

Safe Seniors

Newsletter for the Prevention of Elder Abuse in San Diego County

Undue Influence Victims of Harmful Persuasion

An elderly man with Parkinson's disease had been thinking of getting help in his home for himself and his forgetful wife. Then help knocked on their door. A woman seeking work as a maid was going door-to-door in the neighborhood. He invited her in.

Over several months and after the wife's death, this caregiver convinced the man to buy her a Mercedes. She also talked him into changing his will, bequeathing everything to her, her daughter and her siblings. Fortunately, five different attorneys refused to draft a new will; they questioned his mental capacity. Unfortunately, the caregiver convinced him to marry her.

This real San Diego County case was presented at a workshop recently by Dr. Bennett Blum, a geriatric psychiatrist and nationally known expert witness in elder abuse cases. He is a specialist in what's known as "undue influence," a method by which someone creates a false sense of goodwill, then betrays that, often committing the crime of elder abuse.

Evidence of undue influence is now being used in civil cases where an older person may have agreed to give money or other assets to someone, but the elder was an unwitting victim of harmful persuasion. Legislation is being pursued in California to use undue influence as a theory of prosecution in criminal cases.

We are all susceptible to manipulation, but there are certain conditions that are indicators of greater vulnerability, according to Dr. Blum. He uses the acronym "IDEAL" to show the process of biological, psychological and social factors that commonly coexist in undue influence situations.

"I" stands for isolation, which includes people who are homebound or loners, but also people who have medical or mental disorders, problems traveling or difficulties communicating.



Dr. Bennett Blum

New Project Wraps Services Around Needs of Elder Abuse Victims

The 80-year-old woman thought a dear friend was investing her life savings in something that would protect her assets. Instead he gambled her \$100,000 away. She was trusting this man because she could no longer discuss financial issues with her husband, who suffered from Alzheimer's disease. Someone called Adult Protective Services (APS) to investigate what was happening to the woman's money. After finding out that the investment funds had been squandered, APS had a hard time convincing the victim of the truth. Her friend wouldn't do that to her, would he?

This client was a recent participant in a new pilot project that provides a wide band of supportive services in complex elder abuse cases. This woman had few people to turn to for help. There was no family, her husband was confused and her close friend betrayed her. She was stressed and unsure of what was going on or what she should do.

Enter the HOPE Team...literally. A team of professionals visited with the woman, providing information, emotional support, legal assistance and ultimately prosecution of the man who stole her money. Had this been a case of physical abuse, she would have been evaluated medically, as well.

The core HOPE (Help and Outreach to Protect the Elderly) Team consists of representatives from Adult Protective Services, the District Attorney's office, the Family Justice Center, San Diego Police Department, and San Diego State University. The project, which will be piloted in the city of San Diego, is being funded by a grant from the Archstone Foundation. The foundation has been dedicated to encouraging new ideas and approaches to better fight elder abuse and assist victims.

As in the elderly woman's case, elder abuse situations can be complex and overwhelming for victims. A trauma-

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

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tized senior is often not in the best frame of mind to navigate the maze of health, social service and law enforcement agencies that are available to help him or her. And some victims may already have cognitive difficulties.

Over the next year, HOPE Team members will be identifying 150 elder abuse victims in the city of San Diego who have complicated situations and who may lack assistance from family or friends in getting all the help they can.

The Family Justice Center is a key element of this pilot project. The center has been a model of “wraparound” services for victims of domestic violence. Instead of a victim needing to go to one building for a restraining order, then head to another part of town for a physical evaluation and another place to talk with a police investigator, that victim can come to the Family Justice Center and take care of all these issues at one site. The center’s doors are open to victims of elder abuse as well, and the HOPE Team will be encouraging its clients to take advantage of this opportunity. For those elder abuse victims unable to go to the center, the wraparound services will come to them.

Another critical component of the HOPE Team involves the client advocates, trained volunteers who are paired with each elder abuse victim in the pilot project and act as support and helper. They contact clients frequently to link them to resources; transport them to court, if necessary; call people for them; whatever might ease the aftermath of being a victim of elder abuse.

