But the big problem is no matter how much we do about getting people to see the signs and to report, we have some really major challenges. In our first responders, we just have to really inadequate resources, whether it be for adult protective services to investigate and then provide services for law enforcement, even if we can get them all to understand that elder financial exploitation and ID theft are really important and should be priorities, they're just not the capacity there.

So I guess my wish is that we could have both the awareness and the capacity so we could have meaningful response, both for early intervention and then just to help people after they've been victimized.

LISA WEINTRAUB SCHIFFERLE: Lori?

LORI STIEGEL: I would say as my sister said at her wedding when she forgot her wedding vows, ditto, after her husband said his. So I will add I would hope that two products that the commission is currently developing would be useful to professionals and victims. And those tools specifically are, with funding from the Bureau of Justice Assistance at the Department of Justice, a pocket guide on legal issues related to elder abuse that's primarily intended for law enforcement and other criminal justice professionals.

And certainly among its many topics will include power of attorney abuse and make the point that is identity theft as well as other things. And then we're also developing for Naomi's organization, for CFPB, a series of guides for lay fiduciaries, one of which is for agents acting under a power of attorney. And that helps them understand when they as agents should not do-- so again, more if the back end of the problem than the front end.

But it also includes information to help them recognize when somebody else may be exploiting the person for whom they're acting as agent, which could address some of the challenges we've talked about today.

LISA WEINTRAUB SCHIFFERLE: Neal.

NEAL WALTERS: I'm going to stick with my last statement and wish that there was a way that everyone could recover quickly and effectively if they do become a victim. When you hear some of these horror stories, you think, wow, these people have been victimized twice, first by the identity thief and the second time by the system that's making it incredibly stressful difficult to recover. And I think that's a lot to ask of anybody. But in a long-term care setting, that's asking way too much. So that would be my wish.

LISA WEINTRAUB SCHIFFERLE: Very true. And Sarah?

SARAH WELLS: I think my wish, after hearing even more about all the great resources that are out there, is making sure it really gets into the hands of consumers and families. After doing our focus groups, so many people weren't aware of this issue, didn't know how to protect themselves. The tools are there, but they're not necessarily getting into the hands of the people who need them. So whether that's facilities or home care agencies handing out simple brochures and fact sheets, I think getting the information to people, the dissemination, is the starting point.

LISA WEINTRAUB SCHIFFERLE: Well, that's a perfect lead in to what's going to be our next panel, which is going to be on how to reach seniors. But before we turn to that panel, are there any questions from the audience or from the people on the webcast?

SPEAKER 1: Good afternoon. Thank you very much for your time today. How would you characterize the efforts of the trade associations, industry groups around this issue? I haven't heard Alpha mentioned or any of the others that work with within this industry.

LISA WEINTRAUB SCHIFFERLE: You're talking about long term care provider associations?

SPEAKER 1: Right. Thank you.

BECKY KURTZ: Actually, in preparation for today, I reached out to several associations and asked them if they had any guidance for their membership or any information they wanted to share. And I didn't get any information except a lot of interest in what Naomi's group is developing. I think they are really feeling a vacuum of giving resources to providers of how to be proactive.

NAOMI KARP: And I was just going to say in developing our guide for congregate living facilities, we have had a huge amount of interest from the long-term care associations, both for the nonprofits and the for-profits. We have involved them in the process. We've gotten their input in terms of what they're seeing, what they think would be helpful to their members, and the guide. They've reviewed the guide, focus group tested it, et cetera.

So they're definitely engaged. They want to protect their residents and the people who are receiving the services. And I'm sure the fact that they want to get paid maybe part of it as well. But I think they genuinely are very concerned about these issues and are looking forward to having some help.

BECKY KURTZ: Certainly doesn't help when there are some news headlines around ID theft going on in their members facilities. That doesn't help their bottom line at all or the image. So I'm sure they would like to be proactive as membership organizations.

LISA WEINTRAUB SCHIFFERLE: Are there any other questions from the audience? Well, if everyone can join me in thanking our panelists for this interesting discussion. Thank you all. We'll be resuming at 3:00 with the outreach panel.