

**SPECIAL REPORT # 1: ELDER ABUSE IN R.I.**

# **Suffering in the shadows**

**REPORTS OF ABUSE HAVE SPIKED  
DRAMATICALLY, YET MOST PERPETRATORS  
NEVER GO TO PRISON, LEAVING VICTIMS  
VULNERABLE TO REPEAT ATTACKS**

*By Jack Brook, Rebecca Ellis, Katrina Northrop and Asher Woodbury Special to  
The Journal*

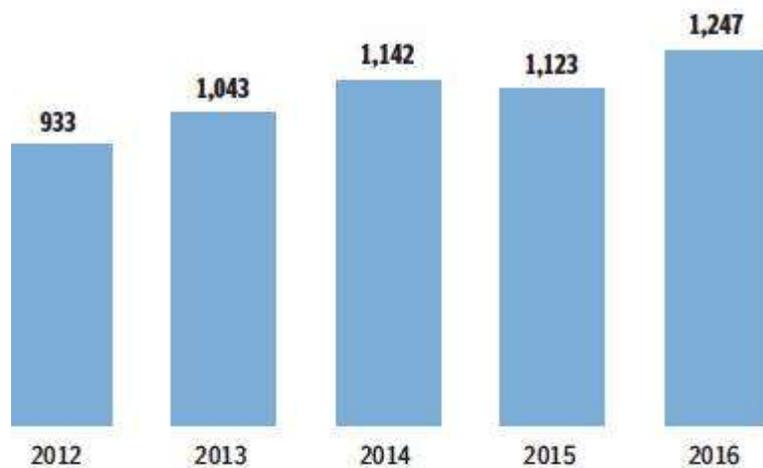


JOURNAL ILLUSTRATION / TOM MURPHY



A police mug shot of Garry Lamar, who was convicted of blackmail and extortion for repeatedly stealing his mother's cat and demanding money for its return. [NORTH KINGSTOWN POLICE DEPARTMENT]

### **REPORTED ELDER-ABUSE CASES IN R.I.**



SOURCE: 2016 Rhode Island Annual Report on Elder Abuse  
THE PROVIDENCE JOURNAL

### **ONLINE**

Hear Brown University Prof. Tracy Breton and two of her student reporters discuss the significance of the elder-abuse series at [providencejournal.com](http://providencejournal.com).

Seventy-eight-year-old Mary Lamar Grancher lived in fear of her son Garry Lamar, 47. He was prone to violent rages — often spitting in his mother’s face, grabbing her throat, shoving her around and calling her crude names, according to police reports.

After allowing Lamar to live in her North Kingstown home for four years without paying rent, Grancher kicked her son out. But Lamar returned daily, banging on her door and begging for money. “I would like to see you dead,” he told her. He repeatedly stole her cat, Melo, which he threatened to kill unless she paid him hundreds of dollars in ransom.

As a neighbor testified, Grancher would often “cry and cave in.” By July 2007, Lamar had forced his mother to hand over more than \$15,000.

“I felt like I had to because he is my son,” a trembling Grancher explained to officers. “I don’t want him back in the house.”

Prosecutors initially charged Lamar with one count of blackmail and extortion and another count of domestic assault on a person over 60. However, the assault charge was later dismissed, and Lamar received a five-year suspended sentence for blackmail and extortion. He never went to prison, and to date he has paid less than half of his \$450 fine, according to the Rhode Island judiciary.

**In a review** of all Rhode Island criminal cases since 2000 that included an elder-abuse charge, a group of Brown University student reporters found that victims such as Grancher are routinely left vulnerable to abuse. Despite the fact that all crimes committed against a person over 60 are designated as felonies,

tracking these cases through the state's legal system reveals that perpetrators of these crimes rarely serve significant prison time.

Over two semesters, four student reporters pulled hundreds of court files and police reports of people charged with elder abuse to explore the scope of the problem and the way law enforcement and prosecutors handle such cases. In addition, the reporters used computer data purchased from the Rhode Island judiciary to track every elder-abuse case prosecuted in Rhode Island's District and Superior courts over the last 17 years.

The student project, sponsored by a new journalism nonprofit, The Community Tribune, was overseen by Tracy Breton, a Brown University journalism professor and Pulitzer Prize winner who worked for 40 years as an investigative and courts reporter for The Providence Journal.

As part of the year-long investigation, the students analyzed state court data to evaluate how effective Rhode Island has been at prosecuting individuals charged with elder abuse. This had never been done before — not even the state tracks the outcomes of its elder-abuse cases. The data, based on arrests made statewide by local and state police, was sorted and analyzed by a Brown University graduate who majored in computer science.

The investigation found that 87 percent of those charged with elder-abuse offenses in Rhode Island over the 17-year period did not go to prison for those crimes. Moreover, fewer than half of those charged were convicted of elder abuse. This left victims in danger and allowed their abusers to strike again and again.

In San Diego, where aggressive measures are taken to separate abusers from victims, roughly 90 percent of those charged are convicted, according to Paul Greenwood, the recently retired director of the Elder Abuse Prosecution Unit at the San Diego district attorney's office and a national expert on elder abuse.

Meanwhile, Rhode Island Attorney General Peter F. Kilmartin has received accolades for his performance on elder abuse — including being named to a nationwide panel. Despite repeated requests, he said through a spokesperson that he did not have time to be interviewed for this story.

Here is what Brown's student reporters found:

Since 2000, 1,061 people in Rhode Island have been charged with elder-abuse offenses. Fewer than half have been convicted of these felony charges. Only 13 percent of those charged served any jail time at all for elder-abuse offenses. Of those who did serve prison time, almost 80 percent were sentenced to one year or less. The average prison sentence for all elder abusers sentenced to the Adult Correctional Institutions was just 366 days.

Those convicted and imprisoned for one of the most commonly charged elder-abuse offenses — assaulting a person over age 60 — received terms ranging from just one day to eight years behind bars for that crime.

In many cases, defendants who were charged with abusing the elderly were convicted instead of other offenses, often misdemeanors.

**Elder abuse is defined** by Rhode Island law as physical abuse, neglect, exploitation, or larceny committed against a person over age 60. Percentage-wise, Rhode Island has the 11th-largest elderly population in the nation, a rapidly growing demographic. According to the Rhode Island Department of Elderly Affairs, Rhode Island ranks fourth in the nation for the percentage of elderly residents over age 75.

And Rhode Island's elderly population is rapidly growing. In a little over a decade, residents over age 65 will make up nearly one-quarter of the state's population, and elder abuse is likely to grow proportionally.

"The aging population is just going to become greater, so [elder abuse] is something that all states have to deal with, but particularly Rhode Island," says Diane Daigle, the prosecutor for the Elder Abuse Unit in the Rhode Island attorney general's office.

The unit was created in 2005 by former Attorney General Patrick C. Lynch. It comprises one prosecutor and one investigator who oversee the prosecution of elder-abuse cases in Providence Superior Court. Such cases in Washington, Kent and Newport counties are handled by prosecutors assigned to Superior Courts outside of Providence.

Last June, the National Association of Attorneys General selected Kilmartin to be one of five attorneys general to sit on a board to combat elder abuse. The 2017 annual report from Kilmartin's office touted the state's "innovative efforts" to combat these crimes.

"I am committed to doing all I can to protect our elders," Kilmartin said in a 2014 statement.

**But the data** provided by Rhode Island's judiciary and a review of court files show that locking up elder abusers and separating them from their victims is easier said than done. And many elderly Rhode Islanders believe that the state isn't doing enough to protect them physically or financially from abusive predators, according to a recent poll.

On May 17, the state Senate approved legislation creating a nine-member Elder Abuse and Exploitation Task Force to investigate the effects of elder abuse in the state and come up with policy and legislative recommendations. But after a hearing, the legislation died in the House Committee on Health, Education & Welfare, which recommended that it be held for further study.

John DiTomasso, associate state director for AARP-RI, said his organization pushed to create the task force because in a statewide poll, more than 100,000 AARP-RI members identified elder abuse and exploitation as their number-one concern.

In 2016 alone, the Rhode Island Department of Elderly Affairs said there were 1,247 reported cases of elder abuse in the state — the highest number in five years and a 25-percent increase over 2012.

"Given that this is a population of 1 million in Rhode Island ... any numbers like this are alarming, and I think that's one of the things the task force will look into, to see where the problems are and how they can be corrected," DiTomasso said in an interview before the task force bill died in the House. "As to whether those [existing] penalties are a sufficient deterrent to prevent these

things from happening, I don't know; this is something the task force needs to explore a lot closer."

State Sen. Cynthia A. Coyne, D-Barrington, the sponsor of the bill that would have created the elder-abuse task force, agrees.

"Especially as the baby boom generation ages and our senior population expands, our state should take a look at the scope of this issue and whether our laws could do more to prevent it," she said.

*Editor's note: The computer coding and data sifting for this story was done by Asher Woodbury, a 2017 graduate of Brown*

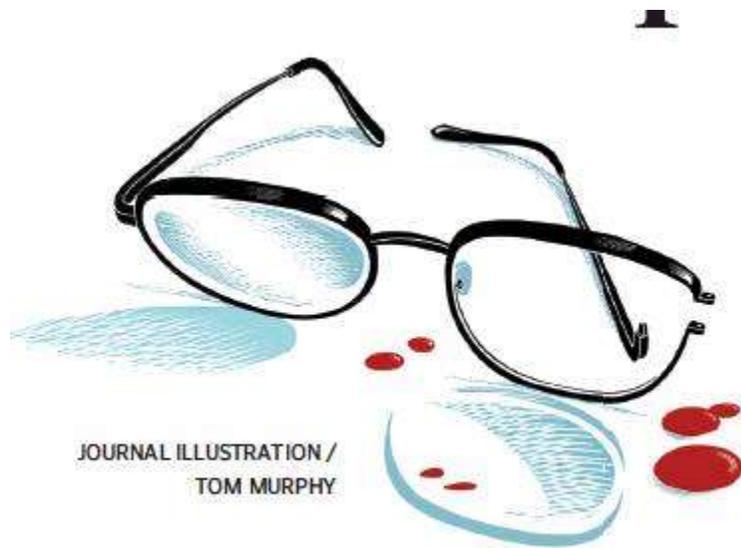
*University who concentrated in computer science. Kyle Foreman, a senior data scientist at the University of Washington, worked with Woodbury on the coding and data sifting. Brown senior Andie Corban contributed reporting for this story. The elder-abuse series was produced in cooperation with the nonprofit organization The*

SPECIAL REPORT # 2: ELDER ABUSE IN R.I.

