

RESPECTING OUR ELDERS

A Statewide Action Plan To Combat Senior Fraud



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INTRODUCTION

By

Attorney General Ken Salazar

We in Colorado are proud of our senior citizen population and the great contributions and sacrifices they have made to our freedom and security. As a community, Coloradoans should wholeheartedly embrace the timeless values of honor and respect for our senior population.

These values are increasingly under assault by the many con artists who target senior citizens in scams that often devastate those seniors and their families. These con artists appear in many disguises: illegitimate and unscrupulous businesses, caregivers, family members, sweepstakes and prize promoters, contractors, telemarketers, fraudulent insurance and investment advisors, and others. In the end, the senior citizen victims are left with a loss of security, dignity, and hope, with little chance of ever recovering their losses.

In Colorado, our current senior population (60 years and over) is 564,000. In ten years, our senior population will exceed 800,000. In 20 years, our senior population will reach almost 1.2 million people. As our senior population continues to grow, we must increase our efforts to combat senior fraud through both education and law enforcement.

This reality created the opportunity for our co-sponsors and participants to come together on September 16, 1999 in a statewide *Conference on Preventing the Financial Exploitation of Seniors*. Conference attendees included those charged with protecting or caring for our seniors, law enforcement officers, prosecutors, human resource and adult protection workers, media representatives, and members of both non-profit and private sectors from across Colorado – from small rural communities and large urban centers. They came with experiences strikingly different and surprisingly the same. They came in an effort to share information and to develop ideas on how Colorado might best be able to combat senior fraud. These same partnerships and coalitions will be the foundation of the action plan described at the end of this report.

SUMMARY

This report contains a summary of the information generated from the Conference and sets forth a statewide action plan to combat senior fraud. The Action Plan contains recommendations generated from the expertise and experience of Conference speakers and attendees. The Action Plan proposes an ambitious legislative agenda dealing with enhanced civil and criminal remedies against those who victimize seniors, regulation of sweepstakes and prize promotions, a telemarketing “no call” list, and regulation of home repair contractors. The Action Plan also calls for statewide coordination of law enforcement efforts, the creation of a clearinghouse for the collection and dissemination of information affecting seniors, and a broad-based public education and outreach program.

CHAPTER I

Colorado's Senior Population – Growth Trends and Profile of Elder Victims

Colorado's population over age 60 is currently 564,000. Because of Colorado's quality of life and pleasant climate, our senior population is increasing at a much faster rate than the general population growth. Within ten years, our senior population will increase by 42% to more than 800,000. In twenty years, our senior population will more than double to nearly 1.2 million people.

Colorado's senior population is healthy. More than three-fourths of the population over age 60 have no significant functional impairment. However, sixteen percent of this population have moderate functional impairment and eight percent are severely impaired. Most significant among these impairments are loss of vision or severe hearing loss.

Two of the most important issues for seniors include economic security and consumer protection. However, a constant wave of consumer and criminal scams directed at our senior population threaten the economic security, safety and independence of our senior citizens. These scams include fraudulent sweepstakes, telemarketing, charitable solicitations, investments, estate planning, funeral plans, medical devices, home repair, and abuse and exploitation from caregivers and even from family members. As pervasive as these problems are, more opportunities for fraud and exploitation await in the new millenium. Seniors are rapidly discovering the internet, opening up new vistas and exposing themselves to insidious new scams.

Billions of dollars are lost nationwide each year by scams targeting senior citizens.

It is no accident that elderly people are targeted by con artists. They are perceived by perpetrators to be easy prey. Our senior citizens:

- **Are more trusting:** Seniors are from an era when people trusted their neighbors, local businesses, and even strangers. Many are less skeptical of fraudulent promotions.
- **Have more time:** Seniors are more often home to respond to door-to-door solicitors and when telemarketers call. They have time to read and respond to mail solicitations.
- **Have assets available:** Senior citizens often have built-up bank accounts, equity in their homes, pensions, and proceeds from life insurance policies. Perpetrators know this and hunt for these victims.
- **Are isolated and lonely:** Many elder victims are widowed, live alone, or do not have grown children or other support networks nearby that look in on them or help attend to their affairs. They feel isolated by rapidly changing technologies they do not understand, and by family members that have less time for them.
- **Are reluctant to seek assistance:** Many seniors are reluctant to contact the proper authorities to help protect themselves because of many factors, including embarrassment

from being duped, the need to feel independent, health problems, and reluctance to turn family members or supposed trusted friends in to the police.

