

Local

Mental illness gray area baffles the system

She is what you might call "understandably upset." Her mentally handicapped daughter was molested on her 16th birthday.

Her two young sons were assaulted by the same man. The man admits to the assaults, but two years later he still hasn't been tried for the crimes.

For the last 24 months he's been living at home under house arrest. But last Christmas, the woman says, she saw the man at the local Acme.

"I went right up to him," she said. "I told him he was disgusting. I said, 'how could you?'"

She says the man didn't say a word. He just looked at her, frightened. He left the store without buying a thing.

"I was afraid of what I was going to do," the woman said. "I knew if I did something, I'd be thrown in jail. My kids need me."

They are her kids. They are his grandchildren. The man is the woman's father-in-law.

Her nightmare started a little over two years ago when she and her husband came home and found their daughter sobbing on the sofa. She'd just come back from dinner with her granddad. The girl said she'd been grabbed, fondled and kissed on the mouth.

"I ran over to his house," the woman said, "to find out what happened. He said 'all I did was touch her breasts and kiss her.' I flipped out."

She told her husband to call the police. They took their daughter to a local emergency room to determine if anything else happened. The test came back negative.

The next morning, the woman said she told her husband to ask their two boys if their grandfather had ever touched them inappropriately.

Yeah, they said, he had. It was on the trip back to the grandfather's house that her husband started to cry.

He said the old man had molested him, too, when he was a kid.

She was not sympathetic. "You were molested and your let you own kids go over there?"

She was furious. She wanted to know why he didn't tell her about his father's problem.

"I didn't think you'd marry me if you knew," she says he replied.

She now refers to him as her "soon to be ex-husband."

When the police questioned the old man, he admitted everything. He even admitted to performing oral sex on his grandson.

He admitted to doing more than he thought he actually did," the woman said.

He was arrested and charged. But questions about his competency to stand trial were raised quickly.

He was allowed to stay home under house arrest, a monitor attached to his ankle.

His ex-wife came to live with him. His daughters also pitched in to help. While his son said he had victimized him, the man's daughters denied he'd ever laid a finger on any of them.

Last April, there was a competency hearing. His lawyer says he is too confused to be tried for his alleged crimes.

Judge Frank Hazel was supposed to make a decision in 20 days.

Five months later, he finally did.

Last Thursday, the woman found out that her father-in-law would not be tried for kissing and fondling her

daughter. He will not be tried for performing oral sex on one of her sons. Judge Hazel has deemed the man competent to stand trial.

Attorney Mike Malloy says his client has a se grade education and is showing early signs of Alzheimer's.

"It's hard to talk to the guy," Malloy said yesterday. "He gets confused."

In court, the judge would ask him if he understood that he's entitled to a jury trial.

"He'll say, 'yes I do. I do understand,'" said Malloy. "Then he'll ask me, 'did I just have a jury trial?'"

inside the courtroom and outside the door he can't remember what happened."

Malloy said the man's daughters are "very ac- supporting their father and make sure he is care- Their position is that he doesn't have a clue what on."

The daughter-in-law doesn't believe a word of thinks the old man is faking.

Before he got caught, she said, "he drove his and lived by himself. In no way did he have dem- Besides, she said, the commonwealth's psychi found him fit for trial.

Malloy's shrink and Hazel found otherwise. "He's not a simpleton, but he's very confused, Malloy.

For his client it's either a trial and jail or con- house arrest in the community.

"There is no Plan B," said Malloy. "There are things the criminal justice system has difficulty in dealing with and mental illness is one of them."

The mother sees it differently. "Act dumb and you get away with it."

Gil Spencer's column appears Sunday, Wednesday a Friday. E-mail him at gspencer@delcotimes.com



By Gil SPENCER