# Barriers to prosecution leave victims at risk

**Reluctant or impaired victims make convictions difficult, but some prosecutors in U.S. are using innovative ways to make charges stick**

*By Jack Brook, Rebecca Ellis and Katrina Northrop Special to The Journal*



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Greenwood

## **SECOND OF NINE PARTS**

In April 2007, Rita Armaganian, a Warwick resident, went to visit her 80-year-old next-door neighbor, Hilda Bassett. Entering the apartment, Rita noticed a small spot of blood on Hilda's cheek and a large bruise. Her glasses lay broken.

Hilda insisted that she had fallen in the bathroom. Rita pressed her further. Hilda admitted that her daughter, Donna Bassett, had slapped her in the face. Though "nervous and shaken," Hilda insisted that it was "no big deal" and pleaded with Rita not to call 911. Rita took Hilda to the hospital and convinced her to provide a written statement.

Donna was charged with assault on a person over 60, and a no-contact order was issued. But three weeks later, the no-contact

order was lifted and, eventually, prosecutors dismissed the case “in the interests of justice,” court records show.

Anytime someone reports a crime against an elder in Rhode Island, the Department of Elderly Affairs is notified and begins an investigation. Covering cases throughout the state, the DEA works on the front line to combat elder abuse, with five investigators who each handle 30 to 35 cases a month, according to elder unit supervisor Boakai Kamara. Along with cases passed along by law enforcement and healthcare professionals, the DEA also receives tips from a confidential hot line.

After opening a case, a DEA employee visits the home of the victim within three to five days. Each elder is assigned a victim advocate from a local community-care agency, who sets up a case-management plan to assist them with services such as medical support and the filing of criminal charges.

But Kamara emphasized that DEA investigators are social workers, not law enforcement. The DEA respects the victim’s “self-determination,” Kamara said, and an elder can always refuse to cooperate.

“We can’t force services upon elder adults,” she said, nor can they make them cooperate with the police. “They have the right to say no if they want to live with the person who is abusing them.”

**Many times, elders** are hesitant to cooperate with law enforcement. As Oregon Attorney General Ellen Rosenblum, who has prioritized prosecuting elder-abuse crimes, explained, “The victim, unfortunately, will often try to protect the perpetrator of

the crime because it's someone they love or want to love, and these are often the people taking the most advantage of them."

In cases where the perpetrator is also the victim's only caregiver, pressing charges can mean losing the victim's sole system of support. Suffering from physical or verbal abuse actually makes elderly victims more dependent on their caregivers, one study found.

While many older people live independently, some are hampered by physical impairments or medical conditions and need more help. They may have trouble reading their prescriptions, remembering to take medication, or getting around if they can't drive anymore. Some end up totally reliant on other people to help them function on a daily basis.

"That person has a lot of influence," said Julie Schoen, deputy director for the National Center for Elder Abuse at the University of Southern California's Keck School of Medicine. "And that's what the person will use against [the elder]. It's very understandable how it happens."

Often, if perpetrators suffer from substance-abuse or mental-health issues, victims tend to dismiss the violence as a symptom of these problems.

In 2011, 84-year-old Mary Ritoli did just that when her 53-year-old son, Richard, who suffered from bipolar disorder, slapped her. When police arrived on the scene, she insisted that she didn't want to press charges due to the state of his mental health. "He is not a bad person; he needs help with his sickness," she told the Cranston police, according to court files.

Court records show that the police went forward with the case despite the mother's trepidation. As a result, Richard Ritoli later pleaded no contest to assaulting a person over age 60 in an act of domestic violence and was ordered by the court to get mental-health counseling and to stay away from his mother. He never went to prison, however. As part of a plea agreement with prosecutors, he received a five-year suspended sentence and five years' probation.

Prosecutors face yet another barrier when elderly victims suffer from cognitive impairment. They must prove a criminal case "beyond a reasonable doubt" and don't want to put a witness on the stand who has memory issues. Plagued by amnesia, a victim could stumble over their testimony or forget an incident in its entirety. Or, given the slow pace of the judicial system, victims may die before their case concludes, even though state law says elder-abuse cases should receive priority on trial dockets.

Whether it's because the victim refuses to testify or is unable to, "it happens a lot where the attorney general's office can't move forward," said Mary Ann Ciano, who spent 30 years working for the Department of Elderly Affairs.

"If it's a crime, we'll keep referring it to them [the attorney general's office]," Ciano said. But due to barriers to prosecution, such as an incompetent witness or a victim who is unwilling to testify, the DEA "sees a lot of repeat cases," Ciano says.

The Department of Elderly Affairs can see up to seven cases on the same person, she added.

**In 2004, 69-year-old** Dorothy Vivier arrived at Memorial Hospital in Pawtucket with a broken hip and bruises across her body. She had waited days before calling for help, since she was scared of her live-in partner, Emmett M. Glenn, 41, according to police records. She repeated the same story each time to nurses and police — Glenn had been responsible for her injuries.

Vivier, who was twice widowed and fighting cancer, later told a detective that Glenn had repeatedly tipped over her wheelchair and left her lying on the floor, rammed her into walls, and thrown eggs at her. She also stated that she had given him control over her finances. Bills from credit cards registered in her name revealed that she was \$30,000 in debt.

When police went to investigate at Vivier's home, they discovered egg yolk dried on the walls of her room. They also found indented marks in the walls and furniture that matched up with Vivier's wheelchair. Both Vivier and her son stated there had been many instances of physical abuse by Glenn in the past. The detective had audio recordings of Vivier's entire testimony, and photographs of her injuries.

But after Vivier died in mid-investigation, the attorney general's office dismissed the multiple felony charges pending against Glenn. "There is no possibility of the State meeting its burden of proof in this matter without her testimony," wrote then-Attorney General Patrick C. Lynch in a signed statement attached to her case.

"We have an obligation, ethically, morally, professionally to look at these cases and make sure there is enough probable cause to

bring a charge, but also, looking down the road, to make sure we can prove this case meets our standard of proof, which is beyond reasonable doubt," said Diane Daigle, the prosecutor for the Elder Abuse Unit in the Rhode Island attorney general's office

Before joining the elder-abuse unit, Daigle prosecuted domestic-violence cases for five years. As in cases of domestic violence, Daigle said prosecutors frequently have to look for alternative ways to prove the charges if a victim will not or cannot participate. She said she will "absolutely" proceed with charges, even if a victim will not cooperate, but that it is very difficult to do so.

These are hurdles faced in every attorney general's office in the country. Yet whether or not an alleged abuser like Emmett Glenn is held accountable can depend on how prosecutors approach a case. Some prosecutors in other parts of the country employ innovative approaches in turning elder-abuse charges into convictions.

The elder abuse unit in the San Diego district attorney's office, which uses evidence-based prosecution, boasts a conviction rate between 88 and 90 percent.

Paul Greenwood, who recently retired as the unit's lead prosecutor but still works as an expert witness and a teacher/consultant, believes that every crime that happens to an elderly person should be classified as a case of elder abuse. It didn't matter if a stranger pushed an elderly lady in the street or a grandchild stole thousands of dollars from his grandmother — Greenwood would charge the crime to reflect the victim's age.

He also relied on “evidence-based prosecution,” meaning that he did not let the victim dictate whether a case should move forward, and would prosecute cases even if the victim was unwilling or unable to testify.

Rosenblum, the Oregon attorney general, said that in abusive or violent relationships, not prosecuting a case when it arises can leave the elder in a dangerous situation.

“I’ve seen situations where people didn’t want to prosecute, and it has happened again and again, and it really puts the victim at extreme risk,” Rosenblum said. “A good prosecutor will do everything they can to try and persuade the victim to go forward with the case.”

Greenwood, interviewed before his retirement, said his focus was on ending repeat abuse as best he could: “We try not to water down charges — we try to reflect what they actually are, which is elder abuse.”

If the victim was reluctant, Greenwood used hospital records, recordings from the victim’s 911 calls, testimony from neighbors or incriminating bank statements. (Daigle said she employs these strategies, too.) Greenwood also videotaped victims’ testimony immediately after the incident to preserve their account, and sometimes used cognitive-capacity tests as evidence that the elder was incapable of consenting to exploitative financial transactions.

**SPECIAL REPORT # 3: ELDER ABUSE IN R.I.**

# **Creating a stronger safety net for victims**

*By Jack Brook, Rebecca Ellis and Katrina Northrop Special to The Journal*



JOURNAL ILLUSTRATION / TOM MURPHY



Schoen



Greenwood

Rhode Island only has temporary solutions for elders who need to be removed from abusive living situations.

In some instances, such as the aftermath of a physical assault, law enforcement can arrest the perpetrator or instigate a no-contact order. However, if the perpetrator owns or leases the home in which the victim lives and there is no physical injury, removing either individual is very difficult, said Mary Ann Ciano, former director of Rhode Island's Department of Elderly Affairs.

"The person can say, 'I don't feel safe in my home,' but in order for the victim to be removed there has to be a place for them to go," Ciano said. "We don't have an emergency place for a person to go."

