

# Safe Seniors

Newsletter for the Prevention of Elder Abuse and Consumer Fraud in San Diego County

## New Measure Will Ease Wait Times to Report Abuse

By Mike Gardner  
Reprinted from The San Diego Union-Tribune

Legislation to prevent police, doctors and bankers from being kept on hold for long periods of time when calling in suspected elder abuse has been signed by the governor.

The measure will allow authorities to submit these reports by using a secure and confidential Internet site rather than calling in on a telephone line (800-510-2020) that at times can be busy. The Internet reporting system will be optional.

“This effective reporting system will ensure that our seniors’ voices are heard and abuses are not overlooked,” said Sen. Juan Vargas, who carried the bill.

San Diego County officials pressed for the change, saying overloaded phone lines and budget squeezing

threaten to frustrate those who are required by law to file reports of suspected physical or financial abuse.

“Mandated reporters are mainly professionals with busy schedules,” Ellen Schmeding, the County’s assistant director for Aging & Independence Services, said in an earlier interview. “It’s difficult for them to wait on the phone line.”

Phone reports must be converted into a special format, which can take some time and add to costs, she said.

The public also uses the same phone line for other resource information. But, good Samaritans may hang up if kept waiting too long. The public would still use the call-in system, but waits would be shorter if police and doctors use the option of going online.

Senate Bill 718 sailed through the Legislature without opposition.

## What Is a Private Fiduciary? How Can You Select One?

By Shaun P. McGrady, Esq.  
Elder Law & Advocacy

A fiduciary is an individual to whom property or power is entrusted for the benefit of another.

Fiduciaries can provide seniors with much needed financial assistance and planning; however the position provides ample opportunity for financial elder abuse, so it is important to select someone you trust.

A fiduciary is either appointed or hired to assume a position of trust and is not necessarily a professional. Typically, fiduciaries provide critical services to seniors, disabled persons or anyone who is unable to manage their own affairs. They manage a wide variety of matters for their clients such as procuring daily care, housing and medical needs in addition to offering financial services ranging from simple bill paying to estate and investment management, depending on the needs of their client.

A fiduciary can be anyone, even a family member or close friend. However, one must obtain a professional

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**Pam Smith, Director of Aging & Independence Services, District Attorney Bonnie Dumanis and DDA William Mitchell.**

## Murder Charges Against Caregiver Is Reminder to Be Cautious Hiring Help

In August, District Attorney Bonnie Dumanis charged hired caregiver Denise Goodwin with the murder of Gerald Rabourn, 89, from Rancho Bernardo.

At the press conference announcing the charges, AIS Director Pam Smith addressed the concerns about hiring help in the home and provided steps to help minimize the risk of being a victim of elder financial abuse and/or being physically harmed:

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The Elder Abuse Reporting Line:  
1-800-510-2020

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fiduciary license when serving two or more non-relative clients at the same time. There are a few exceptions: California licensed attorneys, certified public accountants and employees of FDIC-insured institutions are among those who are not required to obtain a fiduciary license. As a rule of thumb, however, if you are hiring a fiduciary to handle your affairs or the affairs of a loved one, it is important to check their credentials.

The licensing requirement for all fiduciaries serving two or more clients at the same time, which went into effect in California in January 2009, was designed to guard against the great potential for abuse. Remember that when you hire a fiduciary, he/she will have access to some if not all of your most sensitive information and financial accounts.

As of January 2009, in order to serve as a professional fiduciary, the individual must:

- Be at least 21 years of age.
- Be a U.S. citizen or legally admitted into the U.S.
- Have not committed any acts or grounds for denial under the pertinent Welfare and Institutions code sections § 480 and 6536.
  - Be fingerprinted for a criminal record check.
  - Have completed certain pre-licensing education as defined by Welfare and Institutions §6538.
  - Have passed the licensing examination administered by the Professional Fiduciaries Bureau within the Department of Consumer Affairs, established pursuant to Section 6510.
  - Comply with continuing education and ethical requirements.

Licensees must comply with reporting requirements and must abide by the *Professional Fiduciaries Code of Ethics* so that client matters are handled responsibly and without conflict. See [www.fiduciary.ca.gov](http://www.fiduciary.ca.gov).