A side benefit of this pilot project is continuously improving communication among those involved in law enforcement, APS and prosecutors. Plus SDSU will be studying the project, so the team members can learn more as they go along.

The woman’s situation was definitely a success story for her and the HOPE Team. The man, her former friend, finally pled guilty. After sentencing (to a year of stayed custody and five years of probation), he handed the woman a \$16,000 cashier’s check and pledged to pay her back at least \$500 each month. That same day, members of the HOPE Team drove her and her husband to the bank first, then to the San Diego harbor. She had previously booked a cruise for them, but after the theft she was certain they wouldn’t be able to go. Now it truly was a bon voyage.

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“D” is dependency, such as depending on someone else for assistance and care with daily tasks. This can also include depending on someone else for information.

“E” is emotional manipulation and includes promises and threats that play upon someone’s fears and feelings. “E” can also stand for exploitation of a vulnerability, such as giving alcohol to an alcoholic in exchange for something, or misrepresenting documents to someone who can’t see well or is cognitively impaired.

“A” is acquiescence, when the victim starts going along with the perpetrator and agrees to do what is demanded or requested.

“L” is loss, which can be loss of assets, or physical or emotional harm. Determination of loss will be particularly important for elder abuse prosecution.

Frequently with undue influence situations, the perpetrator uses emotional manipulation and/or exploitation of a vulnerability to build upon a victim’s isolation and dependency to the point when the victim acquiesces and eventually suffers some type of loss.

Dr. Blum emphasizes that undue influence isn’t any one action by a perpetrator, but a pattern of behaviors, a process of manipulation. With time, these criminals create an “us versus them” mindset with victims, further isolating them from others.

Few of these undue influence cases ever come to light. Victims may never realize they’ve been conned, or they are too ashamed to admit it, or they die before anything is discovered. Victims are often physically impacted by the stress of being frightened and the humiliation.

When these cases do surface, prosecution could be difficult because of the shame or frailty of the victims. Dr. Blum has been able to successfully use his IDEAL model to show juries how the victim was influenced and harmed, even if the victim is not able to testify or would not make a reliable witness. Actually, undue influence is easier to prove if the victim has some cognitive impairment, he says.

The concepts behind the IDEAL model could also be used to help family, friends, professionals intervene in situations where someone is being unduly influenced. If people outside this manipulation can find ways to make the victim less isolated and reduce the dependency on the perpetrator, then the emotional manipulation could be impacted. The longer the manipulation has been going on and the more impaired and dependent the victim, the more difficult it may be to intervene.

In the San Diego case discussed earlier, Adult Protective Services became involved when a caller expressed concern about the man because the new wife would no longer allow him to speak to friends. The wife moved the victim away, into an efficiency apartment, essentially abandoning him. He was found, seriously ill. An APS worker overheard the wife telling her sister that she planned to take the victim out of the country to stop further investigation.

In the end, the wife was prosecuted and pled guilty to felony financial elder abuse and was ordered to pay full restitution. The marriage was annulled.

To learn more about undue influence and the IDEAL model, see Dr. Blum’s Web site: www.bennettblummd.com.

Elder Abuse Prosecutions

District Attorney's Office

Lynn Connally: Pled guilty to felony willful cruelty to her 75-year-old mother, after punching her, dragging her outside and whipping her with a dog leash. Defendant was sentenced to one year in custody and 180 days in an alcohol rehabilitation center.

Marie DelValle: Pled guilty to felony elder abuse after physically assaulting an elderly caregiving client and breaking her arm. Sentenced to one year of local custody and a minimum of six months in a dual diagnosis program, plus three years probation.

Tonya Pena: Pled guilty to felony theft from an elderly couple. Defendant had cleaned their home for about a year. She admitted to stealing and using one of their credit cards. She charged more than \$14,000 on it. She would intercept the Visa card bill in the mail and pay for it using funds from the couple's checking account. She was sentenced to five years probation.