While some DEA funds are available to house elders for three days, this solution is temporary and can take some time to set in motion. According to the DEA's chief of program development, Meghan Connelly, if the elder feels unsafe, "arrangements for intervention would be made in coordination with emergency responders."

A common procedure, Ciano said, is to send some victims to a hospital emergency room if there is a serious problem or they need to be seen by a doctor, and then to seek a placement in a nursing home or shelter from there.

Elderly victims are often reluctant to cooperate with the DEA and the police because they would be forced to remain in the same home with the person they would be pressing charges against at least for a time.

“We need to take that person out of a bad situation, and sometimes we can’ put them back in there,” said Julie Schoen, deputy director for the National Center for Elder Abuse at the University of Southern California’s Keck School of Medicine. “The person needs to have a safe, clean, habitable environment where they don’t have to worry about the perpetrator trying to dissuade or harm them, a place where they can’t be found.”

According to Schoen, many states have no shelters specifically for elderly adults, who have different needs than younger domestic-violence victims. Rhode Island’s only elder shelter is St. Elizabeth Haven in Warwick, but it is private and funded by community donations, not the state.

“If [Rhode Island] had an emergency-response team, the minute a call came in about someone who is in imminent danger, we could pull that team together,” said Jeanne Gattegno, who runs St. Elizabeth’s.

**Experts involved in** the fight against elder abuse agree that education is the most effective means of prevention. Helping elders recognize potential scams and exploitative relationships can help them avoid being taken advantage of. They may feel ashamed or embarrassed, and education can help them realize they are not alone.

Those who come into contact with the elderly also should be trained to recognize signs of abuse, especially doctors, social workers and law enforcement.

“Our doctors and our hospital emergency rooms, are they asking the right questions?” said Cheryl Patnaude, an elder justice

advocate for St. Elizabeth's with 37 years of experience. "If I go in with significant bruising, am I going to be asked the questions that I need to be asked? That's what we need to do a better job with."

Police officers make the initial decision of what kind of crime to charge a perpetrator with. If they apply misdemeanor "simple assault" instead of an elder-specific felony charge such as "physical assault on person over 60," the crime might not come to the attention of the Elder Abuse Unit at the Rhode Island attorney general's office, according to spokesperson Amy Kempe. Misdemeanor offenses are handled in the state's District Courts by city or town solicitors.

While most police departments across Rhode Island have elderly-affairs liaisons, many police departments don't keep track of elder-abuse statistics. Sgt. Luca Lancellotti, elderly-affairs officer with the Johnston police, said that when he goes to look at crime statistics kept by his department, "there's not even a crime category listed as elder abuse."

When prosecutor Paul Greenwood arrived at San Diego's Elder Abuse Unit in 1996, detectives and police officers weren't flagging cases as elder abuse.

So he implemented training for police officers, ensuring that any crimes involving an elder would be correctly classified and subsequently land on his desk.

Rhode Island's Elder Abuse Unit does conduct training for police departments across the state upon request, but there is no ongoing, regularly scheduled training.

Kempe said that “anytime police departments would like us to go, they [the Elder Abuse Unit] would be happy to do it — but there needs to be some proactive measures from them as well.”

That doesn’t happen often. Said San Diego’s Greenwood, who recently retired from his role as lead prosecutor for the Elder Abuse Unit: “In the case of Rhode Island, someone from the attorney general’s office needs to go out to police stations and do training, establish protocols, so that when the situation occurs that they have been called out to the same house for the fourth time, they know exactly what to do.”

**The vulnerability of** Rhode Island’s elderly population has led the legal system to designate crimes against the elderly as especially heinous offenses, worthy of a felony conviction. And yet the way this crime manifests itself — among family members and caregivers, the senile and the reluctant — has led many of these cases to fall through the cracks of the judicial system.

While police, prosecutors and other agencies are beginning to develop the tools and approaches to handle these cases, experts say the most crucial component to preventing elder abuse is shifting cultural perceptions of the elderly.

“We need to embrace and respect aging,” Schoen said. “The main solution is us being unified as a community at a grass-roots level and being observant. Little by little, we are building the infrastructure to help and support each other as we get older, and I am encouraged by that.”

Mail carriers should notice if mail piles up outside an elder’s door. Bank tellers can take elders aside if a transaction seems sketchy.

And police officers should think of these cases not simply as family matters, but as criminal offenses.

Most importantly, in the fight to transform elder justice, elders must be offered agency and visibility.

"We need their voices at the table to remind us that they are individuals, that they have rights and need to be listened to," Schoen said. "Oftentimes, the voices of older adults are discounted."

*The elder-abuse series was produced in cooperation with the nonprofit organization*

*The Community Tribune; for more information, go to [communitytribune.com](http://communitytribune.com).*

**SPECIAL REPORT #4 : ELDER ABUSE IN R.I.**

# **Mother, son locked in abuse cycle**

**Despite years of pervasive attacks resulting in multiple trips to the hospital, Cranston woman never pressed charges**

*By Katrina Northrop Special to The Journal*



JOURNAL ILLUSTRATION / TOM MURPHY



A police mug shot of Louis Vongogolinski, who abused his elderly mother for years at their home in Cranston. [CRANSTON POLICE DEPARTMENT]

## **HOW TO REPORT ELDER ABUSE**

Rhode Island law requires any person who has reasonable cause to believe that an elderly person has been abused by a family member or unpaid caregiver, or is neglecting to care for his or her basic needs, to notify the Division of Elderly Affairs. Failure to report abuse of a person age 60 or older can result in a fine of up to \$1,000. Reports can be filed anonymously 24 hours a day, seven days a week, including holidays, by calling (401) 462-0555. To report abuse by a paid caregiver or others, call the local police department.

## **WHO ARE ELDER ABUSERS?**

■ 57 percent of perpetrators of physical abuse were partners or spouses.

- Half of perpetrators were using drugs or alcohol at the time of mistreatment.
- 3 in 10 had a history of mental illness.
- More than a third were unemployed.
- 4 in 10 were socially isolated.

SOURCE: The National Elder Mistreatment Study, 2008, based on a telephone survey of

5,777 people over age 60 and 813 people who lived with or cared for older adults.

## **FOURTH OF NINE PARTS**

On Christmas morning 13 years ago, Kaethe Rzadca stood in the doorway of her son's bedroom and asked a simple question: Could she come in? "No," he replied angrily. "You can't go in my room."

Rzadca turned around and started walking down the hall, but Louis Vongogolinski, still angered by his mother's seemingly harmless question, picked up a shoehorn and hit his 85-year-old mother in the head, causing her scalp to bleed. She hobbled down the hallway to her bedroom and called the police, locking her door from the inside until officers arrived.

Three years later, on a hot August morning, a similar scene unfolded at the same apartment at 435 Oak-lawn Ave. in Cranston. The temperature was almost 100 degrees, and Rzadca's bedroom was stifling. Rzadca, now 88, asked if she could use one

of the two fans running in her son's room. As she attempted to unplug one of them, Vongogolinski violently pushed her to the ground and punched her torso.

Rzadca was transported to Kent Hospital, where doctors documented the lacerations on her face and head, and noted that she was coughing up blood due to internal injuries. They expressed concern that these types of injuries could be lethal at her age.

A narrow window into a lifelong cycle of abuse between mother and son, these two incidents illustrate the rapidly escalating problem of elder abuse. Often unfolding secretly behind the doors of family homes elder abuse is as pervasive as it is destructive.

The American population is increasingly elderly; the number of Americans age 65 and older is projected to more than double — from 46 million today to more than 98 million — by 2060. And as this segment of the population grows, the potential for all forms of elder abuse continues to rise.

The National Center on Elder Abuse estimates that 1 in 10 Americans over age 60 have experienced some form of elder abuse. Much of that abuse is committed by grown children against their parents, and many perpetrators suffer from substance-abuse and mental-health problems.

Although multiple charges were brought against Vongogolinski over many years, the longest he ever spent in prison for assaulting his mother was three months following an arrest in 2006. Rzadca steadfastly refused to testify against her son, and a review of court

files shows that over and over again, prosecutors either amended felony charges to misdemeanors or agreed to dispose of the cases with suspended sentences and probation.

This is not an anomaly. Given the complicated family dynamics that typically surround elder crimes, abusers often do not receive stiff punishment. In fact, many cause serious harm to their victims again and again because the criminal justice system fails to separate them.

**Vongogolinski immigrated** to the United States from Germany with his mother when he was a teenager. He attended school in East Greenwich for several years before dropping out following his freshman year of high school. In 1963, at age 16, he enlisted in the Army and was sent to Vietnam, where he suffered a nervous breakdown, court records show.

After being treated in a military hospital in Vietnam, he was discharged to the Brockton VA Hospital in Massachusetts. He was diagnosed with chronic paranoid schizophrenia and prescribed Prolixin, an antipsychotic drug.

In the 40 years following that first admission, Vongogolinski was repeatedly admitted to the Brockton VA Hospital and Rhode Island's Institute for Mental Health, which is now closed, for stays lasting up to a year. Medical professionals, recognizing the chronic nature of his illness, repeatedly advised that he be admitted to a VA foster home for long-term care. But Rządca and Vongogolinski refused.

As a result, Vongogolinski, who died in 2013 from dementia, never received proper treatment for his severe mental illness, and

Rzadca, who died in 2012 of natural causes, became the frequent target of his violence.

Over the years, Vongogolinski was arrested eight times for physically abusing his mother. His court files catalog a long list of Rzadca's injuries: bloody lips, bruises and broken ribs. But even after the police and legal system became aware of the abusive relationship, and even after Rzadca's multiple hospital admissions for injuries, no one took steps to sever ties between mother and son.

Rzadca did not want her son imprisoned or even removed from her home. She had no one else to turn to for support. If she cut ties with her son, not only would she lose her only familial connection in the United States, she would also lose her only caretaker.