Knowing that your prospective professional fiduciary has satisfied the above requirements is a good start, but to assure that you are in good hands you may want to dig a little deeper. To assure that you select the right professional fiduciary, keep the following questions and tips in mind:

- Ask for references, qualifications, employment history, billing arrangements, payments, former names, and states of residence.
- Ask if they are licensed by the Professional Fiduciary Association of California and California Department of Consumer Affairs.
- Verify that the information provided to you is accurate and that the professional fiduciary is indeed licensed. Licenses can be verified online at [www.fiduciary.ca.gov](http://www.fiduciary.ca.gov).
- Professional fiduciaries charge for their services, so make sure you understand their billing rate and how it will be calculated.

- If the fiduciary is a family member, have other family members or friends to serve as a second fiduciary to guard against potential misconduct.

- Also if your fiduciary is a family member, you should consider whether he or she might be distracted from their legal duties due to emotional pleas from other family members, conflicts of interest, or any other reason.

- Remember, there are many qualified professional fiduciaries in San Diego and throughout California, so be sure to check references and qualifications before signing any paperwork.

For further information regarding professional fiduciaries, including license verification, visit the Department of Consumer Affairs Professional Fiduciaries Bureau at [www.fiduciary.ca.gov](http://www.fiduciary.ca.gov).

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- If you are hiring a home care agency, ask the agency how long the caregivers have worked with the agency. Also, ask the agency to provide 2-3 names and numbers of former clients who can recommend each potential caregiver.

- Ask if the agency does alcohol/drug testing of employees.

- Make sure the agency has a written policy against employees accepting loans, gifts, or any gratuities from a client. If the agency does not have one, create one yourself and ask the caregiver to sign it.

- If you are hiring someone not employed by a home care agency, create an employment application, with areas for work history and references, and have the potential caregiver fill it in.

- Ask the caregivers for proof of citizenship, Social Security number, plus driver's license and insurance if transportation is involved. Keep copies of documentation.

- Pay a private investigator for a thorough background check on all caregivers. This can be done quickly and the cost is not high.

- Get 3-4 recent references from former clients and check them out.

- Keep all important documents (deeds, wills, trusts, etc.) and valuable jewelry in a safe deposit box.

- Notify financial institutions of a caregiver's presence and ask them to monitor accounts for any unusual activity.

- Monitor the checkbook, bank and credit card statements for unusual expenditures.

- Never provide an ATM P.I.N. number to a caregiver. Or if you must, make sure that you limit the amount of money in that account.

- Do not assign a caregiver as agent in a financial power of attorney document.

Visit [www.SafeSeniorsSanDiego.org](http://www.SafeSeniorsSanDiego.org) for more info.

# Elder Abuse Prosecutions

## District Attorney's Office

The District Attorney's Office had 37 adjudicated elder abuse cases last quarter. Here are four of those cases, and six cases from the San Diego City Attorney's Office:

**Kent Alan Miller:** Pled guilty to burglary. The 79-year-old victim hired a contractor to remodel her home. The contractor and his son completed the work. Shortly thereafter, the victim discovered that her deceased husband's handgun and DVD player were missing. She reported this burglary to law enforcement. Two days later in the middle of the night, she heard a noise and saw someone driving away in her rental car. She also discovered that her purse with credit cards had been taken from inside the house. Twelve days later, the defendant was arrested in another part of town for causing a domestic violence incident while driving. Law enforcement traced the license plate as stolen. The defendant admitted to taking the rental car. The defendant was sentenced to 5 years in prison.

**Gary Corbin:** Pled guilty to false imprisonment by violence, menace, fraud and deceit. The 86-year-victim was asleep when her son, the defendant, arrived home intoxicated. Immediately, he accused her of stealing money from him. He shook her bed, broke some picture frames, grabbed an end table and threw it across the room. The defendant took the phone away from his mother as she was trying to call for help. She started screaming for help, but the defendant covered her mouth and threatened her. He wouldn't let her leave and was physically abusive. The victim went to bed and waited until her son fell asleep, then called 911. The defendant was sentenced to 365 days in jail and 3 years formal probation.

**Douglas Lohf:** Pled guilty to theft of an elder/dependent adult over \$950 and burglary. The defendant is the 58-year-old son of the victim, 84, who discovered nine personal checks missing. According to the owner of a local market where the checks were cashed, the defendant forged and passed eight of the missing checks between Dec. 22, 2010, and Jan. 4, 2011, for a total of \$6,400. At one point, the defendant was passing checks daily. The defendant was captured on video doing the transactions. His mother never gave him the checks, never signed any checks, or gave him permission to use them. The defendant was sentenced to 365 days in jail and 3 years formal probation.

