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# The National NOTARY®

November 2007

**Ethics and Character  
Matter P.20**

**International  
Notaries Forming  
Tighter Bonds P.34**

**The Challenges Of  
Adoption Documents  
P.38**



THE MAGAZINE FOR PROFESSIONAL NOTARIES

## WHO ARE YOU?

**'Personal Knowledge'  
Challenged**



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#### THE NATIONAL NOTARY

THE NATIONAL NOTARY is the official publication of the National Notary Association. We enjoy a nationwide circulation, with subscribers in several foreign countries as well, and welcome the readership of all those interested in the important work of Notaries.

#### PUBLICATION POLICY

The objectives of THE NATIONAL NOTARY are to: (1) publish only quality articles on Notaries, notarization and related subjects; (2) inform our readers of important developments in the field of notarization; and (3) focus on Notary issues and related subjects that are helpful, educational and informative to Notaries and others interested in the field.

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## From The Managing Editor



### Are The Days Of 'Trust' Lost To History?

The ideal of trust has lost a modicum of its luster.

There was a time when a handshake and a promise were as good as gold; when you

could rely on the character, integrity and honor of people you knew or had dealt with for years — family members, close friends, neighbors and colleagues — and when you didn't have to constantly look over your shoulder for criminals targeting your personal information.

But those days are long gone.

We now are motivated by selfish and sociopathic desires, driven by greed, fear, desperation and survival. It is truly the era of "Me," in which personal fulfillment transcends the greater ideals of community strengthening, family bonding and goodwill toward others.

Fifteenth century English clergyman and historian Thomas Fuller once wrote, "Trust thyself only, and another shall not betray thee." The context for this citation was simple and wise: If you are careful, make sound decisions and maintain absolute awareness of the details of your life and career, the likelihood you will be duped or betrayed decreases dramatically.

That's why in recent months the practice of using "personal knowledge" (page 28) to identify a document signer has come into question, and may even be abolished in California.

Certainly, a Notary can be confident that their repeat signer is who they say they are, but the Notary has no way of knowing the signer's motives. And with law enforcement increasingly turning to Notaries to help investigate fraud and identity crimes, a well-documented journal entry beyond a simple notation of "personal knowledge" is essential.

With more and more people scamming their own families, friends and colleagues, Notaries have a fundamental duty to observe best practices and operate at the highest levels of professionalism. Trust, integrity, security and ethics (page 20) will always remain the tenets of a successful Notary.

It's my greatest hope that someday we will once again be able to let our guard down, but the cynic in me says those days are lost to history. Security remains the only option.

Security  
remains the  
only option.

## COVER STORY

### 28 • Personal Knowledge Put To The Test

For centuries, Notaries have relied on “personal knowledge” as the most convenient and, presumably, the safest method for identifying a signer. But times have changed. Criminals are now more sophisticated, as are the crimes they perpetrate. When a Notary relies on personal knowledge, the certainty of identity may exist only with the Notary — not with other parties relying on the authenticity of a particular document.

### 33 • To Provide And Preserve: Journals Help Fight Fraud

When authorities discover a case of mortgage fraud, one of the first places they turn for clues is a Notary’s journal. That is, if the Notary keeps a journal — or keeps one the way it’s supposed to be kept.

## WHO ARE YOU?

‘Personal Knowledge’  
Challenged



## FEATURES



### 34 • International Notaries Grow Tighter Bonds

No matter where you travel, you’re likely to find a Notary. From Europe to South America, from banks to embassies, Notaries provide vital services for document signers. But not all Notaries are the same, and the differences can sometimes lead to challenges and misunderstandings.

### 20 • Ethics And Character Matter

Every generation seems to define ethics, morality and character for itself. It builds on past generations but evolves to conform to current conditions. But as Notaries across the country know, character counts. Doing the right thing is a duty.



### 38 • Adoption Boom Brings New Challenges

Given how cumbersome the adoption process is, success can seem as miraculous as childbirth itself. Each year, as many as 150,000 children are adopted, and more Americans are adopting children internationally.

### 26 • Paralegals ‘Walk The Line’

Almost every paralegal faces some inherent risk of crossing the line into unauthorized practice of law, notarial or otherwise. But independent paralegals are the ones challenging the boundary.

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### THE PATH TO SUCCESS: 15 VICKIE FRELOW

When a signer’s daughter became verbally abusive and displayed odd behaviors, and the signer refused to let her leave, Vickie Frelow began thinking of ways to ensure the safety of NSAs.



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**OUR MISSION**

The National Notary Association is committed to the education and service of Notaries throughout the United States. As the foremost authority on the American Notary office, we are dedicated to imparting knowledge, understanding and unity among all Notaries, and instilling in them only the highest ethical standards of conduct and sound notarial practice.

# OUR READERS' RIGHT

## Useful Articles Are Appreciated

I found an abundance of articles in the September 2007 issue of THE NATIONAL NOTARY that are especially useful. You are doing a marvelous job touching the pulse of the Notary's needs.

**Virtlee Long, Tulsa, Oklahoma**

## Disagreement With Credit Card Advice

While reading the July 2007 magazine, I came across what I think is bad advice in the "Helpful Hints" issued by Bankrate.com on page 14.

First, you should never close credit card accounts, especially if you have had them for a while. Your FICO score will plummet as a result. If you are unhappy with a credit card, simply don't use it or use it very minimally to keep it active.

Second, you should not make early payments and let credit card companies make even more interest on your money. Pay on time — the best way is to pay online about two days before the due date or set up automatic payments with your bank. Don't rely on "snail mail" and don't pay by phone as you will pay an extra \$10-\$15 on top of your payment. Try to pay more than the minimum and as much as you can afford. Try to keep your balance under 50 percent of the limit on the card.