**When Paul** Greenwood, the recently retired director of the Elder Abuse Prosecution Unit at the San Diego District Attorney's office, describes the typical profile of an elder abuser, it sounds eerily like Vongogolinski.

"It is the son. His age is between 35 and 55. He is still living at home with his elderly mother. He can't afford living by himself, and as a result he is mooching off her. He manipulates his mother, and he holds her emotionally captive in her own home."

Greenwood has never been involved in Vongogolinski's case, but he said it mirrors what happens every day in the realm of elder abuse. Greenwood has become nationally recognized for his aggressive approach in prosecuting crimes against the elderly. While many lawyers struggle to prosecute elder-abuse crimes —

either these crimes go undetected or the cases are quickly dismissed — Greenwood has developed strategies to ensure that perpetrators are held accountable.

When Greenwood began working on this issue two decades ago, he didn't even know the definition of elder abuse. Now, that definition is sadly familiar to him: elder abuse consists of physical abuse, neglect, exploitation, or larceny of an elder, which is defined as any person over the age of 60 in Rhode Island.

Unfolding in private between family members, many of these crimes are hard to prosecute, as victims are often reluctant to report members of their own families. Especially when perpetrators suffer from substance-abuse or mental-health issues, victims often refuse to testify, even as they suffer extreme physical consequences, a review of hundreds of court records shows.

Rzadca fits that profile — even after enduring nearly 30 years of abuse from her son, she was persistently unwilling to testify.

Greenwood takes a radical approach to this issue. "We do not allow victims to dictate which cases get filed. If I can prove the case beyond a reasonable doubt, I will file the case, no matter what."

If the victim is uncooperative, his unit uses testimony from neighbors and doctors, as well as from the victim's own 911 calls. Allowing victims to choose which cases to pursue ultimately puts them in more danger, says Greenwood. When victims drop a case, perpetrators realize that they can commit these crimes with impunity, and they are empowered to continue.

Mickaela Driscoll, the investigator for the Rhode Island attorney general's Elder Abuse Unit, does not go forward with cases against the victims' wishes, choosing instead to help victims in other ways.

"Even when the victims don't want to go forward, it's important to make sure that we get them the services they need and maybe get them away from the perpetrators and ensure that the abuse doesn't happen again," she said. "Safety is always the goal."

According to Greenwood, who advocates pursuing felony convictions and prison time for elder abusers whose victims are uncooperative, Rhode Island's approach doesn't go far enough.

"Rhode Island is going to end up with elder homicides," he said. "People are going to wonder whether this could have been prevented, and in most cases it could and should have been."

**Greenwood's approach** has its critics.

The victim's wishes should be the most important part of the equation, said Deborah Ferrante, manager of counseling services at the Elizabeth Buffum Chace Center in Warwick, which provides advocacy, education, and counseling services for victims of domestic violence and sexual assault.

"Only the victim knows what they need," she said.

After one of Vongogolinski's abusive incidents in 2006, Rzacca was referred to the Elizabeth Buffum Chace Center, where she was admitted to transitional housing and received counseling.

When mothers are abused by their children, Ferrante said, much of the counseling provided by the center aims to dispel the victims' belief that they are responsible for their own abuse.

"Often, moms have a sense of guilt. They ask, 'What did I do wrong?' So we make them understand that it wasn't their fault," said Ferrante.

In addition, advocates and counselors help victims plan for a safer future. Said Ferrante: "I am less likely to tell someone that they can't see that person anymore. I am more likely to work with them on how they can see them safely."

Even after encountering many repeat victims like Rzacca, Ferrante adamantly supports allowing victims to choose their own way forward.

For many victims, she said, their abuser is also their primary caregiver. While the abuser is obviously endangering the elderly victim, he or she is also the only person providing groceries and transportation to doctor's appointments, and caring for their everyday needs.

Marian Liu, an assistant professor at University of California in San Francisco and an expert on issues of elder justice, agrees with Ferrante. If the abuser goes to prison, the elder is safe from abuse, but also lacks the basic ability to care for themselves.

*Editor's note: The elder-abuse series was produced in cooperation with the nonprofit organization The Community Tribune.*

# **No uniform guideline in R.I. in charging elder abuse**

*By Jack Brook, Rebecca Ellis, Katrina Northrop and Asher Woodbury Special to The Journal*

While prosecutors across the nation have prioritized domestic-violence crimes since the 1990s, leading to a reduction in cases and widespread education on the topic, advocates say that elder abuse has not received sufficient attention from law enforcement and continues to be misunderstood.

Major legislation aimed at reducing child abuse has been on the books since the 1970s. The Violence Against Women Act was enacted in 1994. Only in 2010, with the Elder Justice Act, was legislation put in place specifically to fund elder-abuse prevention. A 2014 report from the Department of Justice notes that the knowledge base surrounding elder abuse “lags decades behind that of child abuse and domestic violence.”

“Elder abuse today is where domestic violence and child abuse used to be. We’re just starting to look at it and understand it and feel a responsibility to do something about it,” said Jeanne Gattegno, director of Saint Elizabeth Haven, a program in Warwick that provides shelter for elderly victims of abuse.

Gattegno echoes the sentiments of the DOJ report, which stresses approaching elder abuse with the same framework used by law enforcement in domestic-violence and child-abuse cases. Rhode Island's police academies now devote four hours to training recruits on how to identify and handle suspected elder abuse and neglect; but, unlike cases involving child abuse or domestic violence, the state has no formal coordination between government agencies, prosecutors, and health professionals to help elders navigate the legal system and ensure their safety, regardless of the case's outcome.

"The priority for elder-abuse-specific cases is to make the victim whole," says Amy Kempe, the public information officer for R.I. Attorney General Peter F. Kilmartin. "When our office charges individuals, we want to make sure we are charging them with the appropriate charges, no matter what. ...

"If it's an assault on a person over 60 ... that's what's charged," Kempe said. "If there is an opportunity and it's appropriate to attach that elder distinction onto a charge, then we do. How that case then proceeds through the system is based on a variety of different factors that are case specific. ... We always charge what we believe we can effectively prosecute beyond a reasonable doubt."

Asked about the data provided by the state's judiciary — which shows that less than 50 percent of those charged with felony elder-abuse crimes are convicted of those offenses, and that relatively few of them spend any time in prison — Kempe said courts don't track the age of victims, and this "would impact

statistics of individuals convicted of a crime committed upon an elder.”

“Defendants could be, and quite often are, charged with other offenses that fall outside of the elder-abuse statutes,” she said. “As an example, a person who commits an assault on a person over 60 could be, and often is, charged [instead] with felony assault. There are no minimums for a felony assault with serious injury, and prosecutors would not have to prove the added element of age. Other examples include, but are not limited to, robbery, obtaining money under false pretenses and other white-collar crimes offenses, sexual assault, patient abuse (depending on where the assault took place), murder, etc.

“A defendant who commits any crime on a person over 60 is more often charged with other offenses, which often carry stiffer penalties, based on the specific set of facts and not solely on the victim’s age.”

But Kempe also said that, as with all cases that get prosecuted in the courts, charges are often downgraded to misdemeanors through plea agreements with the prosecution.

Sifting the judiciary’s data using the parameters that Kempe described, the Brown reporters found that there were 180 cases where a defendant was charged with elder abuse but the state dismissed those charges, or the defendant was acquitted of elder abuse and prosecuted for related offenses. The conviction rate in those cases was 57.7 percent — almost 10 percent higher than the conviction rate for those charged with and convicted of elder abuse.

However, the incarceration rate remained relatively low: Only 22 percent of the defendants who were accused of elder abuse but convicted of other crimes received prison sentences. The average sentence was 1,062 days, higher than the 366-day average for convicted elder abusers. But half of those sent to the ACI were ordered to serve a year or less.

Julie Schoen, deputy director for the National Center for Elder Abuse at the University of Southern California's Keck School of Medicine, said she believes it is wrong for prosecutors to charge elder-abuse offenses under other statutes. Prosecutors, she said, should charge elder abuse as elder abuse, in large part because it usually carries enhanced penalties and restitution. But it's also important to apply elder-specific charges, Schoen said, to raise public awareness.

"In my mind, it helps to define the case more, and it helps to send a message to perpetrators that there are penalties related to this more protected class of people," Schoen said.

Kilmartin, a former Pawtucket police officer and state legislator, has lobbied hard to increase the penalties for elder abuse. Still, police say, it can be difficult to get an elder-abuse felony charge through the attorney general's Felony Screening Unit.

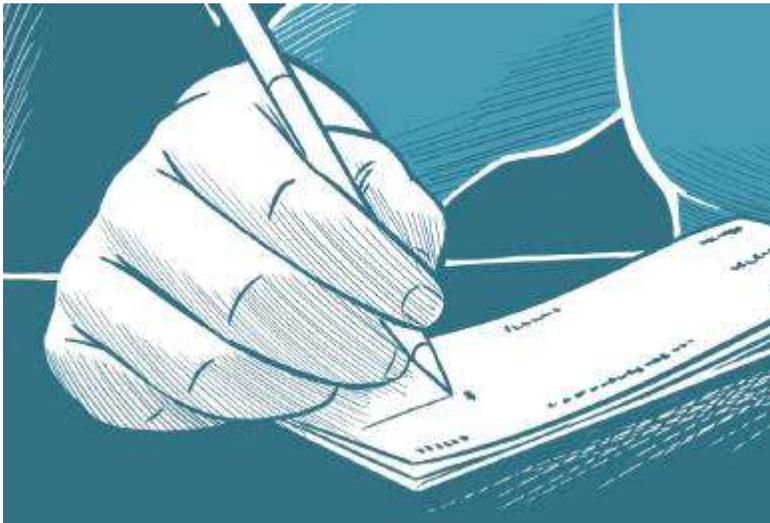
Christopher Correia of the Johnston Police Department said his office can "investigate a case and bring a case packaged to the attorney general." But, he said, "If it doesn't meet a requirement relevant to what they believe professionally is prosecutable as that felony sits, then it won't be taken."

