

# Remedies for Victims in Elder Abuse Cases

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## Multnomah County's elder fraud unit helps expose 'trusted friend' as con artist

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**Maxine Bernstein, The Oregonian**  
By



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Motoya Nakamura/The Oregonian

Tina Ephrem appears in Multnomah County Circuit Court last month to be sentenced for aggravated theft.

Several months after his wife of 50 years died from breast cancer, R [REDACTED] H [REDACTED] was approached by a woman at the Gateway Fred Meyer store. She asked H [REDACTED] whether he knew where a certain item was shelved and started a friendly conversation.

They talked for a while, exchanged phone numbers and then met for coffee, and occasionally dinner.

But the casual connection turned into a cunning con -- one H [REDACTED] didn't see coming, especially when he came to view the woman who called to check on him several times a day as a "dear and trusted friend," court documents show.

The woman who befriended H [REDACTED] is now one of three family members facing Oregon, Washington or federal prosecutions for fraud. Two are accused of exploiting elderly victims in Portland and Washington state. A third family member is accused of defrauding the federal government.

Con artists who specialize in fleecing the elderly often succeed, leaving their victim unaware or too embarrassed to report the deception to family or law enforcement. But in the Portland case, an alert bank manager wondered about one of her customer's large, frequent withdrawals, knew who to call in the county and set off an investigation by **Multnomah County's elder financial abuse specialist team.**

State cuts this year threatened to reduce adult protective investigators on the team, but the county last week found one-time funding to provide a temporary reprieve. The county has successfully prosecuted 110 elder fraud cases in the past year and a half, partly thanks to its team of two adult protective service investigators, a Multnomah County sheriff's detective, a deputy district attorney and a forensic accountant. The team works closely with Portland's elder-vulnerable adult unit, and has trained more than 1,000 bank employees, caseworkers and caregivers on how to detect scams, and the elderly on how to protect themselves.

Washington and Clackamas counties have multidisciplinary teams that target elder abuse but not a separate group that's focused on elder financial abuse.

"It's just a good collaboration," said Detective Jay Pentheny, assigned to the team from the sheriff's office. "I was afraid of any cuts coming to us when we're working so well on these cases. I applaud the county for their efforts in supporting elder financial abuse issues. These crimes cost all of us financially and most of all, cost the victims who also suffer lasting emotional abuse."

### A promise of \$240,000

By April 2010, the woman who identified herself as Tina Johnson confided to H [REDACTED] that she and her brother were to receive a \$20 million inheritance from their deceased aunt and uncle, who had raised them after their parents died years ago. But she said her aunt's business partner had been targeting the inheritance, tying up the money by putting liens on the estate's property.

The liens had to be paid off before the inheritance was released. If H [REDACTED] helped her, she promised to pay him \$240,000 from her inheritance.

H [REDACTED], now 79, gave her as much as he had available, \$40,000, and also persuaded his friend, K [REDACTED] P [REDACTED], now 78, to help Johnson. P [REDACTED] turned over \$140,800 to Johnson between April and August 2010, with the promise she'd pay him \$1.5 million in return.

On Aug. 2, 2010, an astute **Consolidated Federal Credit Union** manager found it suspicious that P [REDACTED] had sought five cashier's checks, each for thousands of dollars, over a short period and alerted a Multnomah County Adult Protective Services investigator.

Pentheny, the Multnomah County elder fraud detective, intervened before P [REDACTED] obtained a sixth cashier's check for \$57,000.

"I had to convince these guys for an hour each that this was a scam, and this girl was not legit," Pentheny said. "Now they're kicking themselves, because they can't believe how they got duped. But I tried to explain to them, she's a professional scam artist. That's what she does. Her job is to get your money."

H [REDACTED] told Pentheny he invested the money because he wanted to help Tina, and he was promised substantial money in return.

"I was the first sucker I guess," H [REDACTED] told the detective, according to a search warrant

## Elder financial abuse

Multnomah County cases prosecuted: 110

Restitution ordered: \$3 million

Amount recovered: \$500,000

Total complaints in 2010: 555

Other resources

Multnomah County Adult Protective Services: 503-988-4450

Portland police elder crimes and vulnerable adult unit: 503-823-0950

Washington County Human Services, Seniors and People with Disability Office: 503-640-3489

Washington County Elder Safe: 503-846-6048

Clackamas County, Adult Protective Services: 971-673-6655

The statewide, 24-hour Adult Protective Services hotline: 800-232-3020.

Anyone who may have had contact with Tina or Tim Ephrem, or been a victim of a similar financial scam, is encouraged to call Multnomah County Detective Jay Pentheny 503-988-4450.

affidavit.

Multnomah County prosecutor Charles Mickley described the scheme as a "classic sweetheart swindle."

"It seems like a scam that shouldn't work," Mickley said, "but they seek out a victim because they're elderly, endear themselves to the victim and steal their money."

Pentheny quickly learned that Johnson was really Tina Ephrem, now 36, who identifies herself as part of a Roma, or Gypsy, family.

P [redacted] learned about Tina from H [redacted], his good friend for two decades. Sometime in April 2010, H [redacted] told P [redacted] about a "way to make some extra money," introduced him to Tina and she shared her inheritance story.

P [redacted] obtained five cashier's checks made out to H [redacted] from Consolidated Credit Union and Wells Fargo between April 21 and Aug. 9, 2010. Tina had told him that her attorneys demanded cash and would not take checks.

H [redacted], in turn, cashed the checks and would give the money directly to Tina, who drove to his house in a beige Cadillac, sometimes accompanied by her 10-year-old daughter.

With a search warrant, the sheriff's office raided Tina Ephrem's home off Northeast 126th Avenue in late October 2010.



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Motoya Nakamura/The Oregonian

Rita Ephrem, Tina Ephrem's mother, told police that her daughter was the black sheep of the family.

Investigators seized about \$22,000 in cash, 70 diamonds, numerous silver and gold coins, rifles and a handgun. Tina's mother, Rita Ephrem, who said she's lived in the home for more than 30 years, went to court to retrieve the firearms, saying they belonged to her late husband. She said the cash, found in money bags in different bedrooms, coins and diamonds were hers. She said stashing cash in bags in the home is not unusual for members of the Gypsy community.

At the time of the search, Rita Ephrem told detectives her daughter didn't live there and described Tina as the "black sheep" of the family because Tina Ephrem had a daughter out of wedlock.

"I never got along with her," Rita Ephrem testified. "We had no relationship with her."

In May, Tina Ephrem pleaded guilty to three counts of first-degree aggravated theft. As part of a plea deal, she promised to repay the two elderly men by the time she was sentenced. "I cheated the victims out of their money as

alleged," she wrote in a May 16 plea agreement.

### Another family member

Pentheny dug into Tina Ephrem's past and quickly learned that she wasn't the only one in her family accused of fraud.

In March Tim Ephrem, Tina's second cousin and father of her child, now 42, was charged in King County, Washington, with four counts of first-degree theft, stemming from a similar alleged financial exploitation scheme. He'd previously been convicted of theft in Pierce County, Washington.

Between 2005 and 2009, Washington resident Frederick "Smokey" Basler said, he gave Tim Ephrem varying sums of money, up to \$2.3 million, to pay off what he thought were legal fees stemming from a probate estate relating to Ephrem's deceased father. In exchange, Tim Ephrem promised Basler a third of the estate's assets, reportedly worth about \$500 million. When Basler didn't receive anything and Tim Ephrem suddenly vanished, Basler contacted a lawyer and law enforcement.