**Michelle Pinto-e-Costa, Glendale, California**

## Comments On Conference 2007

This year I attended my first NNA Conference and it was remarkably well-organized, well-thought out and extremely interesting.

The workshops were terrific and the speakers were informative, interesting and entertaining. The eNotarization instruction with Ed Chase and the Working Lunch with Gary Drury were fun, but if I were asked to pick one workshop speaker who stood out, without any doubt I would say Thomas Adams with "Technology-Speak Made Easy."

His workshop presentation was a finely-tuned machine; he was quick-witted, informative and impressive. While all the workshops were great, Mr. Adams' was outstanding in every way.

Once again, thank you for an educational and entertaining five days. I don't know how you combined the two with so much efficiency. It was a pleasure and I look forward to next year.

**Sandy E. Rivers, San Mateo, California**

## Letters To The National Notary

We welcome letters, comments and questions from our readers. We reserve the right to edit for space and/or clarity.

You may reach us at publications@nationalnotary.org. You may also fax us at (818) 700-1942 or send mail to: National Notary Association, Editorial Department, 9350 De Soto Ave., P.O. Box 2402, Chatsworth, CA 91313-2402.



## 50th Anniversary Messages To The Association



"I would like to congratulate the National Notary Association on its long commitment to promoting the highest standards of ethics and professionalism for Notaries Public all across the United States. The leadership of the NNA over the past 50 years is to be commended by all who recognize the significant and vital services that Notaries provide to the public."

—Brad Johnson, Secretary of State, Montana



"The NNA's publications and eNewsletters inform me of everything I need to know in order to be an effective Notary Public. Because of my NNA membership, I feel that I have someone out there at all times to communicate with should issues arise. Here's to 50 more years!"

—Terri Hillman, Gardner, Massachusetts



"Congratulations to the NNA on your 50th anniversary! It was a pleasure celebrating this magnificent accomplishment with you at the 2007 NNA Conference."

—Elaine Wright, Bowie, Maryland



"One of the things I appreciate so much about the NNA is their prompt, efficient and knowledgeable staff. Whenever I've had a question or concern about a document, they've been able to help immediately. Happy 50th NNA!"

—Nirma Carrera, Riverside, California



"Congratulations to the NNA on its 50th anniversary. I don't think I could have grown my company as quickly or gained the knowledge I needed without the assistance of the NNA."

—John Wilson, Savage, Minnesota

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# Notaries Face The Growing Challenge Of 'True Identities'

Notarization is both simple and complex. Simple because we can condense it rather effortlessly into three basic concepts; complex because it harbors thorny issues which do not emerge upon initial reflection but often become apparent the day after we receive our first commission.

Very simply, notarization functions to serve three purposes: take the signer's acknowledgment of an act and deed as willingly made and with awareness of the import; ensure the signer's personal appearance before the Notary; and identify the signer.

Once we officially join the ranks of commissioned Notaries, we learn very quickly that the duty to determine willingness and awareness changes in difficulty with our location, be it a rest home or hospital, residence or office.

The meaning of personal appearance comes under challenge first with the fallacious argument that a phone call or video conference suffices as "appeared before me." But the most problematic duty is, was, and may always be that of identification.

The idea of true identity, or of being assured that someone was indeed "personally known," was a challenging feat as early as 1560, when a French court struggled to decide who had claim to the identity, property and wife of Martin Guerre.

In this infamous case, a young man returned home after a long disappearance and took up where he'd left off with a wife and a home only to be tried later as an impostor. The case was not made any easier by the lack of photographs, fingerprints, or given the 16th century literacy rate, even something as determinative as a signature.

But if the courts and community were divided over the Martin Guerre case nearly

450 years ago, and history reports that it was widely debated, we are equally conflicted today over whether modern technologies can really help us prove who we are.

Indeed, these same technologies can be manipulated as deviously as Guerre's impostor used the beliefs, customs and traditions of his time.

Over the past 50 years, arguments have been waged over whether a person who is a stranger to the Notary can ever become truly "known." Given the American penchant for responding to a good challenge, some states have established statutes and regulations to define "personally known" and clarify how documentary evidence could be used successfully to prove a person's identity.

But these definitions and clarifications still fall short and much is left to the judgment of the individual Notary.

How we prove who we are indisputably isn't going to be easily resolved any time soon and, for Notaries, the burden remains formidable. Yet, when we sign a certificate we are telling the world we have identified an individual.

Our seal and signature are a public assurance of identity.

If the responsibility sounds great, it is. Much like the French court, it is a Notary's diligence, competence, skill and integrity that coalesce to legally identify who we are.

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*Deborah M. Thaw can be reached at [dmtkaw@nationalnotary.org](mailto:dmtkaw@nationalnotary.org)*

## Reverse Mortgages: The Cure For Market Slowdown



*While the housing market slowdown continues, reverse mortgages remain popular with older homeowners. Lenders made 77 percent more on reverse mortgages in 2006 than in 2005.*

Older adults today have more than \$4.3 trillion tied up in home equity and by 2030 — when the youngest of the baby boomers retire — Americans aged 62 and older will have \$37 trillion in real estate holdings, according to the Washington, D.C.-based Hollister Group.

That's why, despite the current real estate slowdown, the reverse mortgage business is booming. Retirees with free-and-clear homes increasingly are choosing to let the home pay them. Lenders made 77 percent more on reverse mortgages in 2006 than the previous year.

The trend is opening the door for Notary Signing Agents to increase their income amid the slow housing market and, in fact, many Notaries have chosen to handle reverse mortgages exclusively. A reverse mortgage is a loan against a home that the homeowner does not have to pay back for as long as they live there — turning the value of the home into cash without having to move or to repay the loan each month. To qualify for most reverse mortgages, borrowers have to own their homes and be at least 62. The loan is repaid after the homeowner dies or sells the property.