City Attorney's Office

Kalikookaleh Nee: Pled guilty to elder abuse after violently shoving his 71-year-old grandfather. When the

victim tried to call the police, the defendant ripped the phone out of the wall. The defendant also destroyed his grandfather's walking cane. He was sentenced to one year in jail.

Daniel Agajeenian: Pled guilty to misdemeanor elder abuse after becoming enraged at his 71-year-old mother who refused to give him money. He shoved her. He was sentenced to one year in county jail; the sentence was stayed on condition that defendant comply with all probation conditions, including a 52-week elder abuse prevention class and a residential drug/alcohol rehabilitation program. If defendant violates any term of his probation, then the court can sentence him to one year in jail.

Sean Rock: Pled guilty to a domestic violence charge after stomping on the foot of his 88-year-old wife and throwing soup on her. The defendant is 46. Fortunately, the victim was not injured or scalded. The defendant was sentenced to probation on condition that he serve some time in jail and complete an anger-management class. The defendant is also prohibited, by law, from owning or possessing firearms.

Be Wary of Foreclosure Aid

Homeowners need to be very cautious when facing possible foreclosure. Beware of businesses that offer homeowner assistance with this problem but may actually end up taking title to the property, or taking fees for doing virtually nothing to help stop the foreclosure.

WHAT TO LOOK FOR:

- Paperwork that the homeowner is told covers refinancing or a new loan, but actually transfers title to the scammer;
- Scammers who charge fees for assisting with a "rescue" but actually do nothing, causing the homeowners to miss a deadline to cure the default;
- A sale of the home to the scammer with a promise the homeowner can repurchase later at a much higher price.

WHAT TO DO INSTEAD:

Contact your lender immediately and try to work out terms; contact Elder Law & Advocacy (858) 565-1392; San Diego Volunteer Lawyer Program (619) 235-5656; or Lawyer Referral Service (619) 231-8585 for assistance.

Don't Risk Being a Victim; Get Papers in Order

*By Carolyn Reilly, Esq., Director
Elder Law & Advocacy*

Elders who become ill or lose mental capacity may need someone to help them manage their finances and property. People who do this for payment are called professional conservators or fiduciaries. Through a court action, a professional conservator can be appointed if no suitable family member is available. In other circumstances, family members, and sometimes elders themselves hire private fiduciaries to help. While most of these professionals act responsibly, some have abused the powers granted to them, scamming seniors out of all of their assets and charging huge fees.

WHAT TO LOOK FOR:

- Unexpected changes to bank accounts, mail deliveries, credit accounts;
- Bills which are not being paid;
- Unusual activity in or around an elder's home, such as strangers visiting or "fixing up" the property;

- Sudden removal of a self-sufficient elder from their home to a facility such as a nursing home.

WHAT TO DO BEFORE YOU NEED HELP:

- Obtain a springing durable power of attorney before losing capacity, naming someone you trust to act in your place;
- Obtain a revocable trust so that someone you choose will manage your assets if you become incapacitated;
- Prepare an advanced healthcare directive to have someone you trust available to make medical decisions for you, if you are unable to do so.

Should you or your family discover any suspicious activity regarding your assets, contact law enforcement or Adult Protective Services at (800) 510-2020

For more information about legal services and for an appointment for free legal assistance, contact Elder Law & Advocacy: (858) 565-1392 for San Diego County; (760) 323-0223, Imperial County



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San Diego County Supervisor Pam Slater-Price
and District Attorney Bonnie Dumanis
invite you to:

Consumer Protection Day

Saturday, March 24

8:30 a.m. to 2:30 p.m.

Town & Country Resort and Convention Center

(Free lunch, parking and entertainment, plus exhibitors)

Reservations required; see www.sharp.com/seniors
or call 1-800-82-SHARP (800-827-4277)

Other Sponsors:

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AARP, Elder Law & Advocacy, and the Town & Country Resort Hotel*