[View full size](#)  
Tim Ephrem

Basler first met Tim Ephrem in 1999, when Basler bought a truck for his electric business from him after answering a newspaper ad. By 2005, they'd become friendly. Basler and his wife had met Tim and Tina for dinner several times, and visited the Ephrems' 6,000-square-foot home with its circular driveway, indoor pool and baby grand piano, outside Tacoma. Ephrem's extravagant home convinced Basler that Ephrem had, indeed, come into an inheritance.

Now Basler, 64, is stunned by how he was taken. "We don't have our retirement any more," he said. "I'm not a stupid person, and I'm usually not a gullible person. I look back on it, and I just can't believe it."

Meanwhile, Tim's mother, Lizzie Stevens, faces federal indictment in U.S. District Court in Portland, accused of theft of government funds and Social Security fraud. Authorities discovered that Stevens had \$900,000 in a safe deposit box at Vancouver's First Independent Bank, while she was collecting supplemental security income and Medicare over a 20-year period, according to court papers. She's pleaded not guilty to the charges.

After Tina Ephrem's arrest, Stevens wrote \$340,000 in cashier's checks to Tina Ephrem in December 2010 -- money Ephrem's attorney placed in a client trust account to be used to pay legal costs or restitution to victims. But Stevens later instructed Tina Ephrem's lawyer, Jacob Wieselman, that the money was hers, and not to be used by Tina. The attorney had a mediator settle the competing claims to the money.

Seven days before Ephrem's scheduled Aug. 30 sentencing, her mother showed up at H [REDACTED]'s door, according to a civil complaint.

Rita Ephrem pleaded with Hulen to drop the charges against her daughter. The mother returned to his house the

next two mornings, speaking with H [REDACTED] and P [REDACTED].

They wouldn't see a dime if her daughter went to prison, Rita Ephrem warned them, according to a civil complaint H [REDACTED] and P [REDACTED] filed in court.

If they dropped the charges, Rita Ephrem promised she'd make sure they got their money back.

On Aug. 30, **Multnomah County Judge John A. Wittmayer** sentenced Tina Ephrem to 15 months in prison after her attorney handed the prosecutor two checks totaling \$180,800 to pay back Ephrem's two victims.

P [REDACTED] and H [REDACTED] didn't object to the plea deal, but that doesn't mean they support it, their attorney, Erin Olson, told the judge.

"My clients have worked their whole lives. They served their country, and they worked hard for their money," Olson said. "They earned the dignity and respect that she then stole from them, and this court can't impose restitution for that."

Wittmayer pressed Ephrem on why she did what she did. Through tears, she answered, "I'm sorry" three times. Frustrated, the judge continued, "You want to answer my question?"

Ephrem, who in depositions said she never had a job, never went to school and doesn't know how to read, finally muttered she had a gambling problem, something investigators and the prosecutor hadn't heard before.

"Do you think of yourself as a thief?" the judge asked.

Meekly, Ephrem said, "Yes."

"That's exactly what you are," Wittmayer responded. "You victimized these people for your own purposes. There's no justification for that."

Sheriff's deputies handcuffed Ephrem and started to lead her out of the courtroom to prison. Basler said he traveled from his home in Kent, Wash., to attend the sentencing just "to see her walk away in handcuffs."

"We were totally embarrassed by it," Basler said. "These people need to be stopped."

As Tina was led out, Rita Ephrem, who 10 months earlier had told investigators she had no relationship with her daughter, approached. The deputies told the mother to keep her distance.

"What are you going to do to me?" she asked, adding that they've already taken her baby.

-- **Maxine Bernstein**

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

STATE OF OREGON,

Plaintiff,

v.

DEBBIE COLLEEN DEACH,

Defendant.

Case No. 0610-35931

**VICTIM'S SENTENCING  
MEMORANDUM<sup>1</sup>**

**INTRODUCTION**

Before the court for sentencing on one class C felony count of Criminal Mistreatment in the First Degree and one class A misdemeanor count of Attempted Criminal Mistreatment in the First Degree is 52 year-old Debra Colleen Deach, the victim's former self-designated caregiver. The presumptive sentence on the governing charge of Criminal Mistreatment in the First Degree based on the stipulated Sentencing Guidelines grid block of 7-I is 36 months probation, with up to 90 days of jail.

<sup>1</sup> "At the time of sentencing, the victim . . . has the right to appear personally or by counsel, and has the right to reasonably express any views concerning the crime, the person responsible, [and] the impact of the crime on the victim. . ." ORS 137.013. *See also* Article I, Section 42 of the Oregon Constitution, which was passed by the citizenry "to ensure crime victims a meaningful role in the criminal \* \* \* justice system[]," and to "ensure that a fair balance is struck between the rights of crime victims and the rights of criminal defendants \* \* \* ." Or Const Art I, §42 (1).

The undersigned's understanding of the plea agreement between the prosecutor and the defense is as follows:

36 months formal probation, with the following special conditions:

1. 0-60 days jail (defendant to argue for 0, prosecutor to recommend no more than 60 days);
2. Financial Crimes Package;
3. Defendant to provide no care for elderly or dependent persons;
4. No entry into places where elderly or dependent persons live, except defendant's current housing;
5. Drug evaluation and treatment per probation officer;
6. Other counseling per probation officer;
7. No contact with Hazel Zahnow;
8. \$5,000 compensatory fine to Hazel Zahnow (Beagle, Burke & Associates, Conservator & Guardian, as payee), with posted bail to be applied to compensatory fine, and the balance to be paid in monthly installments in an amount to be set by the sentencing judge; and
9. Remaining fines and fees imposed and suspended.

The victim was consulted and supports the court's imposition of the agreed-upon sentence, but urges the court to order the defendant to serve 60 days in jail, with credit for time served, based on the facts of the defendant's crimes as summarized below.

#### **THE VICTIM – HAZEL ZAHNOW**

Hazel Zahnow is now 94 years old. Not much is known about her history because she is a poor historian due to her advanced dementia. It is known she has an adopted son, Larry Birdtail, who lives in California and who has been ill with Lyme

Disease for approximately five years, preventing the annual visits he used to make to see his mother. Larry's son (Mrs. Zahnow's grandson) lives locally, but does not appear to spend time with or look out for his grandmother. Mrs. Zahnow's brother – the last of her living contemporaries – died in 2001.

Mrs. Zahnow receives approximately \$1,300 per month in Social Security benefits. She presently resides in an area memory care facility, the identification of which has been kept from the defendant to prevent her from contacting Mrs. Zahnow.

#### **BRIEF FACTUAL SUMMARY**

The investigation into the activity which led to the defendant's prosecution began on April 8, 2006, when Portland Police responded to a complaint of suspicious activity related to a motor home parked near Hazel Zahnow's residence at 5132 NE 60<sup>th</sup> Avenue in Portland, Oregon. Neighbors told the responding officer, Greg Seamster, that they suspected drug activity in the motor home, as well as at Mrs. Zahnow's house based on the activities of Mrs. Zahnow's caregiver, Debbie Deach, and a group of about five others who appeared to have taken over the house and were using it as a place to sell drugs. The neighbors provided Officer Seamster with detailed information concerning the drug activities, including how the availability of drugs was advertised by those who had taken over Mrs. Zahnow's home.

Officer Seamster contacted Mrs. Zahnow, who was then 93 years old, and noted that she appeared frail and seemed to get confused very easily. Mrs. Zahnow informed Officer Seamster that she believed she was being adequately cared for. Nevertheless, concerned about the reported activity, Mrs. Zahnow's appearance, and the fact that she had no access to a phone, Officer Seamster notified Aging Services and other units within the Police Bureau.