**SPECIAL REPORT #6 : ELDER ABUSE IN R.I.**

# **'Guardian' turns financial predator**

**Jane Jacques was too impaired to realize that the lawyer appointed to manage her money was secretly stealing from her**

*By Andie Corban Special to The Journal*



JOURNAL ILLUSTRATION / TOM MURPHY



Attorney Janet Mastronardi at her 2013 arraignment on charges of embezzlement, larceny and exploitation of an elder for stealing \$129,107 from client Jane Jacques.

[THE PROVIDENCE JOURNAL, FILE /

ANDREW DICKERMAN]

# HOW TO REPORT ELDER ABUSE

Rhode Island law requires any person who has reasonable cause to believe that an elderly person has been abused by a family member or unpaid caregiver, or is neglecting to care for his or her basic needs, to notify the Division of Elderly Affairs. Failure to report abuse of a person age 60 or older can result in a fine of up to \$1,000. Reports can be filed anonymously 24 hours a day, seven days a week, including holidays, by calling

(401) 462-0555. To report abuse by a paid caregiver or others, call the local police department.

## **SIXTH OF NINE PARTS**

Jane Jacques, a cognitively impaired elderly Rhode Islander, was robbed of nearly \$130,000. The money wasn't stolen by a scam artist or a family member. It was taken by her court-appointed guardian, a Harvard-educated lawyer who was handling Jacques' finances since she couldn't do so herself.

Attorney Janet Mastronardi faced up to 60 years in prison for the charges filed against her, but after she admitted her guilt and paid full restitution, she did not serve any time behind bars. Her sentence was 30 months in home confinement.

Jacques was an amateur artist from North Kingstown who had led historical tours throughout Rhode Island. She had no children and was widowed for the last 16 years of her life. Toward the end, she suffered from vascular dementia and experienced multiple strokes. She died in 2013 in the West View Nursing Home in West Warwick.

While Jacques was a patient there, the nursing home contacted the Alliance for Better Long Term Care, asking for help in finding Jacques a legal guardian to handle her finances.

Jacques had blood relatives who lived in New England, according to court records, but she did not want them involved. A doctor who determined that Jacques was unable to manage her own affairs noted in his report that she was "paranoid about people stealing from her."

She had given power of attorney to an 85-year-old neighbor, but that arrangement didn't work out.

The Alliance, a federally funded nonprofit that seeks to promote the quality of life and care of people living in nursing homes, asked attorney Mark Sjoberg to petition the North Kingstown Probate Court for a guardianship for Jacques, according to Kathleen Herren, the state's ombudswoman for long-term care.

In September 2005, when Jacques was 80, Mastronardi was appointed her guardian by a North Kingstown probate judge. The Alliance had previously recommended Mastronardi to be a guardian for several other cognitively impaired clients, and Herren said that she was "very good to her clients." However, she said, in Jacques' case, the Alliance did not make the referral to Mastronardi, who is married to a lawyer in Sjoberg's office. It is unclear from court documents who made the recommendation.

The initial inventory filed with the probate court shows Jacques as having \$554,831.47 in cash and \$365,000 in real estate.

**Each year, as** required by law, guardians must file accountings with the probate court. Five years into the guardianship, Donna Halsband, Mastronardi's legal assistant/bookkeeper, started to get suspicious.

In September 2010, Hals-band was finalizing the annual accounting for the guardianship when she noticed that bank statements showed Jacques had about \$92,000 more than was listed on her accounting. She asked Mastronardi about the discrepancy. Mastronardi quickly gave her a new accounting that reconciled the differences.

Two months later, Halsband was writing checks from the Jacques account to cover Mastronardi's legal fees, which had been approved by the probate court. The next day when she went to photocopy an office file, she found a piece of paper that had been left in the machine. It showed three checks written to Mastronardi, with the same dates and in the same amounts as the checks Halsband had written for her the day before.

Even though it was Halsband's job to write all checks to Mastronardi for her legal fees, these checks bore Mastronardi's handwriting. The funds being withdrawn were from a Citizens Bank account belonging to Jacques that Halsband did not know existed.

Halsband's first reaction was that she had mistakenly forgotten to list the Citizens Bank account in the court filing that listed Jacques' assets. She combed through the Jacques files looking for the account, eventually concluding that she hadn't made a mistake — her boss had never made her aware of the money or the Citizens account.

"That's what brought it all to a head," she said. "It was just her and I in the office, so my first thought was, I need to cover my ass because this wasn't something that I did. So I wanted to make sure that I had all the proof that it wasn't just an account that I'd missed."

It didn't take long for Halsband to become a whistleblower.

She'd worked for Mastronardi for seven years, first part time from home and then as a full-time employee working out of the law

office that Mastronardi had set up in the East Greenwich home she shared with her husband, lawyer William Stanton.

Halsband was Mastronardi's only employee, and over time the two grew quite close. Mastronardi would come to the Halsbands' for Thanksgiving dinner. The two women would go Christmas shopping together, and they would periodically even take "mental health" days off from work and go to the Twin River Casino, Halsband said.

Halsband never told Mastronardi that she'd found evidence of the duplicate checks Mastronardi had written to herself. But once she'd found the copies, she became scared that she might be drawn into an investigation of Jacques' missing money, and maybe even suspected of wrongdoing. To protect herself, she made copies of the photocopied checks that Mastronardi had written to herself, and she began scouring the law office to see if she could find more.

She found a folder on Mastronardi's desk labeled "JJ" that wasn't kept with the office's other Jane Jacques files. The papers inside made Halsband even more suspicious. They showed that Jacques had two investment accounts Mastronardi had failed to report to the court. She had used the funds to open two new Citizens Bank accounts in Jacques' name, totaling more than \$214,000.

One of the accounts was the one she had used to double-pay herself. There were photocopies of more checks that Mastronardi had written to herself from these accounts as well, along with a note she'd written to remind herself to destroy the file when the accounts ran out of money.

On Feb. 11, 2011, Halsband said, Mastronardi's husband walked into the office and fired her without explanation. She told state investigators she believes she was terminated because she had questioned Mastronardi about Jacques' unreported investments.

Seventeen days after her termination, Halsband compiled all the papers she'd photocopied and anonymously sent them to the Rhode Island State Police and the board at the Rhode Island Supreme Court that handles disciplinary complaints against lawyers. She alerted them to what she believed the evidence indicated — that Mastronardi had stolen \$144,989.21 from Jacques over the previous year.

Since Halsband was Mastronardi's bookkeeper and sole employee, it didn't take long for authorities to suspect that she was the whistleblower. When an investigator showed up at Halsband's home, she admitted that she'd sent the documents.

**In March 2013**, a month before Jacques' death, Mastronardi was charged by the Rhode Island State Police with three felonies: embezzlement, larceny and exploitation of an elder for stealing \$129,107.57 from Jacques. She ultimately pleaded no contest to embezzlement and exploitation of an elder, and the state dropped the felony larceny charge as part of a plea deal. While the case was pending, Mastronardi made full restitution.

At the 2014 sentencing hearing, state prosecutor Maureen Keough, now a Superior Court judge, argued that Mastronardi deserved to go to prison for what she had done to her elderly and cognitively impaired client. The crime, she argued, was particularly troubling given Mastronardi's occupation as a lawyer, and as

someone whom Jacques had trusted to look after her best interests.

"She took that trust and she abused it and she used it for her own financial gain," Keough told now-deceased Superior Court Judge Walter R. Stone at the beginning of the hearing.

But in the end, the deal struck with the prosecution included no prison time.

Noting that Mastronardi had made full restitution and was in treatment for a gambling problem, the judge sentenced her to seven years in prison, with 30 months to serve on home confinement and the remaining 54 months suspended with probation.

At the sentencing hearing, Mastronardi's lawyer, Peter DiBiase, argued that a gambling addiction had driven his client to steal from Jacques. The state found that she had run up large losses at nearby casinos through 2012, totalling more than \$140,000 at Foxwoods, almost \$90,000 at Twin River and more than \$100,000 at Mohegan Sun.

At sentencing, Stone said he was impressed that Mastronardi was attending a program for people with gambling addictions. "There is no question in my mind that your gambling addiction led to some of the conduct involved here," he said.

**Just before her** sentencing, Mastronardi sold her East Greenwich home to make restitution to Jacques' living relatives. DiBiase said in court that the sale of this house displaced Mastronardi's elderly parents and two adult children who had been living with her and

Stanton. Mastronardi, he said, had “gone through great sacrifices to try to make her misconduct right.” He quoted Mastronardi’s husband, who claimed that they now lived a “very basic” life in an inexpensive Warwick rental.

What was never mentioned in court was the property on Martha’s Vineyard that Stanton and Mastronardi had bought in November 2011, nine months after Halsband reported Mastronardi to the police. The Oak Bluffs property was purchased for \$399,000, according to land records. Property records also show that Mastronardi and Stanton took out a \$279,000 mortgage to make the purchase, from Edgartown National Bank. There are two gingerbread-style cottages on the property, each with two bedrooms. The two homes together are assessed at \$593,000, according to a 2018 town appraisal.

When asked recently if he had known about the Martha’s Vineyard property, DiBiase declined to answer, citing attorney-client privilege, and abruptly hung up the phone.

*Editor’s note: The elder-abuse series was produced in cooperation with the nonprofit organization The Community Tribune.*

# Police: Financial crimes against elderly on upswing

*By Jack Brook Special to The Journal*

The number of elder-exploitation cases reported to the Financial Crimes Unit of the Rhode Island State Police has increased over the last five years, although on an annual basis, only 5 percent of the cases investigated by the unit relate to elder exploitation.