Although the reverse mortgage industry has seen major growth over the past five years, only 300,000 loans have been originated during that time, which represents less than 1 percent market penetration, according to the National Reverse Mortgage Lenders Association.

## MERS Surpasses 50 Million Electronic Loans

In another positive sign that LeMortgages are being embraced throughout the industry, MERSCORP Inc. recently reported it has electronically registered its 50 millionth loan on the MERS System — a technology platform that has streamlined the mortgage lending industry by eliminating paper when companies trade or reassign loans.

Created nine years ago by the real estate finance industry, MERS works

with more than 3,000 lenders and electronically processes an average of 25,000 loans per day. In any given transaction, a borrower names MERS as the mortgagee for the lender on deeds of trust and mortgages that are filed with county recorder's offices.

The lenders register the loans on the MERS System and track changes in service and ownership rights over the life of the loan, saving lenders and consumers time and money.

## Incentives Help Sweeten Home Sales

With everyone from Realtors® and Signing Agents to mortgage brokers and Wall Street investors feeling the pain of the real estate slowdown, home sellers increasingly are being encouraged to offer incentives to close the deal.

Some sellers are finding creative ways to entice buyers to sign on the dotted line. Deal sweeteners, such as new appliances or the initiation fee for a local country club, are fairly common.

But real estate experts say the incentives that matter the most affect the bottom line.

A big one is what the industry calls buy-downs. With a buy-down, the seller pays points up front to the lender to lower the mortgage interest rate — either for the first few years or the life of the loan. Kicking in \$5,000 on a \$250,000 mortgage could lower the interest rate 0.5 percent and save the buyer close to \$30,000 over the life of the loan.

In higher-priced markets, sellers are helping with closing costs, down payments and homeowners' association fees. Warranties on the homes also are popular.



# Credit Repair Often Leads To More Financial Woes

If you have credit problems, don't delude yourself into thinking you can wipe them out with a few easy payments — no matter what credit repair companies may say.

Web sites claiming the ability to erase bad credit often operate outside the law and rarely, if ever, achieve good results for consumers, according to officials from the Federal Trade Commission.

"Credit repair schemes are a big problem for consumers," said Eileen Harrington of the FTC's Bureau of Consumer Protection. "Credit repair promoters generally charge hundreds of dollars, but don't deliver on their claims. The

fact is, they can't. No one can legally remove accurate and timely information from your credit report."

The FTC has gone after scores of credit repair companies in recent years, including 20 of them in February 2006 as part of an operation called "Project Credit Despair."

"I remember the head of our consumer protection bureau saying a few years ago [that] she had never seen a legitimate credit repair company. And I don't think we have yet," Steve Baker, director of the FTC's Midwest region, told the *Los Angeles Times* in an interview.

## It's Boomer Times For Towns Across America

Places like Arizona and Florida historically have been traditional retirement destinations. But with 78 million baby boomers hitting or nearing retirement age, towns throughout the U.S. are salivating at the thought of luring them to new communities.

The reason is simple. Boomers — people born between 1946 and 1964 — are loaded. According to *American City & County* magazine, boomers hold 80 percent of the assets in savings and loan associations and own two-thirds of all stock.

The Valdosta, Georgia-based Triple Crown Hometowns — a coalition of local chambers of commerce — estimates that 50 retiree households have the same economic impact as 185 manufacturing jobs.

Mississippi's Hometown Retirement Program gives a tax

exemption for pension payments for residents over 65. The state estimates seniors pump \$194 mil-



lion a year into the economy, creating one job for every 1.79 retiree households that move to the state. Many of those jobs and opportunities are in health care services, construction, retail, hospitality and real estate.

All that activity will keep Notaries in many industries busy — such as Signing Agents collecting signatures on mortgage documents and hospital employees notarizing healthcare directives.



**39.5%** Percentage of New Orleans' population that has not yet returned after Hurricane Katrina.

**Number of housing units in the state of New York as of 2005.** **7,853,020**

**62707** ZIP code of Springfield, Illinois, the city with the fastest growing rate of identity theft in the United States.

**Increase in the number of Notaries in Texas over the past five years.** **45,466**

**\$88 billion** Increase in Los Angeles County, California's, property tax assessment value in 2006.

**Percentage of Pennsylvania's population who were homeowners as of the year 2000.** **71.3%**

**\$3 trillion** The amount of commercial mortgage debt outstanding at the end of the first quarter of 2007.



## Skyrocketing Debt Fuels New Wave Of Bankruptcies

Following a steep decline in personal and commercial bankruptcies in 2006, filings are once again on the rise due to debt levels continuing to skyrocket, some of it related to the collapse of the real estate boom, experts said.

Before year's end, Notaries in certain states and jurisdictions may encounter an increase in bankruptcy-related notarizations. Notaries also trained as bankruptcy processors will be particularly in high demand.

In 2006 — after massive changes in bankruptcy laws took effect — the total number of filings declined 70 percent to 618,000, down from a record of 2.1 million in 2005, according to statistics released by the Administrative Office of the U.S. Courts.

But for the first three months of 2007 — the latest numbers available — consumer filings increased 66.3 percent and business filings rose 53.7 percent, compared to the same period in 2006, according to the American Bankruptcy Institute.

"Though bankruptcy filings are still low from a historical outlook, new cases are being filed at much higher rates than a year ago as more households feel the stress of high debt burdens — a trend that is likely to continue," ABI Executive Director Samuel J. Gerdano said in a statement.

# Housing Doldrums May Continue Until Year 2009

It took the head of the nation's largest mortgage lender to start the ball rolling, but once Angelo Mozilo admitted it, others joined the chorus predicting that the housing market will languish in its current slump until 2009.

For much of the year, Mozilo, CEO of Countrywide Financial Corp., and others insisted the real estate market would rebound next year. But that was before Countrywide announced a 33 percent earnings drop this summer.