On May 17, 2006, Officer Judy McFarlane of PPB's Elder Crime Unit and Deputy District Attorney Greg Moawad, Multnomah County's Elder Crimes prosecutor, conducted a home visit at Mrs. Zahnow's residence to check on her welfare. When allowed inside by Mrs. Zahnow, they observed numerous Meals on Wheels deliveries lying about, including some containing spoiled food; very little other food available; piles of dirty dishes; a baby monitor in the kitchen; and a locked padlock on the outside of what was later determined to be Debbie Deach's bedroom door.

Defendant Debbie Deach joined Officer McFarlane and DDA Moawad shortly after their arrival, accompanied by her boyfriend, Glen Charles Parker. Parker has convictions for Delivery of a Controlled Substance II (1988), Possession of a Controlled Substance II (1998 x 2), Felon in Possession of a Firearm (1998), DUII (2002), and at the time had an open case charging him with Carrying a Concealed

Weapon (Multnomah County Case No. 0606-47424) of which he has since been convicted.<sup>2</sup> Deach told Officer McFarlane and DDA Moawad that she had previously been Mrs. Zahnow's neighbor, and that even after moving away, continued to look in on Mrs. Zahnow. Deach related that she had visited Zahnow approximately three years prior at a nursing home where Zahnow had ended up after a fall. Deach stated that Zahnow had wanted to go home, so Deach moved out of her house and moved in with Zahnow to continue Zahnow's 24 hour care. When asked about Glen Parker's presence, Deach told the law enforcements officers that Parker was "moving."

Officer McFarlane observed that Deach appeared to be under the influence of a controlled substance, and asked her to take a urine test. Deach initially agreed, then when Officer McFarlane suggested they go do it, Deach refused, then admitting she was on pain medication for back pain and that the medication was from an old prescription belonging to someone else.

When asked what she did to assist Mrs. Zahnow, Deach responded that she prepared meals, kept the house clean, made certain Zahnow took her medication, and took Zahnow to doctor's appointments. Deach later said she also wrote checks

<sup>2</sup> Parker has also been charged and convicted of possessing methamphetamine since Officer McFarlane's and DDA Moawad's May 2006 contact with him, with sentence

for Zahnow to sign, and volunteered that Zahnow paid about \$300 per month for rent on Deach's son's residence. Deach then began telling Mrs. Zahnow that Officer McFarlane and DDA Moawad were there to take her house away from her and put her in a home because they did not think Deach was doing a good enough job taking care of her. Deach said if that was the case, she would leave right now. When Officer McFarlane suggested she do so, Deach refused, and told Officer McFarlane she wanted an attorney.

With Mrs. Zahnow's permission, Officer McFarlane returned to take photographs of the interior condition of the residence on May 24, 2006. Deach answered the door and immediately became verbally combative with Officer McFarlane, demanding her name and badge number, and yelling for Zahnow to tell Officer McFarlane to leave – that the officer was there to take her home away and put her in a nursing home. Deach then called 9-1-1 and gave the phone to Mrs. Zahnow, ordering her to tell the person who answered the phone to send the police. Deach then yelled out the door for Parker to come to her aid. Deach thereafter got on the phone with the 9-1-1 dispatcher, and Officer McFarlane used the opportunity to finish taking her photos, then left while Deach continued to speak with the dispatcher.

imposed by this court on December 5, 2006.

During her continuing investigation, Officer McFarlane confirmed that Mrs. Zahnow had been paying the rent on Deach's son's residence "for years," and that the rental agreement for the residence was actually in Deach's name, and Deach had lived there until about 5-6 months earlier.

Officer McFarlane and Aging Services personnel also contacted Zahnow's primary care physician, Michael Carroll, a short time later, and received a written report dated May 19, 2006, which is attached hereto as Exhibit 1 and which states in substance that Mrs. Zahnow was a serious fall risk who required supervision for all activities. Further, that Mrs. Zahnow had problems with dementia, disorientation, and confusion; had difficulty taking and managing medications; had had multiple falls; and needed assistance completing basic daily living tasks. Ms. Johnson, the masters-level PMG Care Manager for Dr. Carroll, further wrote that "Hazel could not safely take care of herself and should not be left unattended."

McFarlane returned to the residence in July with Kevin Burke of Beagle, Burke and Associates, the prospective guardian for Mrs. Zahnow, and found Mrs. Zahnow alone, although Mrs. Zahnow reported that there were "a couple of men" asleep in the upstairs bedroom, i.e. in Deach's room. However, McFarlane observed Deach's bedroom to be padlocked from the outside. Two large packages of balloons lay on the landing leading up to the bedroom, which Officer McFarlane associated with

drug packaging activity based on her training and experience. The prospective guardian, Kevin Burke, subsequently arranged for a memory care residence for Mrs. Zahnow, and a petition for the appointment of a conservator and guardian was filed August 10, 2006 (Multnomah County Case No. 0608-91182).

When the court-appointed Visitor, Catherine Garman, went to interview Mrs. Zahnow on August 15, 2006, she found Deach present, along with a friend of Deach's, Karla Swoboda, who identified herself as a nurse.

During her visit, Garman observed that Mrs. Zahnow had a hospital identification bracelet on her wrist, but Mrs. Zahnow could not explain why. Deach told Garman that Mrs. Zahnow had a "foot problem," and when Garman had Mrs. Zahnow remove her socks, she found a feminine hygiene pad being used as a dressing for a dime-sized ulcer on the bottom of Mrs. Zahnow's foot.

Officer McFarlane, who had accompanied Garman to conduct the home visit, later learned that Swoboda's nursing licenses were inactive (since 1981), that she had been the subject of disciplinary action by the Nursing Board, and that there was an outstanding warrant for her arrest. Officer McFarlane arrested Swoboda, who was caring for Mrs. Zahnow at the time, and when Deach (who was no longer present) was contacted and informed that Swoboda had been arrested, she sent three others in sequence to "assist" with Mrs. Zahnow's care. When each arrived, they were also

found to have outstanding warrants, and all three were arrested. Mrs. Zahnow was ultimately transported to Providence Hospital to ensure she was in a safe environment until her placement in the community-based memory care facility the following day.

Garman's report is attached hereto as Exhibit 2, and includes other information about the conditions and circumstances in which she found Mrs. Zahnow, as well as information about Deach's behavior during her visit.

Rebecca Fetters, an Associate Fiduciary employed by Beagle, Burke & Associates, subsequently arranged for Mrs. Zahnow's home to be cleaned out and oversaw efforts to organize and manage her financial situation. Ms. Fetters found the house filthy, with roaches scurrying about and debris everywhere. Utility bills were unpaid, and the City was assessing penalties for unpaid nuisance fines involving complaints in 2005 and 2006 of an RV overtaken by homeless persons parked in Zahnow's backyard, trash and debris, and raw garbage harboring rats.<sup>3</sup>

With regard to Mrs. Zahnow's financial condition at the time of Beagle, Burke & Associates' appointment as her guardian and conservator, she had about \$2,200 in a checking account, a reverse mortgage on her home with an outstanding balance of

approximately \$111,000, and more than \$40,000 in consumer debt including eight credit card accounts, virtually all of which was past-due, and most of which had been placed with collection agencies. (Exhibit 3) Little of the \$40,000 in credit card purchases appears to have benefited Mrs. Zahnow, and she reported to Ms. Fetters that the cards were taken from her and used “by the people living in her home.” There were certainly no tangible assets among Mrs. Zahnow’s possessions that would account for the purchases made with the credit cards.