Det. Sgt. Matthew Salisbury, who heads the unit, said that in 2013, only three financial-exploitation cases relating to the elderly were referred to the unit for investigation. In 2016, there were 18, and so far this year, there have been eight.

"In the past couple of years, I've seen an increase in [elder] fraud cases," he said in an interview. "A lot has to do with social media. ... You might be thinking you're talking to one person and actually talking with someone different. And that community [elders], they're very trusting and because of that, the criminal will prey on that."

Salisbury said education is the best form of prevention. Since 2008, his unit has been speaking with senior groups and at nursing homes in Rhode Island to help make the elderly more aware of financial scams. He said the unit averages at least one information session a month, organized in response to requests from the community.

In August, the Financial Crimes Unit was asked by Diane Daigle, the head of the state attorney general's Elder Abuse Unit, to be part of an Elder Exploitation Multi-Disciplinary Team to combat financial crimes against the elderly, according to Laura Meade Kirk, public information officer for the Rhode Island State Police.

But the attorney general's office was not prepared to offer details on the new initiative, according to a statement from spokeswoman Amy Kempe:

"It is our policy not to announce new initiatives until such time as we are confident that all the appropriate resources, agencies and protocols are agreed upon and the required memorandum of understanding between agencies are secured to ensure systems are in place to support victims and enhance prosecution against perpetrators."

**SPECIAL REPORT #7 : ELDER ABUSE IN R.I.**

# **Gaming the system is easy for guardians**

**Attorney who fleeced elderly client was the subject of other complaints, and experts say many crimes go undetected**

*By Andie Corban Special to The Journal*



JOURNAL ILLUSTRATION / TOM MURPHY

Attorney Janet Mastronardi admitted to stealing nearly \$130,000 while serving as court-appointed guardian for Jane Jacques, an elderly and cognitively impaired stroke victim, and she made full restitution.

But other allegations regarding her billing practices emerged at Mastronardi's 2014 sentencing hearing. State prosecutor Maureen Keough, now a Superior Court judge, pointed out that civil complaints had been filed against Mastronardi for fee gouging.

Mastronardi, who had pleaded no contest to charges of embezzlement and exploitation of an elder in the Jacques case, was sentenced to seven years in prison, with 30 months to serve on home confinement and the remaining 54 months suspended with probation.

After her sentencing, David Curtin, the state Supreme Court's chief disciplinary counsel, said that several people called him to complain that Mastronardi had charged them exorbitant fees.

One case involved a guardianship over Lois Battles, a former physician for the Barrington School Department.

Mastronardi became Battles' guardian in 2005, the same year she was appointed Jacques' guardian.

A little over a year later, Battles' daughter and son-in-law wrote Tiverton Probate Court Judge Richard D'Addario, asking that the state assign a new guardian for Battles and investigate Mastronardi's competence to manage her assets.

They cited an "unnecessarily adversarial relationship" between them and Mastronardi and claimed that there was no evidence that she was acting in the best interests of her client. They also complained that there was little to no evidence to support some expenditures that Mastronardi claimed she had made on Battles' behalf.

In one month, more than \$2,500 was paid from Battles' assets to a limousine company, Airport Car Express, for transportation for Battles. Her daughter and son-in-law said Mastronardi, as fiduciary, should have refused to pay for the transportation because Battles' assisted-living community already provided free van service.

They also alleged there were instances in which Mastronardi charged for work that she did not do. Specifically, they cited a charge for a half-hour phone conversation with Battles' daughter, Catherine Harding, on Nov. 26, 2005. This happened to be the Hardings' wedding day, and Catherine wrote that she was certain this phone call did not occur.

Shortly after the complaint from the Hardings, Mastronardi resigned as Battles' guardian.

**There were other** complaints of fee gouging, too — none of which resulted in charges being filed or any other sanction. The son of a woman over whom Mastronardi had power of attorney tried to sue her for "exorbitant and excessive fees in connection with acting under said power of attorney," but the lawsuit was dismissed.

Donna Halsband, Mastronardi's legal assistant/bookkeeper, remembers several habits of Mastronardi's that gave her pause. As legal assistant, Hals-band would write all the checks from the firm and Mastronardi would sign them. But sometimes, Mastronardi would write a check made out to cash for a few thousand dollars from a client's account. When Hals-band would ask what the checks were for, Mastronardi would tell her that the

client wanted to buy something like savings bonds, but didn't want anyone to know.

"I was like, why can't I know about it? It's not like I'm going to run into her tomorrow and be like, 'Oh, you bought savings bonds,'" Halsband said. "Those were red flags that would come up on different accounts. She would always have some different reason."

In a Gloucester guardianship case over an elderly woman with dementia, Probate Judge William Bernstein denied Mastronardi's first request for legal fees, which totaled more than \$13,000. The reason, Bernstein wrote in a court filing, was that not all time billed by Mastronardi was for legal work — some hours should have been billed at a lower rate for her work as guardian.

"I am mindful that you are entitled to compensation for services rendered as Guardian; however, this Court will not allow those services to be billed at the same rate as legal services," Bernstein wrote to Mastronardi in a letter included in a court filing.

Not every hour spent working as someone's guardian is spent doing legal work, according to Hyman Darling, president of the National Academy of Elder Law Attorneys. Some work, such as paying a bill for a client, should be charged at a lower rate because it is a simpler action and does not require legal training. However, time spent making legal decisions should be charged at the higher hourly legal rate, said Darling, who practices law in western Massachusetts.

Following Bernstein's denial of her fee petition, Mastronardi submitted an amended petition for nearly \$3,000 less than her original request. Bernstein approved the revised petition.

**According to the** National Center on Elder Abuse, financial mistreatment is the second-most-common form of elder abuse. However, elder abuse as a whole is severely underreported. D’Addario, who practices law in Newport as well as serving as probate judge in Tiverton and Little Compton, said it is shocking how easy it is to financially exploit people for whom one has guardianship or power of attorney. He speculated that if he couldn’t make his mortgage payment one month, it would be easy to rip off an elderly client.

“I could grab a couple of grand and they wouldn’t even know it,” he said. “I hate to say that, but it’s true. It’s easy to abuse somebody.”

Darling said he has seen situations like Mastronardi’s happen “too many times,” from lawyers suffering from gambling, alcohol, or drug problems. (Mastronardi’s lawyer told the court during her sentencing hearing that a gambling addiction had driven her to steal from Jacques.) He also worries about the numerous instances when the legal system never learns of misappropriation of funds by attorneys.

Darling said it’s easy to trick probate court judges into approving charges or spending that may be improper or illegal. It’s difficult, he said, for the court to know if the guardian is being honest about how he or she spent money.

Looking back on his time as judge overseeing Mastronardi’s guardianship of Lois Battles, D’Addario said the bills appeared to be in order, but it’s difficult to know for sure. “Maybe she

exaggerated her hours, I don't know," he said. "There's no way to tell that because the work was itemized, it was laid out."

If Halsband hadn't discovered and then reported the accounts that Mastronardi opened at Citizens Bank with Jane Jacques' money, no one would have known they existed, and Mastronardi would have been left with unchecked access to tens of thousands of dollars of her ward's money.

Judges could look through tax returns and act as forensic accountants, said Darling, but this takes resources that most courts and government offices don't have. "There's only so much you can do. You can't presume that everybody is guilty."

In a press release following Mastronardi's sentence of home confinement, Rhode Island Attorney General Peter F. Kilmartin said, "financial exploitation of elders is one of the most challenging charges to investigate and prosecute."

At the time of Mastronardi's arrest for stealing Jacques' money, she was serving as court-appointed guardian for five other cognitively impaired Rhode Island women.

All have been appointed substitute guardians. Mastronardi, who declined to comment for this story, is now disbarred.

*Editor's note: The elder-abuse series was produced in cooperation with the nonprofit organization The Community Tribune.*

**SPECIAL REPORT #8 : ELDER ABUSE IN R.I.**

# **Scammers prey upon victims' trust and fear**

**Security experts preach prevention through education, since prosecution of these crimes is nearly impossible**

*By Jack Brook and Rebecca Ellis Special to The Journal*



JOURNAL ILLUSTRATION / TOM MURPHY

Hear Brown University Prof. Tracy Breton and two of her student reporters discuss the significance of the elder-abuse series at [providencejournal.com](http://providencejournal.com).



John T. Clarkson, Pawtucket Credit Union's vice president for security, acts as a guard dog for the funds of the credit union's 80,000 clients, catching anywhere from five to 10 instances of attempted fraud every week. [THE PROVIDENCE JOURNAL / SANDOR BODO]

## **EIGHTH OF NINE PARTS**

When a 72-year-old man showed up at the Pawtucket Credit Union and asked for \$6,000 in cash, the teller didn't think anything of it. But when the man returned four hours later and attempted to withdraw an additional \$9,000, the teller became suspicious.

The assistant manager was brought in. The man explained that his grandson was in trouble, and he was helping out. He got the money.

Then the man came back the next day and asked for another \$6,000. This time, PCU staff alerted John Clarkson, the credit union's assistant vice president of security.

"When they called me, I was ready to reach my hands through the phone, because I knew exactly what was going on," Clarkson told an audience of law enforcement officers, social workers and other professionals at a recent convention on elder abuse hosted by the Rhode Island Division of Elderly Affairs.

Clarkson immediately called the man and told him he was being scammed. The man didn't believe him. He explained that the cash was for his grandson, Steven, but he couldn't say more.

Clarkson pressed further and convinced the man to tell him exactly what happened.

A few nights before, the man's phone had rung.

"Grandpa, grandpa, you gotta help me, I'm in jail — I've been arrested," a voice on the other end cried.