In the wake of that news, the National Association of Homebuilders, government experts and Wall Street analysts all began proffering gloomier forecasts, suggesting that Signing Agents will have to endure a much longer downturn.

In a conference call with analysts, Mozilo described the housing market as a "huge battleship ... headed in the wrong direction." He added it will take most of 2008 for the slump to stop.

Much of the country's attention

has been focused on the crisis in the subprime mortgage market, which caters to borrowers with poor credit or low incomes. Countrywide



## Housing Still Heading Down



\* Numbers reflected an annualized rate.  
Source: National Association of Realtors

acknowledged, however, that it had taken a hit from defaulting home equity loans, which generally are made to borrowers with higher credit ratings.

## The Latest Fraud Epidemic: Coupons

There's identity fraud. There's mortgage fraud. And now: coupon fraud.

Forgers using computers and high-quality printers to counterfeit and mass-produce Internet coupons are increasingly misusing these discount offers.

And lest you think this type of fraud only takes place among a few overzealous consumers, consider this: earlier this year, a federal indictment charged International Outsourcing Services, a clearinghouse that processes coupons for retailers, with passing fraudulent coupons onto manufacturers and pocketing more than \$250 million over a 10-year period.

To counter this epidemic, the Coupon Information Corporation (CIC) offers a security device free of charge that's aimed at hindering counterfeiters. The CIC provides manufacturers with a computer file containing a free hologram which can be applied to their coupons.

Any manufacturer — even those who don't belong to the CIC — can request the holograms for its coupons. The hologram is placed in the space where the coupon's expiration date appears.

## Borrowers More Confused Than Ever

If the recent subprime mortgage fiasco and resulting foreclosure boom wasn't evidence enough of consumers getting in over their head, the Federal Trade Commission (FTC) recently discovered that confusion over the details of a loan or refinance is rife for borrowers across the nation.

In its study of 800 recent mortgage customers, the FTC found that the decades-old, loan disclosure requirement was confusing and ineffective at explaining the costs, terms and risks of a mortgage or refinancing — especially in complicated loan products like adjustable rate mortgages.

This level of confusion often puts Notaries in compromising situations when borrowers look to them to interpret or explain the details of their loans. Notaries must never venture into the unauthorized practice of law and should always provide the borrower with a copy of the "Notary Signing Agent

Pledge of Ethical Practice," available to all Notary Signing Agent Section members at [NationalNotary.org](http://NationalNotary.org).

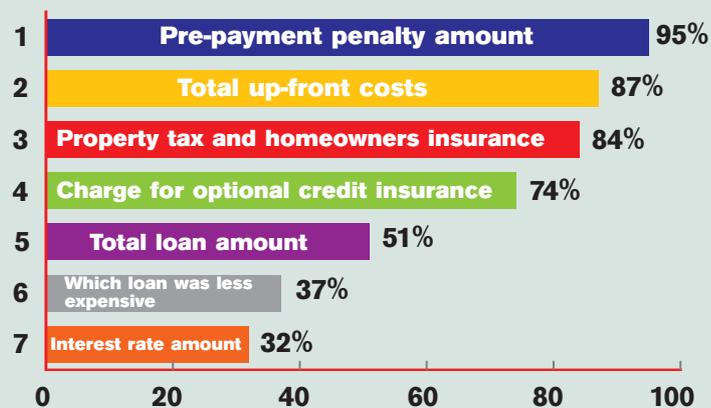
Among the study's most telling findings: 51 percent of borrowers could not identify their loan amount; 84 percent did not know how much property tax and homeowners insurance cost them; and 87 percent weren't aware of their total up-front costs.

"Mortgage disclosures designed more than 30 years ago can be confusing even for simple loans, and they do not address the variety and complexity of today's mortgage products," FTC Chair Deborah Platt Majoras said in a statement.

The Federal Reserve and the U.S. Department of Housing and Urban Development have reviewed the FTC report and agreed that loan disclosures were too complex, according to published reports. They are working on solutions.

## The Devil In The Details

*Borrowers find current mortgage disclosure forms too confusing. The percentage of people in a recent study who could not identify key loan terms include:*



Source: Federal Trade Commission

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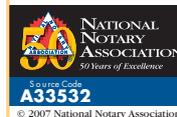


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### The Notary Signing Agent's Illustrated Guide to Common and Uncommon Forms and How to Notarize Them

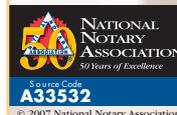
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## Demand Growing For Multilingual Notaries

Having just passed the 300 million population mark, there's no question that the face of our nation is changing. Experts are pointing to immigration as the biggest population trend next to aging. In fact, the U.S. Census Bureau estimates that by 2050, the U.S. population will hit 420 million — a 40 percent increase in less than 43 years.

Hispanics alone will double their numbers to almost 25 percent of the population by 2050. The number of Asians also will double to 8 percent.

With more and more non-English-speaking clients requiring notarizations — on everything from mortgage documents to immigration forms — it might be time for Notaries to consider learning a second language because

they need to be able to communicate with signers directly. The changes already are evident. According to research recently released by Harvard University's Joint Center for Housing Studies, immigrants accounted for more than 40 percent of net household formation between 2000 and 2005.

In addition, about 68 percent of households established between 2005 and 2015 will be occupied by minorities, with Hispanics making up 35 percent, the study revealed.

Immigrant populations are rising fastest in Arizona, California, Florida, Georgia and Texas. About one-fifth of home buyers and one-quarter of renters in California, Florida, New Jersey and New York were immigrants, the study found.