Additionally, documents showing payments for cell phone services were located in Mrs. Zahnow’s home, and since Mrs. Zahnow had no phone, it is apparent these payments were for a phone used by Debbie Deach. Of the few cancelled checks located in Mrs. Zahnow’s home, most were dated between 2000 and 2003, and \$2,000 worth of those few checks were payments to Debbie Deach or her landlord.

The defendant took advantage of a lonely, elderly, and disabled<sup>4</sup> woman. In all likelihood, much of the financial abuse perpetrated by the defendant on Mrs.

<sup>3</sup> The City of Portland eventually excused the nuisance fines and issued a refund of fines previously paid based on the “well-documented fact that [Mrs. Zahnow] was a victim of an Elder crime.”

<sup>4</sup> Dr. Carroll’s Care Manager wrote on May 19, 2006, “Hazel has dementia and has periods of hallucinations, disorientation, and confusion.” She scored zero on a Mini-Mental-Status Exam administered on February 17, 2005.

Zahnow supported the defendant's and her associates' drug habits.<sup>5</sup> Although there are factors which would justify a departure sentence in this case, Beagle, Burke & Associates supports the plea agreement entered into by the prosecution and defense in order to prevent any further trauma to Mrs. Zahnow that might be caused by a trial. However, Beagle, Burke and Associates urges the court to impose the full 60 days of jail time due to the length of the financial abuse and physical neglect perpetrated by the defendant.

In summary, and for the reasons set forth herein, the conservator/guardian for Mrs. Zahnow asks that the court impose the sentence set forth above, with 60 days jail imposed as a condition of probation.

Dated: May 28, 2007.



Erin K. Olson, OSB 93477

Attorney for Beagle, Burke & Associates  
Conservator & Guardian of Hazel Zahnow

<sup>5</sup> A neighbor interviewed by Officer McFarlane indicated that Glen Parker had at one point asked to use a shredder to dispose of checks and credit cards in Mrs. Zahnow's name. As the court is no doubt aware, identity theft is often associated with drug abuse, and most often is associated with methamphetamine abuse.

**CERTIFICATE OF SERVICE**

I hereby certify that on May 28, 2007, I served a true copy of the foregoing document on counsel for the state and the defendant, as follows, by prepaid first-class mail:

Gregory Moawad, DDA  
Multnomah County District Attorney  
1021 S.W. Fourth Avenue, Room 600  
Portland, OR 97204

Kati Dunn-Elkins  
Metropolitan Public Defenders  
630 SW 5th Ave Ste 500  
Portland OR 97204

  
Erin K. Olson



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## An Oregon family's quest for justice for Ruth DeLong Black

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By **Aimee Green, The Oregonian**



Enlarge

Special to The Oregonian

Ruth DeLong Black is pictured here in December 2009, six months before she died. DeLong had early on-set dementia, so she couldn't say what happened the night of May 20, 2009 when a caregiver at Marian Estates reported finding a shirtless man in Black's assisted-living apartment. The man, who claimed he was wearing a tank top, was later identified as Douglas Paul Cathcart. Photo courtesy of the family

**Ruth DeLong Black** gallery (0 photos)

Martha DeLong was alarmed when a supervisor from her sister's assisted-living facility phoned to tell her a shirtless man had been found in her sister's living unit, cowering behind the bathroom door.

The man yelled at the 18-year-old caregiver to go away; instead of challenging the stranger, she left. So did he.

DeLong's 59-year-old sister, Ruth DeLong Black, had early onset dementia and couldn't say who the man was or whether he'd harmed her.

The supervisor wanted to know: Does your sister have gentleman callers?

No, DeLong said. Call police.

Stayton police arrived but -- saying they had no evidence of a crime -- closed the case in less than 48 hours.

Black's family continued to investigate and, in the days and months after that May 20, 2009, call, they became convinced that Black had been raped.

The remarkable story illustrates one family's quest for justice and **shows how difficult it is to prosecute those suspected of sexually**

**assaulting an elderly or mentally impaired person.** Experts say these vulnerable adults make the perfect victims.

Many can't speak, see or hear well. Their memories are hazy. They make terrible witnesses.

On top of that, caregivers, police and medical providers sometimes lack the training, experience and resources necessary to properly investigate sexual assaults of the elderly and disabled.

"Part of the problem is we can't just imagine that someone would do that to someone who is so vulnerable — it is beyond most people's minds to go there," said Erin Olson, a Portland attorney who represents Black's family. "No one is more vulnerable than people with dementia. No one except maybe for infants."

Martha DeLong and her husband, John Campbell, not the police, repeatedly interviewed the suspect identified by the assisted living staff -- 59-year-old Douglas Paul Cathcart, the man who boarded Black's horse. They took photos of the scene and sent Black's clothing and bedding to a private lab for analysis. The lab found semen in Black's underpants.

But even then, seven weeks passed before a Stayton police detective collected a DNA sample from Cathcart and sent it with Black's underpants to the Oregon State Crime lab. The results came back a match.

Two more months passed before the **Marion County district attorney's office**, nudged by the private attorney Black's family hired, presented the case to a grand jury.

"I've never seen a family go to these lengths," said prosecutor Courtland Geyer. "They were everything to making this case go. They were just incredible."

Last June, more than a year after Black's family first suspected she had been raped, Cathcart went to trial, accused of first-degree rape and sexual abuse. If convicted, he faced a mandatory minimum of eight years, four months in prison and would be required to register as a sex offender for life.

### **Symptoms of dementia**

Ruth DeLong Black was an accomplished painter who lived on nine acres south of Salem, where she and her late husband raised their only child and boarded horses.

She and her younger sister, Martha DeLong, who lives in Portland, were close. They met every five weeks for haircuts, a tradition they kept nearly 30 years.

## **Documents**

### **Stayton Police reports**

Two Stayton police reports. The first was written by the officer who responded to Ruth Black's room the night a strange man was found there. The second was written by the detective, who interviewed Douglas Cathcart, then closed the case.

### **Employee statement**

Statement written by an employee of the Marian Estates assisted living facility. The employee notes how distressed Ruth DeLong Black appeared three days a strange man was found in her room.

### **ODHS investigation**

Copy of the investigation done by the Oregon Department of Human Services. The investigator determined there wasn't enough evidence to say Black was abused, and did not fine the facility for failing to protect Black.

### **Letter opinion, State v. Cathcart**

Marion County Judge John B. Wilson's ruling in the State v. Douglas Cathcart trial.

### **Ruth Black lawsuit, filed by family**

Copy of the lawsuit filed by Ruth Black's family against Douglas Cathcart and the Marian Estates assisted living facility.

### **Stayton Police report, 2005**

Stayton Police report about a November 2005 encounter in which an officer said he found Douglas Cathcart naked from the waist down in a parking lot.

The sisters were on a trip to Spain in 2006 when Black first showed symptoms of what later was diagnosed as **primary progressive aphasia**, a form of dementia. Black became easily confused and lost the plane tickets. Slowly, she lost her ability to identify family members, to read and to paint. She forgot to eat and started to waste away.

For a short while, she realized what was happening. "It terrified her," DeLong said. "She knew that wasn't good."

DeLong assured her sister that she would take care of her, that she would keep her safe.

In 2008, Black's family moved her into Marian Estates' independent-living community, near a large circle of lifelong friends who visited often. Marian Estates also was close to Cathcart's Scio farm, where Black could visit her horse.