"Steven, is that you?" the man replied.

"Yeah, it's Steven, you gotta help me."

The grandfather agreed to help, and his grandson begged him not to tell his father about the arrest.

The man was then transferred to the grandson's supposed attorney, who asked him to send \$6,000 the next day for bail money.

The man withdrew the \$6,000 as instructed. However, the "attorney" wasn't done. He would be requiring \$21,000 worth of gift cards. After the man made the three withdrawals at the credit union, he walked across the street to Walmart and, over the

course of the next two days, siphoned a portion of his life savings into iTunes gift cards. He then phoned the man he believed to be his grandson's attorney and slowly read out the numbers on the back of each card.

Clarkson contacted Walmart and was told by the manager that the money was gone. The next call was to the police.

Clarkson later learned that the officer had never filed a report because "the crime didn't happen where he [the man] lived." It had happened over telephone wires that no one would trace back to a perpetrator. The officer felt it was out of his jurisdiction.

"I can tell you this: that is not an uncommon thing," said Clarkson, adding that police need to be better educated on how to deal with situations of elder exploitation.

After a 23-year career at the Pawtucket Police Department, Clarkson thought he had a good sense of the city's underbelly.

But it wasn't until 2004, when Clarkson stepped into his new role in PCU's security and fraud department that he began to notice a strain of crime that had eluded the police, wreaking havoc on the private bank accounts and checkbooks that the lone patrol officer doesn't see.

In his 13 years at the credit union, Clarkson has encountered 22-year-olds scammed out of rent money and 40-year-olds swindled out of their life savings. Yet Clarkson said a significant portion of the accounts he red-flags for scams belong to the elderly, a demographic that tends to be less computer-savvy and more isolated than the credit union's younger clients.

These seniors often have sizable savings accounts, padded by Social Security checks and the fruits of decades in the workforce. Studies estimate the potential annual losses caused by financial exploitation of the elderly to be in the billions.

As PCU's primary security agent, Clarkson acts as guard dog for the funds of the credit union's 80,000 clients, catching anywhere from five to 10 instances of attempted fraud every week. He estimates that at least two of these attempts target senior citizens, though he expects there are three times as many victims who never come forward, ashamed that they fell for a scam as rudimentary as the offer of a free trip to Hawaii.

### **Types of scams**

These scams can be obvious to everyone but the victim. A computerless 70-year-old will spend thousands on iTunes gift cards, or a woman in her 80s will wire her life savings to a mysterious boyfriend enlisted in the Nigerian military.

"They'll refer to a person they never actually met as their fiancée," Clarkson said.

These "sweetheart" scams, in which the scammer woos a victim on a dating website and coaxes them into transferring money, are rooted in loneliness that a security agent might be ill-equipped to deal with. "They're looking for something. They want something deeper," Clarkson said of these clients.

Most of the people who fall victim to sweetheart scams are elderly with a deceased spouse, according to Clarkson. Scammers offer

them a chance for new companionship, and clients can be reluctant to let go of that.

The victim will “say [to the scammer], ‘The bank told me you were scamming me,’ and they’ll say, ‘No, honey, I love you,’” Clarkson said.

Scammers even troll support groups for the bereaved, according to Julie Schoen, deputy director for the National Center on Elder Abuse at the University of Southern California.

“They look for vulnerable older people and ingratiate themselves with the recently widowed person and earn their trust,” Schoen said.

Some scams, like the “grandparent scam” Clarkson encountered, are tailored to specific details of an elder’s life. Scammers may scour social media to find out where a grandchild is vacationing to give the ploy some weight.

Other cons include the timeless IRS scam, in which an authoritative voice on the end of the line informs an elder that they owe money to the agency. If they don’t wire funds immediately, they supposedly risk arrest. Some scammers will say they need an elder’s Social Security number in order to send them an updated Medicare card.

“One of the major factors in why people are susceptible to these scams is because of social isolation,” Schoen said. “People are getting calls that say, ‘We just need to verify your information,’ and they are simply giving away that information.”

Police officers say the success of scams like these stems not just from solitude, but from a generational gap. "They're from a generation where you took people at their word with a handshake," said former Foster Police Chief William Ziehl.

Clarkson has seen unusually trusting clients "worked," with credit cards and checking accounts leaking funds into multiple scammers' accounts.

If a victim has fallen prey multiple times, a scammer may place them on a list of easy targets, which can then be sold on the dark web to other scammers, according to Clarkson.

After landing on one of these lists, one of Clarkson's customers fell victim over a dozen more times. PCU ended up insisting that the man close all his checking accounts. Now, when he needs to withdraw money from an account, he will approach one of PCU's tellers and ask them to personally write him a cashier's check.

### **Prosecuting scams**

For scams that occur by phone or by web, Clarkson said prevention is all he can offer his customers. Once the money is transferred, he said, it's nearly impossible for law enforcement to recover it.

"There are many documented cases where people have taken their life because they were scammed out of so much they didn't know what to do. In our industry, we know all about this," said Clarkson. "We just can't get the money back."

When financial crimes originate outside the state, the Financial Crimes Unit of the Rhode Island State Police will make an internal report but won't investigate because it lacks jurisdiction. For computer scams, the office will trace the IP address, though there is not much else the state police can do if the scammer is outside Rhode Island.

Prosecuting financial scams becomes particularly difficult when scammers use elders as "mules" to launder money through multiple states. One victim will be used to send money to the account of another, who will wire it to a third party, and so on. The trail of accounts proves untraceable by the time the money reaches the scammer.

Though many of Rhode Island's police departments point to financial exploitation as the most common form of elder abuse, officers say the cases involving scams hardly ever go anywhere. "The results of 99.9 percent of [scam] investigations are overseas," said Hopkinton Detective Glenn Ahern. Officers file a report, and the case is logged and forgotten.

Ray Pingitore, an elder-victim advocate for Tri-County Community Action in Johnston, said that there is a "less-than-zero chance" that victims of scams will recover their money once it is transferred.

Victim advocates like Pingitore say they can only provide damage control.

"We sit with them and shut accounts down," Pingitore said. "We make sure they know who to contact in the future. We follow up with phone calls to see how they're doing."

Even Paul Greenwood, recently retired from the San Diego District Attorney's Office, where he became one of the country's most aggressive elder-abuse prosecutors, has a difficult time prosecuting scams when they cross state lines, as almost all do. Though he maintains a 90-percent conviction rate for elder-abuse cases, financial scams often end up in the 10 percent of cases that get dismissed.

"They're time-consuming," he said, pointing to the need to involve federal authorities, U.S. Attorneys, FBI agents and whatever banking institution is involved.

### **Efforts to stop scams**

In 2012, prosecutors at Alaska's Elder Fraud and Assistance Office began noticing the state's seniors getting caught up in serious scams despite having full mental capacity. Beth Goldstein, a prosecutor at the office, said these victims were convinced that by sending money to these scammers, they would receive even larger sums of money in return.

Her office began implementing 20-day protective orders that could be enacted without the elder's permission. While other states have similar adult protective orders, Goldstein said her office is the first to use them against unknown scammers — people operating outside the country, either online or over the phone.

The protective order, which can be filed by a friend or family member, allows the victim's phone number to be changed and gives family members the ability to temporarily freeze the elder's assets.

"It gets the victim to acknowledge that the perpetrator could be an unknown scammer," Goldstein said.

If it seems that the danger of a scam is likely to persist beyond 20 days, Goldstein's office has the opportunity to press for a temporary conservatorship. Following a hearing, the court can appoint a conservator for up to six months to manage the elder's finances. Unlike a guardianship, which requires some form of incapacity, the conservator can't make decisions that affect other areas of the elder's life, such as health care or housing.

Greenwood tried to go after these scams in San Diego by requiring the police to bring him every scam report, even if the chance of prosecution were slim. Otherwise, he worried that the case would be lost in civil court.

"I guarantee you that in Rhode Island ... many, many potential criminal cases are being lost in the system because a police officer has been telling a victim or victim's family that it's just a civil matter," he said.

His practice was to tell the police: "Don't say that. I want you to document it, even if you don't think anything can be done." This way, he said, he was able to provide the legislature with data about how much the county loses yearly to these scammers. Like California, Rhode Island keeps no records on how much residents lose through scams per year.

Greenwood said new laws need to be enacted to allow easier prosecutions of scams.

**SPECIAL REPORT # 9: ELDER ABUSE IN R.I.**

# **Exploitation puts a high price on friendship**

**The gray area of consent often complicates prosecution as victims refuse to doubt the motives of their predators**

*By Jack Brook and Rebecca Ellis Special to The Journal*



JOURNAL ILLUSTRATION / TOM MURPHY





A family photo shows retired Navy Capt. Daniel Joseph Mooney Jr. and his wife, Barbara Mooney. The Mooneys, who died in their late 80s and suffered from cognitive impairment, lost more than \$750,000 to Barbara Mooney's accountant, James Vieira. [COURTESY OF DEBORAH O'BRIEN]



Resende



Goncalves-Babbit



Vieira

Not all scammers work in the shadows. While the perpetrators of telephone and internet scams can live hundreds of thousands of miles away from their victims, financial exploitation is a much more intimate crime. From the outside, the relationship between victim and perpetrator may look a lot like friendship.

In 2008, the Rhode Island General Assembly created charges to go after this crime, designating “elder exploitation” a felony charge. It was defined as the use of “deception or intimidation” to deprive an elder of their finances.

Legislators passed a bill in 2014 that extended the statute of limitations for reporting elder exploitation from three years to 10.

Even so, prosecuting this type of crime — and getting the charges to stick — has remained thorny.

**As Maria Almeida** headed into her 70s, she’d come to depend on her upstairs neighbors, Jaime and Fernanda Resende.

“We do everything for her,” Jaime Resende said, according to court records. “She had nobody to do what I did for her.”