### THE CHANGING FACE OF THE NATION

Experts predict that by 2050 the U.S. population will climb to 420 million, and the ethnic breakdown will change dramatically. The predicted U.S. ethnic population estimates by percentage are:

	2000	2050
<b>Hispanic Americans:</b>	<b>12%</b>	<b>25%</b>
<b>Asian Americans:</b>	<b>4%</b>	<b>8%</b>
<b>African Americans:</b>	<b>12%</b>	<b>14%</b>
<b>Non-Hispanic Whites:</b>	<b>69%</b>	<b>50%</b>

Source: U.S. Census Bureau



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# In An Unpredictable World, Notaries Shouldn't Go It Alone

Vickie Frelow's Protective Side Leads To A New Venture To Safeguard Signing Agents

Helping people is in Vickie Frelow's personality make-up.

You can find her regularly donating clothing to the Los Angeles and Veterans of America missions. She also gives food and blankets to the homeless, and toys and money to needy children.

"The things I've done, I've done from my heart, and I think its come back to me tenfold," said Frelow. Raised solely by her mother after her father passed away at the age of 12, Frelow credits her with setting the example of morals, principles and self-sacrifice.

Currently, a cause close to her heart is helping her fellow Notary Signing Agents to understand the potential risk every time they go into a stranger's home. Frelow knows this first hand, and wants NSAs to take proper precautions.

For Frelow, who lives in Canoga Park, California, her wake up call came during a signing when the client's adult daughter became verbally abusive to her and displayed other odd behaviors. Frelow headed for the door but found it blocked by the woman's parents, who refused to let her leave unless the signing was completed. After an hour, Frelow eventually barreled her way out of the house — and without performing the signing — but the memory of what legally amounts to unlawful detention remains.

That incident spurred Frelow to think about a way to look after the safety of other NSAs. The idea turned into a new business — called Notary Protection Services (NPS).

When clients sign up they provide NPS with their daily schedules, including all information needed for police to track down a client in the event of trouble. The NSA client also receives a lapel pin that says "I'm protected."

"There's nothing like deterrence," Frelow said. During a signing, the NPS representative would call the client and ask for a code. If the client doesn't answer the phone or gives out a distress code, the representative would know to alert the police.

When it comes to security, Frelow isn't exactly new to the field. She spent 15 years with the Los Angeles Police Department and left with the title of Training Officer. Frelow founded Scotland Yard Investigations in 1997.

Intellectual curiosity isn't something she's short on either. "I am the type of person who likes to explore different things. I was a private investigator when a girlfriend told me about becoming a Notary. I thought I would add it to my repertoire," Frelow said. "Success is achieving a goal that you set out to accomplish. You being happy, the customer being happy and knowing that your service is something people can use."

## **Vickie Frelow** **Owner of Scotland Yard** **Investigations and** **Notary Signing Agent**

- **Education:** Cal State Los Angeles, studied psychology.
- **Motto:** "Treat others the way you want to be treated. You have to answer to a higher authority."
- **Most influential person:** Her mother, with respect to instilling morals, standards, and providing guidance.
- **Personal:** Single.
- **Hobbies:** Singing, charity work.





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## 'Notary Law Primers' Update State Regulations

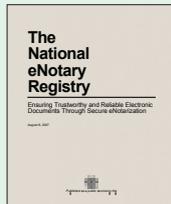
Notaries are constantly challenged to keep up with changes to state laws.

That's why the NNA offers state-specific *Notary Law Primers*. Each *Primer* contains state requirements for every notarial act, ID guidelines, required certificate wording for every notarization, recordkeeping, seal and bond requirements, steps to obtain a commission, and steps for proper notarizations. The *Primer* also includes a reprint of the state's official Notary handbook.

These *Primers* are regularly updated to reflect changes to Notary statute. Most recently, for example, the NNA's Virginia *Primer* was updated immediately after the state approved a number of changes to its Notary-regulating laws. To get a copy of a state *Primer* call (800) US-NOTARY, or visit NationalNotary.org.

## Registry White Paper Published

The National Notary Association has published the definitive treatise examining the National eNotary Registry™ in an effort to increase understanding and implementation of eNotarization as well as its essential Notary management and security features.



The paper details the registry's key functions, including real-time verification of a Notary's authority to perform eNotarizations; its innovative design that helps state officials manage their Notaries' electronic credentials; and its ability to securely register and track Notaries performing eNotarizations. It also discusses the Registry's accreditation by Secure Identity Services Accreditation Corporation — a subsidiary of the Mortgage Bankers Association — and how those credentials attest to the Registry's security and trustworthiness.



[www.NationalNotary.org/eNotarization](http://www.NationalNotary.org/eNotarization)

## Electronic Notary Seals Now Available In 39 States

The National Notary Association now offers Electronic Notary Seals (ENS™) in 39 states, and it is planned they will be available in all 50 states in the near future. The move is part of the NNA's aggressive effort to expand eNotarization across the nation and quickly increase security for electronic documents.

The ENS is a unique digital certificate that confirms a Notary's commission, and is used to notarize an electronic document in lieu of a traditional inking stamp. It is accessible only to its designated Notary, and is protected by password or through a biometric (e.g., fingerprint) confirmation.

Several states have differing requirements and application processes to obtain an ENS, but the NNA's online applications are tailored to meet an individual state's rules and regulations.

In Pennsylvania, for example, Notaries must fill out a special application required by the Department of State's Bureau of

Commissions, Elections and Legislation (BCEL).

The BCEL also collects the application fee and, once approved, the Department of State sends the Notary an Electronic Notary Approval Letter and gives the NNA authorization to issue the ENS.

In Florida, meanwhile, Notaries must send the completed application and a copy of their commission certificate to the NNA's Florida office.

The ENS Program was officially introduced in Pennsylvania in February 2006 as part of the state's historic eNotarization Initiative, the nation's first-ever movement of its kind.

To obtain an ENS online application for your state, visit NationalNotary.org/eNotarization. To inquire about a generic application, send queries to [esolutions@nationalnotary.org](mailto:esolutions@nationalnotary.org).