- **Are sometimes willing to take financial risk:** Some seniors are willing to take financial risk in the hope of addressing their financial needs such as health care or in the hope of leaving a larger financial legacy for their families.

CHAPTER II

Frequent Types of Financial Exploitation of the Elderly

A senior citizen can become a victim of financial fraud through many schemes, including solicitations through the telephone, mail, illegitimate businesses, and even family members and caretakers. Some of the most common forms of fraud against the elderly include:

- **Prize promotions and sweepstakes:** Telephone and direct mail sweepstakes, contests and lotteries that make exaggerated promises, require payment of advance fees, and seldom afford seniors a legitimate opportunity to win.
- **Investments, business opportunities or franchises:** Exaggerated claims for potential profits through investments and prepackaged businesses or franchises.
- **Travel and vacations:** Offers of free trips for discount travel that never materialize.
- **Home repair contractors:** Illegitimate contractors who never do the work or who perform minimal work for highly exaggerated prices, including “travelers” who move from town to town finding elder victims for home repair scams.
- **Charitable solicitations:** Illegitimate charitable organizations with “impressive sounding names” who solicit money for personal, as opposed to legitimate charitable, purposes.
- **Caretaker fraud:** Theft that occurs from the elderly by those entrusted to help them, including family members, employees of caretaker institutions, and fraudulent health care billings.

CHAPTER III

Action Plan

Education and law enforcement are the essentials of a two-pronged attack against the perpetrators of elder fraud.

Law enforcement officials should take on the most egregious cases of elder fraud and use the full extent of their authority to prosecute perpetrators through both the civil and criminal justice systems. The General Assembly is encouraged to explore additional law enforcement tools to further these efforts. However, preventing senior citizens from becoming victims of elder fraud is most effectively accomplished through education and public awareness. The following recommendations fall into these two categories:

A. LEGISLATION TO ENHANCE PROTECTION OF SENIORS AGAINST PERPETRATORS OF ELDER FRAUD

Efforts should be made to enact the following legislation during the upcoming legislative session:

- **A Senior Fraud Prevention Act**, which would make those who commit consumer fraud against seniors liable for five times the damages actually caused by their acts; require those who commit consumer fraud against seniors to pay civil penalties of up to \$10,000 per violation; require those who commit criminal fraud against seniors to pay substantial fines; and make the property of those who commit criminal fraud against seniors subject to forfeiture by the state.
- **An Act Establishing A Telemarketing “No Call” List**, modeled after laws in other states, whose purpose is to stop unwanted telephone solicitations.
- **An Act Regulating Sweepstakes and Prize Promotions**, requiring, among other things, sweepstakes and prize promotion solicitations to: (1) prominently set forth on any literature the statistical probability of winning; (2) prominently disclose on all sweepstakes letters and order forms that a purchase is not necessary and does not increase the chances of winning; (3) prohibit contests or other solicitations if the receipt of a prize is conditioned upon any payment, purchase, or other obligation; and (4) maintain a list of winners within Colorado for filing with the Colorado Attorney General’s Office.

Additionally, the possibility of enacting future legislation should be explored with respect to:

- **An Act Regulating Home Repair Contractors;**
- **Establishing A Duty to Report Suspected Instances of Senior Fraud, Exploitation or Abuse;**

- **Establishing A Registry of Elder Fraud Perpetrators;** and
- **Requiring the Licensing of Home Repair Contractors.**

B. PRIORITIZATION OF EFFORTS BY CRIMINAL JUSTICE AND CONSUMER PROTECTION AUTHORITIES TO COMBAT ELDER FRAUD CRIME.

- Local, state, and federal criminal justice and consumer protection authorities should consider prioritizing senior fraud within their jurisdictions. To this end, these authorities should identify, investigate, and prosecute suitable instances of senior fraud in order to punish serious offenders and deter future misconduct. Joint intergovernmental efforts to address senior fraud should be continued and expanded.
- The Colorado Attorney General will prioritize and target perpetrators of elder fraud through his criminal justice jurisdiction over securities and insurance fraud and in enforcing the consumer protection laws of the state.