Resende helped Almeida fix up her apartment in Warren. He brought her to the grocery store, doctors’ appointments, and to the bank. His wife rubbed her feet and washed her clothes.

A native of Portugal, Almeida knew little English. Her late husband had left her close to \$3 million. But, as Almeida later told investigators, she did not understand how to read a bank statement.

Jaime Resende admitted to police that he had often filled in and cashed blank checks that Almeida had signed, depositing them into his bank account. But he insisted that it was not for his benefit, but to make purchases for Almeida.

Much of the money, however, found its way into the couple's pockets. In October 2008 alone, they received \$28,000 from Almeida.

"I never take advantage," Jaime Resende later testified. "She gave me the money because she wants me to have the money ... to help us. ... I know she has the money; I know she never use the money."

From the middle of 2007 to the end of 2009, the couple received a total of \$360,000 from Almeida. Their neighbor had funded a refurnishing of their home, paid off Jaime Resende's \$40,000 credit-card debt, bought the couple a new car, and sent them on a trip to Portugal.

But Humberta Goncalves-Babbit, who had been granted power of attorney for Almeida, started getting suspicious after the Resendes kept pestering her to help them obtain guardianship. Goncalves-Babbit went to the police to report the couple.

"She was afraid that if she refused their requests ... they would get angry and abandon her, and she would have no one," Goncalves-Babbit wrote in a police statement.

Almeida confirmed that the relationship was not as rosy as the Resendes made it out to be.

"They're the worst people I ever knew," Almeida told investigators. She said she never wanted to see them again.

There were warning signs of financial abuse — Jaime Resende showed up dozens of times at Almeida's bank, withdrawing large sums and calling himself her nephew. He visited Almeida repeatedly when she went into a nursing home, reminding her each time of how much she needed him and his wife, according to a nurse who spoke Portuguese.

And Almeida had previously told her doctor she was concerned that her neighbors were stealing from her. At the time, the doctor dismissed her concerns as "paranoid" exaggerations. He declared her capable of handling her own finances, despite her admission that she didn't know how to write a check.

"You mean it's true?" the doctor allegedly told Goncalves-Babbit after she explained that Almeida was the target of financial abuse and asked him to re-evaluate her.

After following the trail of checks, prosecutors got Jaime Resende to plead no contest to one count of exploitation of an elder. Now-retired Superior Court Judge Edward C. Clifton spared Resende a prison sentence, placing him instead on five years' probation on

the condition that he make \$50,000 in restitution, paying \$20,000 up front and the rest in \$500 monthly installments.

She "can have it all back," Resende said, "even the car." But he had only \$57,000 in his bank account, he told investigators.

Working as a janitor for \$18 an hour, Resende eventually met the court's demand by 2016. By that time, Almeida had been dead for six years.

**In the case** of Almeida, Goncalves-Babbit was the hero, alerting the police to exploitation that no one else could see.

Yet holding power of attorney can prove tempting for those looking to benefit from seniors' savings, as it provides complete control over an elder's finances. Even Goncalves-Babbit could not resist that temptation.

In July 2011, 91-year-old Antone M. Silva granted Goncalves-Babbit full control of his financial affairs with a durable power of attorney. Silva had plenty of money at the time. A widower and grandfather of four, he had saved up over years of working as a furnace operator at Texas Instruments and as a dyer at Newport Finishing.

But two years later, Silva faced eviction from the Crestwood Nursing and Convalescent Home in Warren. He'd racked up an unpaid bill of \$51,000, and the nursing home was demanding payment.

Goncalves-Babbit ignored her client's predicament, and a resulting police investigation revealed that she had taken \$96,566.34 from Silva's bank account for her personal use, remodeling her kitchen and making huge purchases at Petco and Sam's Club. Silva vigorously denied authorizing the transactions and pressed criminal charges.

After she learned about the complaint, Goncalves-Babbit returned \$71,000 to Silva and voluntarily surrendered her license to practice law.

She never served a day in prison.

Instead, the attorney general's office negotiated a plea deal in which Goncalves-Babbit would receive a suspended eight-year sentence on the condition that she pay restitution up front.

Initially charged with elder exploitation, Goncalves-Babbit was ultimately convicted of "unlawfully appropriating over \$1,000." Court records show that she paid the \$26,000 in restitution ordered by the sentencing judge, Kristin E. Rodgers.

Again, justice for the victim came too late. Silva died in May 2014, before Goncalves-Babbit was even arrested.

For many perpetrators, making restitution is preferable to going to prison, says Diane Daigle, lead prosecutor for Rhode Island attorney general's Elder Abuse Unit.

"When a defendant faces 'You're going to go to prison or pay this money up front,' I think it creates an incentive for that defendant to pay that money up front and do whatever they need to do [to make restitution]," Daigle says.

Amy Kempe, spokeswoman for Attorney General Peter F. Kilmartin, said the state's judiciary is ultimately responsible for tracking and collecting restitution.

However, though perpetrators are sometimes spared prison terms so they can pay restitution, the arrangement doesn't always work out so well for the victims.

"We [the attorney general's office] don't keep track of what is collected by the courts but I would have to guess it is a mere pittance to what was ordered," she said.

The priority in elder-exploitation cases is to get the victim's money back rather than send the perpetrator to prison, she added.

## **Roadblocks to prosecution**

Convincing an elder that they're being exploited by someone they've come to depend on is not easy. John Clarkson, assistant vice president for security at Pawtucket Credit Union, has watched customers lose their life savings and still refuse to believe they've been taken advantage of. In their mind, it was a "loan" or a "gift" to be returned when the lover's business got off the ground, or a stalled inheritance finally came through. Clarkson has gotten

customers' children involved. In extreme cases, he's barred victims from banking at his credit union.

One older woman, a former school teacher who used to bank at PCU, has sent hundreds of thousands of dollars to her neighbor, who had promised to make improvements around her home. Clarkson said he called the woman multiple times to convince her that the neighbor was taking advantage of her.

In a phone conversation last year, Clarkson asked the woman what the improvements would entail.

He's going to fix up my kitchen, the woman explained.

Clarkson told the woman that the amount of money she had sent him was more than the value of her entire house. He asked if her neighbor had done anything else for her.

After a long pause, the woman replied that the man gave her rides around town. She sounded confused and defiant, he said.

The 30-minute conversation went nowhere, and the woman eventually switched to a different financial institution after Clarkson refused to let her withdraw more cash. Clarkson said he made the attorney general's office aware of the situation and they conducted an investigation, but the woman refused to cooperate and the exploiter hasn't been charged.

Prosecuting cases of prolonged financial exploitation can be particularly difficult, given the gray area of consent.

Page Ulrey, an elder-abuse prosecutor from King County, Washington, said her unit always considers that the victim might

have the capacity to give true consent on a financial transaction that her office may view as questionable. "If the victim is making bad decisions," she said, "that is their right."

But if an elder is funneling money into someone else's pocket while suffering from some form of cognitive decline such as dementia, prosecutors have grounds to press charges.

Ulrey stressed the importance of thoroughly investigating a person's spending habits to inform a decision about their mental capacity. If an elder won't agree to a psychiatric evaluation, an agency or family member can file for guardianship.

When there are no grounds for a guardianship, Ulrey said the best thing to do is to separate the victim from the perpetrator, or get the money out of the victim's hands.

"Then, the victim usually comes around," she said.

Julie Schoen, deputy director of the National Center for Elder Abuse at the University of Southern California's Keck School of Medicine, advised elders to have frank conversations about their finances and plan their estates before they become too frail. Those who wait too long risk making themselves vulnerable to end-of-life leeches.

**Retired school teacher** Barbara Mooney, of Hopkinton, separated from her cognitively impaired husband when she was in her 80s and began to isolate herself from the rest of her family. She turned to James Vieira, her accountant and confidant.

Vieira accompanied her to medical meetings and took an active role in her daily life. In 2001, Mooney granted him indefinite power of attorney over her finances.

A few years later, officials at the Washington Trust Company began to worry about Mooney's financial situation and requested a meeting with her. Over four years, she'd given more than \$750,000 to her accountant, much of it through a joint account created in both their names. Mooney brought Vieira to the meeting. "He is the best," she promised bank officials.

Soon after, Mooney started to show signs of dementia and Alzheimer's, though by the time she received an official diagnosis, Vieira had stopped withdrawing money from her account. Law enforcement only got involved when Mooney told her son, on his deathbed with cancer, that she didn't have enough money left to come visit him in South Carolina.

Vieira, a Superior Court judge later inferred, "used this money as his own," buying fine art and making dozens of purchases on eBay. Judge Jeffrey A. Lanphear said that Vieira had taken advantage of Mooney — his conduct, the judge wrote, was "abhorrent, deplorable, shameful, and takes advantage of some of the most hapless victims in our society."

Nevertheless, Lanphear, after hearing all the state's evidence in a jury-waived trial, dismissed all 15 charges that prosecutors had brought against Vieira.

The judge said prosecutors could not prove that "Mr. Vieira's influence overcame Mrs. Mooney's free will."

She had signed all the checks and she had given him power of attorney early on. The joint account was legal. She had not been officially diagnosed as cognitively incapacitated when she handed over her money or control of her finances.

"There is nothing to demonstrate that Mrs. Mooney was strong-armed or duped by Mr. Vieira," Lanphear said.

The court felt it was hamstrung. By the time the case had come to trial, Lanphear noted, both Mr. and Mrs. Mooney had died, and neither was available to testify as state's witnesses.

These outcomes are common in prosecuting such cases, Ulrey said. She believes that ageism can prevent these cases from being taken seriously by judges and the criminal justice system.

"There is a lack of understanding of the damage that's done to elders by the victimization," Ulrey said. "Somehow, we're less shocked and upset at the victimization of an elder person than we are in response to victimization of a child."