By May 2009, Black needed more help, and her family moved her to the assisted-living part of Marian Estates. Within a week, a caregiver spotted the strange shirtless man in Black's room.

Cathcart told the family that all he'd been doing was praying with Black. He said he often visited to check on her. And he told them that he was wearing a gray tank top the night in question and that the caregiver had been mistaken about seeing him without a shirt.

He repeatedly declared his innocence until trial, when his attorney conceded that he had done something wrong. But not rape. "Mr. Cathcart lied," attorney Kevin Sali said. "There's no doubt about that."

### **Another explanation**

It is an unconventional defense for an attorney to say his client might be guilty of sexual misconduct, but that's what Sali did.

With Black's family on one side of the courtroom, and Cathcart's on the other, Sali said there was another explanation for Cathcart's DNA on Black's underpants: Cathcart could have used them to masturbate.

"Obviously, it would be a great shame if others knew about that," Sali said, explaining Cathcart's version.

Cathcart didn't take the stand. Sali called an expert who testified that the large amount of semen found in various spots on the underpants more likely fit an explanation of masturbation.

Geyer, the prosecutor, argued that the most probable explanation for Cathcart's DNA was that he raped Black.

Geyer also argued that if Cathcart had been merely acting on a panty fetish, why did he need to remove his shirt? And why wouldn't he have taken the underpants somewhere more private?

He told Judge John B. Wilson that he should consider other evidence, including that Black cried and vomited three days after the alleged assault, mysteriously blurting out that "he" always comes for her.

"Your honor, these facts would scream to the reasonable juror that the defendant was engaging in sexual contact with the victim," Geyer said.

"Ruth DeLong Black, she was a mother, a sister, a family member and friend to many in the community," said the 17-year prosecutor, as he flashed photos of Black on a screen and fought off emotion. "...The defendant did not see the victim as the person that she was. He saw her as an object, as a person who could be victimized."

Sali argued that sympathy for Black didn't help get to the truth. "There's another human being in this case -- my client," Sali said. "Douglas Paul Cathcart. A 60-year-old man sitting terrified in this chair, facing the power and accusation of the state, (which) seeks to brand on his life story one of the ugliest words we know: 'rapist.'"

### **"Just devastating"**

Two days later, Wilson returned his verdict: Not guilty.

In a 2 1/2-page written ruling, the judge said the evidence could be interpreted both ways.

Cathcart's version was consistent with the actions of "a person who is trying to escape the consequences of rape, as well as that of a person who has been caught engaging in an unseemly sexual fetish."

The judge concluded that the presence of Cathcart's DNA all over the underpants made the defense's theory that Cathcart had masturbated the more likely explanation.

The judge concluded that the defense's theory was the more likely scenario.

Black's family was crushed.

"We spent the day crying," DeLong said. "It was just devastating to think of everything we'd done and how much we'd put into it. And this was the result?"

Black's family believes the events of May 20, 2009 cast a shadow over Black's last year of life, already so difficult because of her dementia.

"At that point, she didn't have a lot left," said Black's son. "She had some security, and (Cathcart) took that away."

She died just two weeks before trial.

But Black's family determined the trial wasn't for nothing. A judge, a courtroom of people and the wider community heard what had happened. People could judge for themselves.

"We all agree that even though we lost, it was the right thing to do," DeLong said. "The story was put out into the open."

Although Cathcart's defense was based on the premise that Cathcart may have masturbated into Black's underpants, he can't be tried for that crime. That would be double jeopardy.

### **Cathcart speaks out**

The verdict came as a huge relief to Cathcart and his wife of close to 40 years, Barb.

But the trial branded Doug Cathcart a pervert, and they were eager to clear his name. They invited a reporter to meet them on their 109 rolling acres, where Black used to ride her horse.

Doug Cathcart said he was surprised when Sali, his defense attorney, argued that he may have a panty fetish. Sali, however, had prepared him to sit quietly no matter what, Cathcart said.

"I trusted him to keep me out of jail, and he did his job," Cathcart said. "But that's not what happened."

Cathcart said his DNA ended up in Black's underpants after he was driving her and her Doberman home from visiting her horse one day. The dog vomited on his lap and -- once they arrived at Black's living quarters -- Black offered him a pair of her underpants and jeans to wear.

Did it feel strange for the 5-foot-10-inch, 150-pound man to wear size 5, baby-blue women's underpants?

"Yeah, yeah, it did," Cathcart said. "But if they were ...really frilly, I probably wouldn't have." He added that the dog had thrown up on him in the past, and he'd borrowed Black's underpants in those cases, too.

He said he only wore the underpants for about 30 minutes on that particular day, which was the time it took him to drive home. He returned them without washing them, and his DNA inadvertently ended up on them. It was a few weeks before he was suspected of rape.

"I find out that men's semen comes out all the time," Cathcart said. "It leaks out. It comes out in your urine."

Cathcart said he told Sali all of this, but Sali wouldn't argue that defense during trial.

"He did not think the judge would believe it," Cathcart said.

Cathcart said paying for his defense has been financially devastating. He said hiring Sali cost \$172,000 -- most of which his mother gave him.

This is not the first time Cathcart has faced allegations of sexual wrongdoing.

In 2005, a Stayton police officer accused him of public indecency after reportedly finding a pantless Cathcart with a Playboy magazine in a parking lot next to the Santiam River. He was later found guilty of the reduced charge of

criminal trespass -- Cathcart says because the sexual allegation was false.

"All these things put together look terrible," Barb Cathcart said. But most everyone who knows her husband believes they aren't true and has stood by him, she said.

### **Investigation lapses**

Cathcart and Black's family agree on one point: The case probably wouldn't have gone to trial had a thorough investigation been done.

When Black's family took her to **Santiam Memorial Hospital in Stayton** for a forensic rape exam, a doctor -- not a certified sexual assault nurse examiner -- assessed Black. He determined that it wasn't necessary to do an internal swab, which could have detected the presence of semen.

Cathcart contends a complete rape exam would have cleared him, because his DNA wouldn't have been found.

Black's family says it would have proved rape and that Cathcart's defense would have crumbled.

A review by The Oregonian also found other lapses in the investigation.

Stayton police didn't collect Black's sheets, clothing or underpants. Police Chief Rich Sebens and Detective Jason Meeker said the officer who responded had no reason to take Black's bedding and clothing because he didn't know whether a sexual assault had occurred.

What's more, Meeker said, he didn't send the items to the state crime lab for testing because the overloaded lab won't test items on speculation of a crime.

But Susan Hormann, supervisor of the DNA unit at the state crime lab, said her staff would have tested the items if police had asked them to, regardless of whether police were acting on speculation.

Another problem was that police apparently based their investigation on the word of Cathcart, who said he didn't do it. Police then closed their case.

Meeker and the police chief don't fault their investigation, saying it's unfair with 20-20 hindsight.

The ordeal has left Black's family cynical about the future.

"The system is there to protect people like Ruth, and it didn't," said Campbell, Black's brother-in-law. "I have very little belief that it will be there to protect people like Ruth the next time."

Black's family members say they have turned to the only course of justice left. Olson, their attorney, has filed suit against Cathcart and Marian Estates for \$1.5 million. The suit alleges that Cathcart raped Black and that the facility failed to protect Black, for one, by "lulling" families into a false sense of security with signs that said the grounds

were monitored by video surveillance when they weren't.

The family is not suing police for allegedly failing to conduct a thorough investigation. Oregon law won't allow it.