C. COORDINATION AND COMMUNICATION AMONG FIGHTERS OF SENIOR FRAUD

- **Statewide Clearinghouse:** A statewide clearinghouse of information concerning elder fraud should be set up as a non-profit agency supported through both government and private sector efforts. The clearinghouse could: (1) develop a database to track the frequency and types of fraud being perpetrated against the elderly; (2) provide information on the most effective prevention strategies to individuals and organizations throughout the state; and (3) provide information to focus law enforcement authorities on areas that have the greatest impact on senior citizens. Mechanisms to allow rapid dissemination of information on new frauds or scams should be implemented.
- **Local and State TRIAD Partnerships:** At this time, senior groups and law enforcement authorities have established TRIADs (partnerships between police, sheriffs and seniors) in approximately 25 communities around the state. Efforts to create partnerships between senior citizens and law enforcement should be supported in the hope that many more communities and counties will become participants in the TRIAD program. These partnerships should be expanded to include human resource and adult protection workers. Additionally, a statewide TRIAD organization, modeled after programs in other states, should be formed with representation from throughout Colorado.

D. PUBLIC AWARENESS AND EDUCATION

- **Communication and Education Program:** A statewide elder fraud education and communications program should include:
 - Public service announcements and advertisements concerning consumer fraud alerts and prevention tips;
 - Highlighting high profile successful prosecutions of perpetrators of elder fraud;
 - Hosting of local and regional conferences around the state to educate seniors, their families, law enforcement and caregivers on the detection and prevention of all financial exploitation and abuse of seniors; and
 - Providing specific communication programs to target audiences, including the financial industry and aging network in the private sector, seniors, law enforcement, and prosecutors and judges.

E. ESTABLISHMENT OF A COMMITTEE TO OVERSEE THE IMPLEMENTATION OF THIS ACTION PLAN.

- An advisory committee on elder fraud should be created to:
 - carry forward the implementation of this action plan;
 - coordinate a cooperative network for training and education; and
 - develop and implement new strategies for combating the financial exploitation and abuse of senior citizens.

***Conference on Preventing the Financial Exploitation of Seniors
September 16, 1999***

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- AARP -- Jon Zitz, President
- Colorado State University Cooperative Extension
- Better Business Bureau
- Colorado Broadcasters Association
- Colorado Press Association
- Colorado Attorney General's Office – Ken Salazar, Attorney General and Deputy Attorneys General John Dailey and Garth Lucero and the Consumer Protection Section
- Governor Bill Owens
- Colorado Department of Human Services -- Marva Livingston Hammons, Executive Director; Rita Barreras, Director, Division of Adult and Aging Services
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SPEAKERS/PANELISTS

- Jon Zitz, AARP State President
- Ken Salazar, Colorado Attorney General
- Rita Barreras, Director, Division of Adult and Aging Services, Colorado Department of Human Services
- Clif Barber, Department Chair, Department of Human Development & Family Studies, Colorado State University
- Marva Livingston Hammons, Executive Director, Colorado Department of Human Services
- Jennifer Eyl, Team Member, Victims Assistance Program, Denver Police Department
- Hon. Frank Daniels, District Attorney, Twenty-First Judicial District
- Larry Carr, Denver Police Department
- Gary Mechum, Chief of Police, Montrose Police Department
- Walter Pestrige, Deputy Sheriff, Larimer County Sheriff's Office
- Hon. Bill Ritter, Jr., District Attorney, Second Judicial District
- Jan Zavislan, First Assistant Attorney General, Colorado Attorney General's Office, Consumer Protection Section
- Victor Montoya, Supervisor, Adams County Adult Protective Services
- Kindra Mulch, Nursing Supervisor, Kit Carson County Public Health
- Marilyn Neihart, Director, Morgan County Social Services
- Joanne Marlatt Otto, Program Administrator, Colorado Adult Protective Services
- Linda Piper, Director, Weld County Area Agency on Aging
- Donna Rohde, Manager of Adult Services, Otero County Department of Human Services
- Jan Hammer, Executive Director, Colorado Broadcasters Association
- Joe McGowan, Colorado Press Association
- Merrie Lynn McNabb, Colorado Coordinator for Consumer Issues, AARP
- Eric Solem, Esq., Co-Chair, Colorado Bar Association Elder Law Committee
- Christine Sprague, Colorado Association of Homes and Services for the Aging
- Barbara Walker, Executive Officer, Independent Bankers of Colorado
- Lisa Curtis, Director of Consumer Services, Denver District Attorney's Office