**Channing Halkias and Lora Darbinian:** Both pled guilty to caretaker theft of an elder or dependent adult over \$950, grand theft and identity theft. The 68-year-old victim met the defendants through a mutual friend. She felt sorry

for them because they were homeless and living in their car. The victim is confined to a wheelchair. She let them live with her rent free in exchange for caregiving assistance such as bathing her and helping her around the house. The defendants moved out to get married. The victim then discovered that one of her prescriptions had been picked up without her permission. She then discovered that her credit cards had several charges totaling approximately \$9,000. Online purchases were being made from an email account that was not created by the victim. The defendants even paid for their wedding using her credit card. Halkias was sentenced to 365 days in jail and 3 years formal probation; Darbinian was sentenced to 120 days in jail, 3 years formal probation. They were ordered to pay \$10,361.85 in restitution.



## San Diego City Attorney's Office

**Jack Glick:** Convicted of two counts of elder abuse and two counts of battery of an elder. The defendant lived with the victim, his 80-year-old mother, because he was dealing with mental health and substance abuse issues. One day, the defendant was drunk and his mother barricaded herself in her room to get away from him. He forced his way in, grabbed the victim's hand and asked her if she wanted to "have fun" and pointed to his groin. As the defendant stepped closer, she yelled and ran outside for help. The defendant followed her in his underwear and hit her in the cheek with his hand. She had called 911 as she ran from him. The defendant later threatened to kill the victim. The defendant is awaiting sentencing.

**Linda Arketa:** Pled guilty to dependent adult abuse. The defendant and the victim, her husband, are homeless. The victim has severe mobility and mental health issues and needs a wheelchair. The defendant pushed and left her husband in the middle of a busy street to solicit money from motorists. Police observed cars coming within a foot of the victim. The victim was not able to move the wheelchair himself to get out of harm's way. The defendant was sentenced to 3 years probation, 52 weeks of elder/dependent abuse counseling, and two Alcoholics Anonymous meetings a week for a year.

**Robert Romero:** Pled guilty to violating a restraining order. The defendant had already been convicted of violating a civil restraining order against his elderly parents and had been placed on probation. A criminal protective order was put into place in addition to the restraining order. The defendant violated the order and convinced his parents



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to let him stay with them; he promised "to behave." The defendant began throwing things, scaring his niece who was also present. The defendant was sentenced to 19 days in custody and remains on probation in the previous case.

**Gaston Carbiac:** Pled guilty to vandalism. The 45-year-old defendant came to San Diego about five months ago because he was homeless and wanted to stay with his 67-year-old father, the victim, who lives in a studio apartment. The victim let his son live with him as long as he paid half of the bills. They got into an argument about the bills. The defendant became agitated and shoved his father, who fell backward onto his bed. The defendant broke various items in the house and pulled out a knife and held it to victim's chest. The defendant yelled and swore at the victim, but eventually dropped the knife and left the house. The defendant was sentenced to 180 days in custody.

**Lynnea Engstrom:** Pled guilty to violating a restraining order. The victim is a 63-year-old man confined to a wheelchair. The 61-year-old defendant was his caregiver, hired off Craigslist and with a record for elder abuse. On one occasion, the defendant was drinking heavily and staggered into the victim's room, screamed obscenities and punched him in the eye. The victim obtained a temporary restraining order that the defendant violated. The defendant was sentenced to 3 years of probation, 52 weeks of counseling, completion of an outpatient alcohol rehab program,

plus 60 days of custody would be "stayed" pending her successful completion of the programs. A criminal protective order was put into effect.

**Theodore Nicholas, Jr.:** Pled guilty to elder abuse, battery against an elder, false imprisonment, and violating a criminal protective order. The victim is the defendant's 84-year-old father. The defendant was drunk and kept aggressively hugging his father as he lay in bed recovering from cancer treatment. The victim continued to tell the defendant to stop but he kept squeezing tighter and tighter. The victim suffered significant scrapes and bruises on his forearms from the battery. The defendant was sentenced to 3 years of probation, 52 weeks of elder abuse counseling, two Alcoholics Anonymous meetings a week, and ordered to abstain from alcohol.

### New DVD for Seniors Regarding Annuities

The California Department of Insurance has just released a new video to help older adults decide whether or not they want to purchase an annuity.

The DVD, called "Annuities -- It's Your Choice," is available for viewing on the departments' Web site: visit [www.insurance.ca.gov](http://www.insurance.ca.gov). Click on "Seniors" and look for "Videos."

For more information, call the department's Consumer Education and Outreach Bureau at (877) 401-9550.