[www.NationalNotary.org/eNotarization](http://www.NationalNotary.org/eNotarization)

## eNotarization And Best Practices Are Themes For Conference 2008

Electronic notarization is rapidly being incorporated into industry and government business processes, so it's only fitting that the 2008 National Notary Association's 30th Annual Conference in New Orleans reflects this exciting evolution.

The theme for Conference 2008, "Secure eNotarization and Best Practices Today," celebrates the future of the Notary office as society increasingly immerses itself in electronic commerce. With more businesses looking to electronic notarization to secure their transactions, it is crucial for Notaries to understand how to properly perform this vital service.

The program for Conference 2008 promises to focus on this. Conference 2008 will be held May 27-30 at the Hilton New Orleans Riverside Hotel.



[www.NationalNotary.org/Conf08](http://www.NationalNotary.org/Conf08)



## Committee Continues 'Model Notary Act' Revisions

A committee of public officials, industry executives and NNA officials is hard at work on the second draft of revisions to the eNotarization section of the *Model Notary Act* of 2002.

The growing interest in electronic notarization — including the rapid expansion of the Pennsylvania eNotarization Initiative and the adoption of eNotarization standards by the National Association of Secretaries of State (NASS) — has made it critical to modify the *Model Notary Act's* Article III, said Charles N. Faerber, NNA vice president of Notary affairs and one of the members of the committee.

Several potential revisions were discussed by committee members during the NNA's Conference 2007 in Los Angeles. NNA officials are incorporating those suggestions into the latest draft. Once completed, it will be sent to all committee members for comment.

Committee members include: Elaine Marshall, North Carolina secretary of state; Katherine Hanley, Virginia secretary of the commonwealth; Orville "Bud" Fitch II, New Hampshire deputy attorney general; Harry Gardner, senior director of industry technology for the Mortgage Bankers Association in Washington, D.C., and Gabe Minton, chief strategy officer for Mortgage Cadence in Denver, Colorado.



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## Enjoa 3.1 Will Provide Secure Journal Backup Service

On the heels of this year's release of Enjoa® 3.0, the NNA will soon offer users of the eNotarization and journal application the ability to backup their files on secure NNA Internet servers with the release of Enjoa 3.1.

This new service, available later this year, will provide Enjoa owners with a safe haven for duplicates of their journal entries in the event of a computer system crash, theft or other loss. Access to the servers will be restricted with individual names and passwords. In addition, because all

journal files remain encrypted and unreadable without the user's Enjoa password and thumbprint, backup data on the servers cannot be read by unauthorized persons.

Use of the servers will require an upgrade to version 3.1 of the Enjoa software.

Current Enjoa users can download the most recent updates for free online at NationalNotary.org.



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Those with NNA Visa Business cards can earn up to 3 percent cash back on such purchases as gas, food and office supplies. Card users can also save on business expenses and enjoy full Platinum Visa benefits at no extra charge.



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# Notaries Make Electronic Transactions Trustworthy

By Timothy S. Reiniger, Esq.  
treiniger@nationalnotary.org

For years, those who have questioned, and even denounced, the trust and effectiveness of the Notary office in protecting the nation's document processes have falsely understood the Notary to

be a government agent needing extensive regulatory controls. Even today, with notarial acts being expressly given a critically important evidentiary role for private transactions, there are some who continue to question the trust, security and efficiency of the duties Notaries perform without additional regulation.

The latest and most prevalent myth, recently put forward by attorneys in North Carolina, is that Notaries cannot be trusted because they are "unregulated," and they need much more stringent rules and oversight. This erroneous claim is especially prevalent with respect to Notary Signing Agents and the duties they perform as a part of real estate settlement services.

However, the reality is that Notaries as professionals are already subjected to among the most stringent and tough rules and regulations in the nation. As such, the NNA is opposed to the creation of additional government regulatory schemes.

First, Notaries are regulated by their state commissioning authorities and must meet each jurisdiction's strict application guidelines, which in increasing numbers of states includes continuing mandatory education, exams, background checks and character witnesses. After receiving a commission, Notaries are charged with following not only the respective state's Notary code, but also other pertinent laws and statutes, all while facing strict penalties for violations.

Second, Notaries are subject to state rules governing the unauthorized practice of law. Because Notaries are ministerial officials —

they follow legal directions, not give them — every state prohibits Notaries from practicing law unless they are licensed by their bar association.

Third, Signing Agents and other Notaries working in the mortgage lending industry are subject to federal laws such as the Gramm-Leach-Bliley Financial Services Modernization Act, as well as other federal regulations that deal with privacy and security.

Lastly, the nation's 4.8 million professional Notaries are among the most dedicated self-regulating licensed officials in the country. Many strictly adhere to ethical practices as referenced in *The Notary Public Code of Professional Responsibility*. Many keep journals, even if their state does not require it, to create valuable legal evidence should fraud or forgery occur. And many follow best practices that go above and beyond some state and industry rules and regulations.

So when, for example, attorneys claim that consumers need to be protected by having only trained and qualified attorneys oversee real estate closings, they are patently wrong.

Notaries are already properly trained and regulated to act as impartial, third party witnesses, to positively establish identities, to screen signers for willingness and awareness and, in the case of Signing Agents, to present documents to be signed on behalf of a settlement services firm and perform routine administrative tasks. Any further regulation or oversight would create an unnecessary and unfair burden for these selfless agents of consumer protection.

# I'M GOOD

## IT'S EVERYBODY ELSE WHO'S BAD

*Character Changes As Society Evolves, But Every Generation Understands That Ethics Matter*

By Michael Lewis  
mlewis@nationalnotary.org

When John F. Kennedy was elected president in 1960, he energized a generation with visions of building a better world, epitomized in his inaugural speech: “Ask not what your country can do for you — ask what you can do for your country.”