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## Oregon's safety net for vulnerable elderly in long-term care riddled with holes

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**Aimee Green, The Oregonian**  
By



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The Oregonian

These six men are among the few who have been convicted of sexually abusing elderly or disabled adults in Oregon's long-term care facilities since 2005.

The vast majority of people suspected of sexually attacking residents in one of the state's 2,300 nursing homes, assisted-living centers or other long-term care facilities are never arrested or prosecuted.

What's more, the state rarely penalizes facilities.

Since 2005, state workers in charge of monitoring the safety of the elderly and disabled received at least 350 reports of possible sexual abuse, ranging from unwanted kissing to rape.

An investigation by The Oregonian found that workers with the Oregon Department of Human Services determined that about 80 percent of those reports were unprovable. Commonly, DHS investigators concluded that the alleged victims

were unreliable witnesses because they had dementia or were heavily medicated. Many couldn't answer questions, though there were signs they had been assaulted. They were found crying, declaring "it hurts" or were bleeding from their genitals.

DHS investigators determined there was enough evidence to find that 73 of the more than 350 reports of sexually inappropriate contact did occur. But in at least 28 of those confirmed cases police said no one called to report it.

And when police were called, sometimes days or months had passed since the abuse. The Oregonian found evidence of 14 arrests. Occasionally, criminal investigations faltered because police failed to interview witnesses or test key evidence.

Of those cases in which an arrest was made, eight resulted in convictions.

» **One family's quest for justice**

The newspaper's review revealed a public safety net riddled with holes, starting with the failure of some long-term-care facilities to keep vulnerable residents safe from their attackers. The review also found the DHS' investigation and enforcement lacking at times.

On top of that, the public can be left in the dark. For the past few years **DHS has allowed the public to research nursing homes and other long-term facilities** on its website, but that database doesn't include many reports of sexual abuse that were provided to The Oregonian.

Left to the online database as their only source, consumers researching facilities for an elderly relative would have no way of learning about **a report of a caregiver at Spring Pointe Memory Care in Grants Pass in May 2009**. He caused a mentally-compromised resident to have an erection after disrespectfully "rubbing and twirling" the man's genitals as he wiped them clean, according to a co-worker. The co-worker didn't think it was funny and reported it to other staff. The facility fired the offending worker, but for a different reason.

Similar research wouldn't turn up **a report about a resident who rubbed his penis against another resident at Anna Snider's adult-care home in Northeast Portland** in June 2010. He had a pattern of aggression that had been escalating for weeks, and that included exposing himself in the doorway of the victim's room. But the facility didn't call police or adult-protective-service workers for four days after the molestation, according to DHS's report.

Bruce Goldberg, who until last month was the director of the DHS and now heads the **Oregon Health Authority**, ordered scores of additional reports released earlier this year after meeting with The Oregonian.

"We as an agency want to be as transparent as legally allowable," Goldberg said.

But even with Goldberg's direction to provide all records requested, The Oregonian did not receive reports that were provided to the newspaper by attorneys hired by families of victims.

DHS administrators say their record-keeping system makes it almost impossible to pull every case of sexual abuse against long-term care residents.

And so state officials would have great difficulty doing a comprehensive study of sexual abuse against the elderly and disabled in state-monitored facilities — if DHS had the resources and the direction to do so.

Goldberg said the issue deserves more attention and that more needs to be done to protect vulnerable adults from the people who

## Convictions

Since 2005, only eight of 73 substantiated cases of sexual abuse against vulnerable adults in Oregon's long-term care facilities have resulted in convictions. Six of the men -- responsible for seven of the cases -- are listed here.



### **Ronald Eldon Banta:**

Convicted of first-degree sexual abuse and sentenced to more than six years in prison.

According to a DHS report, witnesses said that Banta, then a 61-year-old resident, repeatedly grabbed the breasts and buttocks of other residents at Linda Duran's adult foster home in Sweet Home in 2005. He was caught after witnesses saw him dry humping a resident.

- **DHS Report on Banta (pdf)**



### **Robert Roy Lovingier:**

Convicted of the first-degree rape and sexual penetration with a foreign object of a

92-year-old resident at Cambridge Terrace Assisted Living in Albany in 2005.

prey on them: caregivers, strangers and even other able-bodied residents.

"We all want to believe it doesn't happen," Goldberg said. "We don't think that seniors are sexual beings. And we're learning that that's not true. And that there are some terrible people that do some terrible things."

### Reticence abounds

Experts say most sexual attacks in long-term care facilities in Oregon and nationwide go unreported.

Although nursing homes and other long-term care facilities are required by Oregon law to report any suspicion of inappropriate sexual contact, many facilities don't for many reasons, according to experts and an analysis by The Oregonian.

Employees fail to report suspected abuse because they think the alleged victims are imagining things, they don't think of the elderly and developmentally disabled as susceptible to sexual attacks or they are reluctant to blame the attackers when they themselves are old, mentally impaired or on medication. Reporting abuse also opens the facility to fines, lawsuits and bad publicity.

Often when abuse was reported, it was only after an independent witness, such as a visitor or a caregiver, walked in on it.

The Oregonian could find no national studies into the frequency of sexual abuse in long-term care facilities.

Sexual abuse in long-term care facilities needs more study, said **Arthur Shorr** of Los Angeles, who consults for hospitals and nursing homes nationally on matters that include sexual violence against residents.

"It's clear that it's pandemic," Shorr said. "It's happening at a level and volume that's almost hard to believe."

The Oregonian's review of DHS reports found that residents in care facilities were often easy prey, especially because overworked caregivers presented few barriers:

Lovingier, who was a 63-year-old resident at the time of the crime, was sentenced to more than eight years in prison. He died in January, before serving his full term.

According to the DHS report, an administrator at the facility told staff not to bring the victim to the emergency room and delayed reporting to adult-protective service workers until just before 5 p.m. the next day. The administrator didn't call police. She was convicted of criminal mistreatment and sentenced to probation.



**Sean Nicholas Cluver:** Was caught sexually abusing a 76-year-old woman with Alzheimer's disease at Osprey Court Memory Care in McMinnville. Staff heard her cry out in pain from her room, then unlocked the door to find the woman curled in the fetal position and Cluver, a caregiver, rushing to pull up his pants. He later denied abusing the woman to police, and explained that he had stepped into the woman's room to pop a pimple in his genital area.

Cluver was convicted of attempted rape, sexual abuse, criminal mistreatment and sodomy for abusing that woman and a 68-year-old woman with dementia at Oakwood Country Place in McMinnville. He was 18 and 19 years old at the time of the crimes in 2009. He was sentenced to almost 15 years in prison.

- [DHS Report on Cluver, part 1 \(pdf\)](#)
- [DHS Report on Cluver, part 2 \(pdf\)](#)



**Ignacio Rodriguez-Oregel:** A mentally compromised resident at Kay's Comfort and Care in Salem reported that a man who sometimes cooks at the home, Rodriguez-Oregel, then 54, came into her room at night and raped her despite her screams and struggles in 2005. He was convicted of sexual abuse and sentenced to more than four years in prison.

- [DHS Report on Rodriguez-Oregel \(pdf\)](#)



**John Alvin Taylor:** A  
**Elder Abuse Remedies**

At the Hearthsides Rehab Nursing Facility in Coos Bay in 2005, **an employee was able to continue fondling residents for three months** after a frightened 84-year-old resident complained to staff. The resident said that the employee had dropped his pants and crawled into bed with one resident, molested female residents who couldn't speak and said he planned to "do" another resident. Staff dismissed her complaints as delusional, but a DHS investigator who was eventually called determined that at least five residents had been molested.

The DHS fined Hearthsides Rehab \$450.

An unknown man walked into the **Alderwood Assisted Living facility in Central Point** in 2009 and was caught in an unspecified sexual act with a mentally impaired resident.

**The resident had met the man, who reportedly had just gotten out of jail**, at a nearby video poker lounge. The man showed up at Alderwood later, and a nurse directed him to the resident's room. After the man was interrupted, he left. Staff were unable to give police any leads because they didn't know his name.

The DHS found that Alderwood could not have prevented the incident so it levied no fine.

For nearly a year, a resident tormented other residents in the Alzheimer's unit at **Gateway Adult Residential Care in Springfield**. Although the man was forgetful at times, he did not have the disease.

**In 2007 and 2008, the facility directed staff to watch the man more closely.** The center put an alarm on the man's door and changed his medication, but he repeatedly slipped out of his room and groped other residents or forced them to fondle him. Staff also believed he smeared shaving cream under the incontinence garments of another resident, after they found a canister of the light-green shaving gel cream in his room.

The man was finally moved to another long-term care facility in September 2008. The DHS found that Gateway had "failed to protect residents from inappropriate contact" but did not fine the facility.

Springfield police say they have no record of anyone reporting the sexual assaults, and the man was never charged.

Oregon law requires long-term care facilities to call the DHS and police if they suspect a resident has been criminally abused. DHS also is required to call police, and since 2010, police have been required to respond in writing within a few days about the status of their investigations.

But even when police are called, that doesn't guarantee action. Police say if one resident is accused of attacking



caregiver at Marian Estates in Sublimity, Taylor was convicted of raping and sodomizing a brain-damaged 70-year-old woman, after a condom was found floating in her toilet and she reported that he'd had sex with her at least half a dozen times. Taylor, who was 55 at the time of the crime, was sentenced to 33 years in prison.

• [DHS Report on Taylor \(pdf\)](#)



**Alvin Leroy Hanks:** A witness saw Hanks, who was 66 at the time and married to a resident at Osprey Court Memory Care in McMinnville, stick his hand down the shirt of another resident with dementia in 2009. Three months earlier, he'd been told to stay away from the resident after getting caught hugging and kissing her.

He was convicted of third-degree sexual abuse and sentenced to five days in jail.

• [DHS Report on Hanks \(pdf\)](#)

another, it's often difficult to prove that the suspect had the mental capacity to form criminal intent. Prosecutors also say they often can't pursue charges because the testimony of victims with dementia or other mental impairments won't hold up in court.

But Margaret Bahnson, a sergeant with the Portland Police Bureau's vulnerable adult and elder crimes unit, said even if an elderly victim is suffering from dementia, they could still be telling the truth about a sexual assault.

"It doesn't mean it didn't happen," Bahnson said. "These people are incredibly vulnerable, and that's exactly who the offenders go to. . . . It's very frustrating."

That's why experts say so much of the responsibility falls on the long-term care industry and the state to prevent the abuse.

### Holes in the system

Most states require criminal screenings of applicants who directly care for vulnerable residents. Oregon checks prospective caregivers for a criminal background only within the state, unless applicants say they've lived elsewhere. Then, the DHS requires a national FBI fingerprint background check.

But an applicant can lie and escape FBI scrutiny, DHS administrators acknowledge.

Oregon is among about 40 states that don't check the national criminal histories of all prospective caregivers, according to the **U.S. Centers for Medicare & Medicaid Services**.

**James Toews**, director of the DHS' seniors and people with disabilities division until this month, said that legislators would need to approve any changes and that the long-term care industry probably would lobby against a national background check, which takes six to eight weeks.

Starting in 2012, Washington state will require some long-term care workers, including caregivers at assisted-living facilities and adult family homes, but not at nursing homes, to undergo a national criminal background check. The state will pick up the tab.

In addition, Oregon doesn't track every person its investigators believe has sexually assaulted a long-term-care resident to make sure he or she doesn't work with vulnerable adults again. DHS takes action only against certified nursing assistants – but not other employees, such as nurses and janitors – by notifying facilities if nursing-assistant applicants have a history of sexual abuse or other misdeeds.

### Documents

#### DHS investigation 1

An Oregon Department of Human Services investigation into a caregiver who joked about giving a mentally-compromised resident an erection at Spring Pointe Memory Care in 2009.

#### DHS investigation 2

A DHS investigation into one resident tormenting another resident by rubbing his genitals against her in the backyard of Anna Snider's adult foster home in Northeast Portland in June 2010.

#### Nursing facility dismisses complaints

Nursing facility in Coos Bay dismiss the complaints of an 84-year-old resident as delusional, after she complains in 2005 that another resident keeps sexually abusing the residents around her.

#### DHS investigation 3

A DHS investigation outlines how staff at the Alderwood Assisted Living facility in

The agency also doesn't track residents who've sexually assaulted other residents. When a nursing home or care facility transfers a resident with a record of sexual assault, there's no requirement to inform the new facility or its residents.

**Wes Bledsoe, who co-founded the Oklahoma-based nonprofit A Perfect Cause**, said once a resident sexually assaults another resident, the offender is often shuffled to a new care center, where the pattern starts again.

Experts say it's not appropriate to criminally prosecute some elderly or developmentally disabled offenders because of their mental states.

"But if the guy never gets charged, he's under the radar and he can go to the next facility and no one's going to know he's a problem," said Bledsoe, whose organization seeks to "end needless suffering" and to protect long-term care residents from "corporate greed and negligence."

### Why isn't more done?

The family of Betty Swearingen says assisted-living staff and Tualatin police weren't willing to dig deep enough to solve the mystery of what happened to the 72-year-old the early morning of Sept. 29, 2008.

Swearingen had **Huntington's disease** and couldn't get herself out of bed. She was in the corner of her room at River Valley Senior Living Community in Tualatin lying in a pool of blood, with rug burns to her knees, face and hip. Her leg was broken, and she later developed bruises all over her body.

Swearingen wasn't able to say what happened. River Valley attributed her injuries to falling out of bed. Staff didn't seek medical attention for more than 36 hours, when they called 9-1-1 for an ambulance.

Because an exam showed Swearingen had internal bruising, a doctor at **Legacy Meridian Park Medical Center** suspected that she'd been sexually assaulted.

Swearingen's family says at their urging, medical staff called police. **But Tualatin detectives didn't visit River Valley to investigate until two days later.** By then, workers had shampooed the carpet and washed Swearingen's sheets.

Days later, Swearingen's daughter found a blood-soaked T-shirt in her mother's room. She gave it to police, but they didn't submit it to the state crime lab for testing.

Police closed the case after the sexual-assault exam of Swearingen found no suspect DNA.

Central Point direct an unidentified man to the room of a mentally impaired resident in 2009.

#### DHS investigation 4

A resident was able to continue groping residents in the Alzheimer's unit at Gateway Adult Residential Care in Springfield for nearly a year from 2007 to 2008.

#### Tualatin police report

Tualatin police report into what happened to 72-year-old Betty Swearingen, who was found in a pool of blood on the floor of River Valley Senior Living Community in 2008.

"It was lack of interest in pursuing the case on all fronts," said Swearingen's son, Gary Swearingen of Pasco, Wash. He said detectives and their supervisors didn't return his phone calls. "Finally, I had to show up at the Tualatin Police Department and threaten not to leave."