Kennedy, for all his charisma and vitality, was also a philanderer. Numerous historians and biographers have documented that his wandering eye was an open secret while he was in office. There are accounts of many trysts with different women in the White House, including Marilyn Monroe. Yet nobody ever thought to hold him accountable for his personal conduct.

A little over three decades later, America elected another youthful, charismatic president. He, too, had a penchant for extramarital activities. But this time, America did not turn a blind eye. Bill Clinton was almost hounded out of office for his tryst with Monica Lewinsky.

It would be foolish to argue that Kennedy's era was less moral or ethical than Clinton's. Their example demonstrates how the ethical measuring stick evolves. Things which were acceptable in an earlier age are unacceptable today. And vice versa.

While many today might view Kennedy's personal conduct as deplorable, many also see him as a man of courage and character for the way he navigated the United States unscathed through the Cuban Missile Crisis.

Every generation seems to define ethics, morality and character for itself. It builds on past generations but evolves to conform to current conditions. But as Notaries across the country know, character counts. Doing the right thing should not be optional.

But that isn't always easy.

## Sizing Up The State Of The Nation

Americans have a fluid relationship with notions of character and ethics. A recent Gallup Poll



The rest of America apparently agrees with George. This year's edition of Gallup's annual Confidence in Institutions survey showed some measures at an all-time low. Congress came in dead last among the 16 institutions measured, with only 14 percent of respondents saying they have confidence in it. That's the lowest mark for Congress in the history of the survey. Big business matched last year's all-time low score at 18 percent.

shows that 76 percent of us have a negative view of the state of our moral values and 82 percent think our morals are getting worse.

In a separate Gallup survey of political issues, however, only four percent of the respondents thought ethics and morality were among the most important issues facing the country.

A 2006 study by the Joseph & Edna Josephson Institute of Ethics looked at the ethics of American youth. It found that 92 percent of 35,000 high school students surveyed were satisfied with their own ethics; and 74 percent said they were better than most people when it comes to doing what's right.

At the same time, 60 percent of the students admitted to cheating on a test within the previous year; 35 percent did so two or more times. Twenty-eight percent admitted to stealing from a store and 23 percent stole from a parent or relative. And 59 percent said successful people do what is necessary to win, even if others consider it cheating.

"In general, we have good values," said Patrick Murphy, a professor of business ethics at the University of Notre Dame's Mendoza College of Business and co-director of the Institute for Ethical Business Worldwide. "But certain societal trends work against that, such as fewer two-parent households which leave kids growing up without having strong moral grounding."

Instead, Murphy said, "We now have television with 150 channels. These kinds of fundamental societal shifts make it a little more difficult" to create a moral foundation. Murphy also believes the hyper-competitive nature of the late 20th century caused people to do unethical things to get ahead.

"I think there is a real loss of trust in our leadership," said Bill George, a professor of management practice at Harvard Business School and former CEO of the medical technology firm, Medtronic Inc. "In a democratic — and capitalist — society, everything depends on trust."

Three other institutions — HMOs, organized labor and the criminal justice system — all scored below 20 percent. And the media, which covers the scandals which come out of those institutions, didn't fare much better. Only 22 percent had confidence in newspapers and 23 percent in television.

Almost all other institutions — from the military and organized religion to banks and the presidency — lost ground from the previous year, which Gallup views as a reflection of our overall malaise.

### A Question Of Character

*A recent survey of high school students found:*

**98%** — Believe "honesty and trust are essential in personal relationships."

**89%** — Think that "being a good person is more important than being rich."

**92%** — Are "satisfied with my own ethics and character."

**74%** — Said "when it comes to doing right, I am better than most people."

**82%** — Have lied to their parents about something significant.

**60%** — Have cheated on a test.

**28%** — Have stolen from a store.

**23%** — Have stolen from a relative.

**19%** — Have stolen from a friend.

Source: Joseph & Edna Josephson Institute of Ethics

## Looking For A Moral Compass

Certainly our major institutions have stepped in more than a few messes in recent years, from the molestation cases rocking the Roman Catholic Church to the

high-profile legal scrapes of public figures and political leaders, such as football professional Michael Vick and U.S. Senator Larry Craig.

Big business itself seems to lurch from one scandal to another — perhaps the latest being the common practice of backdating stock options. This practice entailed changing the date on stock options issued to corporate executives, giving them a price advantage when they exercised their options.

When it came to light, the fallout reverberated in boardrooms across the country. The federal government is now investigating more than 130 companies, and dozens of CEOs lost their jobs over the scandal.

Many of the companies who practiced backdating did so during the heyday of the dot.com boom in order to recruit and retain talented employees with more generous compensation packages.

“When the heat is turned up, you tend to find out what people are made of in terms of their capabilities and morals,” said entrepreneur, consultant and author Joe Healey. “Increased competition forces companies to find honest and ethical ways to innovate — or they cheat.”

There’s almost an ethic in much of America that “if you can get away with it, it’s okay,” George said.

George blames much of our ethical foundering on our love affair with charismatic leaders with superficial leadership traits: “We’re choosing leaders for the wrong reasons.”

The media glorifies camera-friendly leaders who can give good sound bites more than leaders with good character.

Healey also blames the media-driven cult of celebrity for many of our character problems.

“One of the great myths is idea that every-

body in America is truly free,” he said. “A lot of people in America are more in prison than people in poverty-stricken countries, in terms of their dependency on so many things and their unwillingness to let go.

“So many people in America go to work, put in their eight or 10 hours, and they’re not happy. But they are the same people responding to the TV star saying they need to buy a more expensive shampoo.”

With leaders who inspire little confidence or trust, where do we learn our values?