**Kevin Winfield**, the lead detective, didn't respond to requests for comment from The Oregonian.

Swearingen's family says police didn't pursue the case because Swearingen, a grandmother of five, was old and disabled, and her injuries could be explained as accidental. She died two months later.

"They absolutely didn't care," said Mervin Swearingen, who was married to Betty for 53 years. Swearingen's son believes River Valley, owned by then financially struggling Sunwest Management, wanted the easy way out.

"It was 'Cover up, and move on,'" Gary Swearingen said. "'Get someone else in that bed.'"

River Valley administrators referred questions to an attorney who said he didn't know enough about the case to comment. He also noted that the company is under new management.

A DHS investigator closed the case and didn't fine River Valley for failing to protect Swearingen from an attack, for lack of evidence. But the agency did fine the facility \$750, noting that Swearingen was unable to activate her call light and staff didn't hear her cries for help.

Swearingen's family hired Pendleton attorney Brian Dretke to sue River Valley. The case settled for an undisclosed amount last month.

### Changes enacted

Sexual abuse of the elderly hasn't spurred the same calls for change that well-publicized abuse of the developmentally disabled in state-licensed homes has. In November 2007, The Oregonian **reported that at least one of every five adult clients in state-licensed foster or group homes had been victims of serious neglect or abuse**, including beatings, rapes and theft, since 2000.



Then-Gov. Ted Kulongoski called for reforms. **The Legislature responded** by passing **House Bill 2442**, which enacted some significant changes that went into effect last year. The DHS is now required to report the number of sexual assaults suffered by the developmentally disabled and the number of caregivers who were criminally pursued or sued for wrongdoing against the developmentally disabled.



The Oregonian

David Kohler (left) Patti Richter (center) and Michele Kohler, David's wife, listen while the sentence is read for 19-year-old Sean Nicholas Cluver who was sentenced to close to 15 years in prison last year for sexually assaulting David Kohler's mother and Richter's sister in two long-term care facilities in McMinnville. "I am not hopeful that whatever it is within him that has him targeting women that are 70 and 80 years old can be rehabilitated," David Kohler told the judge.

But the law also added a few protections that applied to both the developmentally disabled and the elderly, including a clause that empowers the DHS to fine long-term-care facilities at least \$2,500 for each instance of failing to protect any resident from sexual abuse – up to \$15,000 during a 90-day period. The maximum fine used to be \$500 to \$1,000 for each failure.

In the more than year that the new law has been in effect, the most DHS has fined facilities is the minimum they're able to – \$2,500 – for failing to protect elderly residents from sexual abuse.

On Friday, DHS' new acting director, Erinn Kelley-Siel, **sent an email to legislators and DHS staff** alerting them to the coming publication of this story and laying out steps she plans to take to address the issues raised by The Oregonian. Among the changes, starting April 15, she said the agency will begin notifying long-term care facilities about the histories of all long-term job applicants – nurses, janitors, cooks and others – whom its investigators believe sexually abused or otherwise seriously mistreated residents in their previous jobs.

"Unfortunately, it is clear that there are gaps in our current system," she wrote. "Together, we must commit to closing those gaps."

**Aimee Green**; Twitter [@o\\_aimee](#)

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**Date:** August 9, 2011

**General questions:** Nelsa Brodie, 503-945-5690

## **Adult Safety and Protection Team delivers recommendations to protect seniors, others in long-term care facilities**

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The work group charged with reviewing Oregon's elder abuse incidents in care facilities and looking at ways to strengthen the adult protective services system delivered its final report and recommendations to state officials today. The recommendations are part of an aggressive effort to reduce elder abuse and neglect incidents in Oregon's licensed care facilities.

In March, DHS Director Erinn Kelley-Siel convened the Adult Safety and Protection Team (ASPT) to focus on these key questions while reviewing Oregon's adult protective services system:

- How can Oregon better protect abuse victims?
- How can Oregon keep abusers out of the system?
- How can Oregon prevent harm, reduce risk, and ensure quality of care in licensed long-term care settings?

The ASPT reviewed and analyzed the most serious incidents of elder abuse/neglect in long-term care settings and in the community since 2009 in an effort to identify issues or factors contributing to the abuse or neglect and any changes in policy that might be warranted; map the current adult protective services system, review existing policies and procedures, and looked to identify gaps and opportunities to strengthen the work of Adult Protective Services in Oregon; develop recommendations on how the Adult Protective Services system can better assist law enforcement in prosecuting abusers; and review the laws and policies defining elder abuse and make any necessary recommendations to strengthen them.

The top ten recommendations of the ASPT are listed below:

1. A statewide (preferred) or locally-based call center(s) should be established to handle the wide variety of calls now handled by the local APS Offices. The role and resources of the local APS Offices should be re-focused on the conduct of investigations. There should be an emphasis on maintaining strong relationships between central office and local offices and there should be a single statewide phone number. 211 should be researched as possible system to address the issue.
2. The state shall develop or secure a competency-based training program with basic standards for investigations of abuse cases.
3. The state should develop an abuse screening, prevention/early detection accessible training program utilizing a variety of modalities appropriate for the following audiences: employees, residents, and their families.

4. Public education, transparency, and accountability through processes such as: A) Central Office should periodically issue press releases on the more serious abuse and licensure cases that have been substantiated. Establishing a target of six – eight such releases over a calendar year is recommended. B) Central Office should consider issuing a brief annual report highlighting residential facilities/programs’ rates and severity of substantiated abuse reports. This report should be issued with a press release to the local media. The report should highlight the BEST performers. The state may even want to issue some sort of award certificates. The release of these statistics publicly is likely to be a more effective “sanction” than those now used by the state.
5. Improved relationship with law enforcement: The state should assure an established relationship in each county and point of contact and regular communication between local APS staff, the police/sheriff, and the DAs office, and others as appropriate.
6. Improved relationship with law enforcement: The state should establish a phase-in goal for an adult Multi-Disciplinary Team in each county along the lines of the Clackamas protocol, and in small counties explore a combined child and adult MDT that can do both.
7. The state should create a basic two week training course taught at DPSST to include interviewing, report writing, evidence collection, and sexual assault investigations.
8. As of January 1, 2012 (or as soon as practicable once the training is established), local APS offices shall assign (whenever possible) investigators who completed this program to investigate allegations of sexual abuse.
9. The state should develop a registry of all substantiated abuse perpetrators and the severity of their abuse. It should be available on the state’s web site, and all providers should be required to check the registry prior to hiring. The recommendation is predicated on appropriate due process protections being in place.
10. The time frame for the completion of abuse investigations by Local APS offices should be shortened to 30 days (from 60 days) and Central Office should ensure effective monitoring and intervention of timeliness standards [A benchmark of 90% timely would be a reasonable standard]. This process recommendation should be further explored recognizing that it is unrealistic with the current staffing levels. DHS should continue conversations with the legislature around funding for increased staffing levels. Additionally, the whole investigation and corrective action timeline should be looked at for efficiencies.

All of the recommendations plus the review materials and research can be found at:  
<http://www.oregon.gov/DHS/spwpd/asp/index.shtml>.

Kelley-Siel said DHS is developing a work plan focusing on these priority recommendations. DHS plans to present that plan to the Governor’s Commission on Senior Services and the Oregon Disabilities Commission for regular review and accountability. After the ASPT convened in March, the Legislature passed HB 2325, which created the Oregon Elder Abuse Work Group. Kelley-Siel said this group will consider the ASPT recommendations that specifically require legislation.

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