As the Josephson Institute study suggests, our children are picking up very mixed messages. An incident at Duke

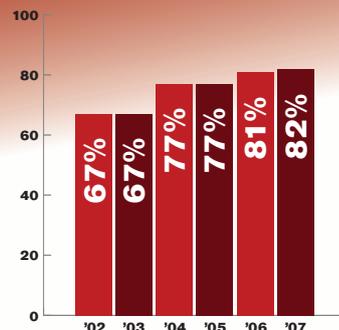
University last spring, in which 34 students in the MBA program were disciplined for cheating on a take-home test, underscores the point.

Healey doesn’t foresee doom and gloom in a morally flexible youth. “Character is developed over time,” he said. “It’s a false assumption that

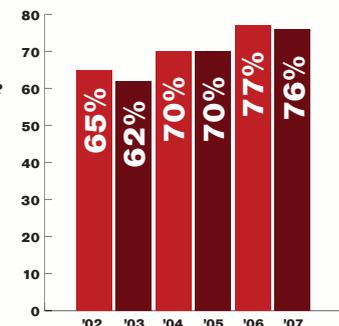


## Morals In Decline?

*The percentage of people who think America's moral values are getting worse:*



*The percentage of people who have a negative outlook about America's moral values:*



Source: Gallup Poll

you get it when you're young. Parents do help, but most great leaders learn lessons and develop moral grounding into their 60s."

Healey also thinks competition will help make business — and society — more ethical.

"The minute you have competition, you need innovation," he said. "That's when talent becomes important because bosses have to start treating employees better. And employees respond to character and morality."

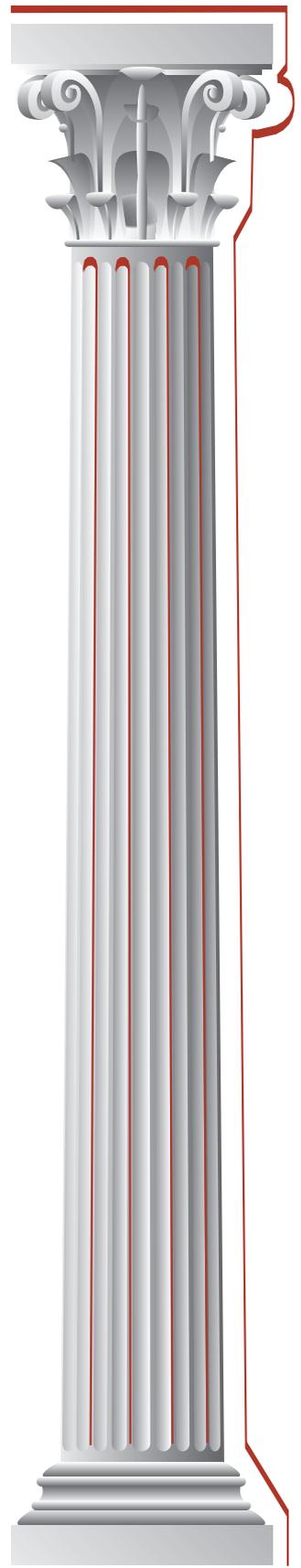
The best, most ethical companies value their employees, Healey said, but "valuing others is a learned trait." Good companies have a transparency and candor among employees at all levels to create self-accountability.

Many organizations, Healey

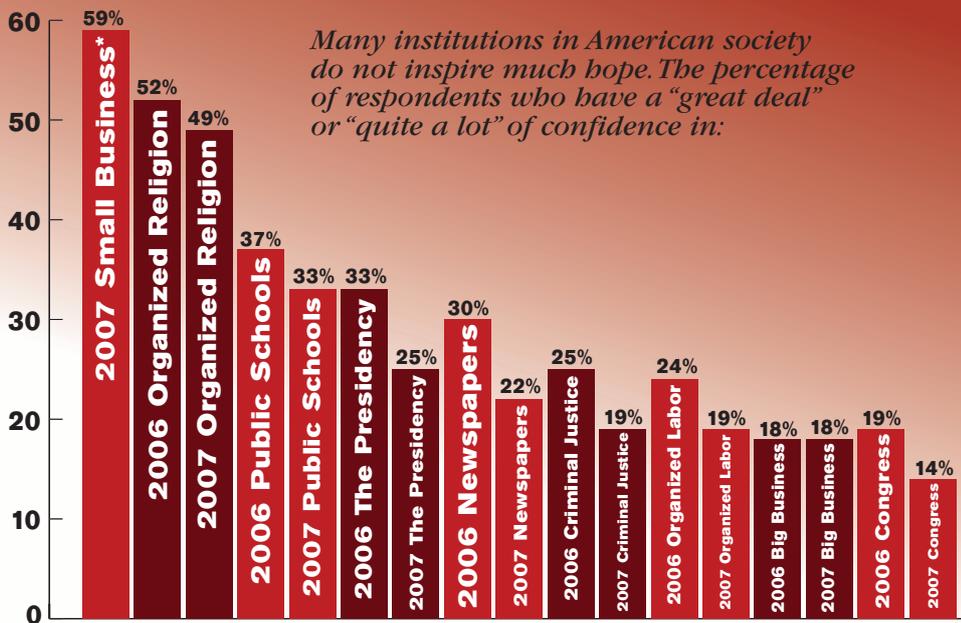
acknowledged, don't take that view and their employees are stuck dealing with unethical bosses. But it is possible to work for a low-character boss but still be effective as a high character person.

"There's a tendency among companies to disassociate character and economics," Healey said. "Those same people who pressure you to do unethical things are the same kind of people who don't value you. Who will underpay you and exploit you. And get you in trouble."

If things become too difficult, however, his advice is to find another job. "If you talked to 10 Notaries who stopped doing business with an unethical boss, nine out of 10 will say it was hard, but they were glad in the long run." **NNA**



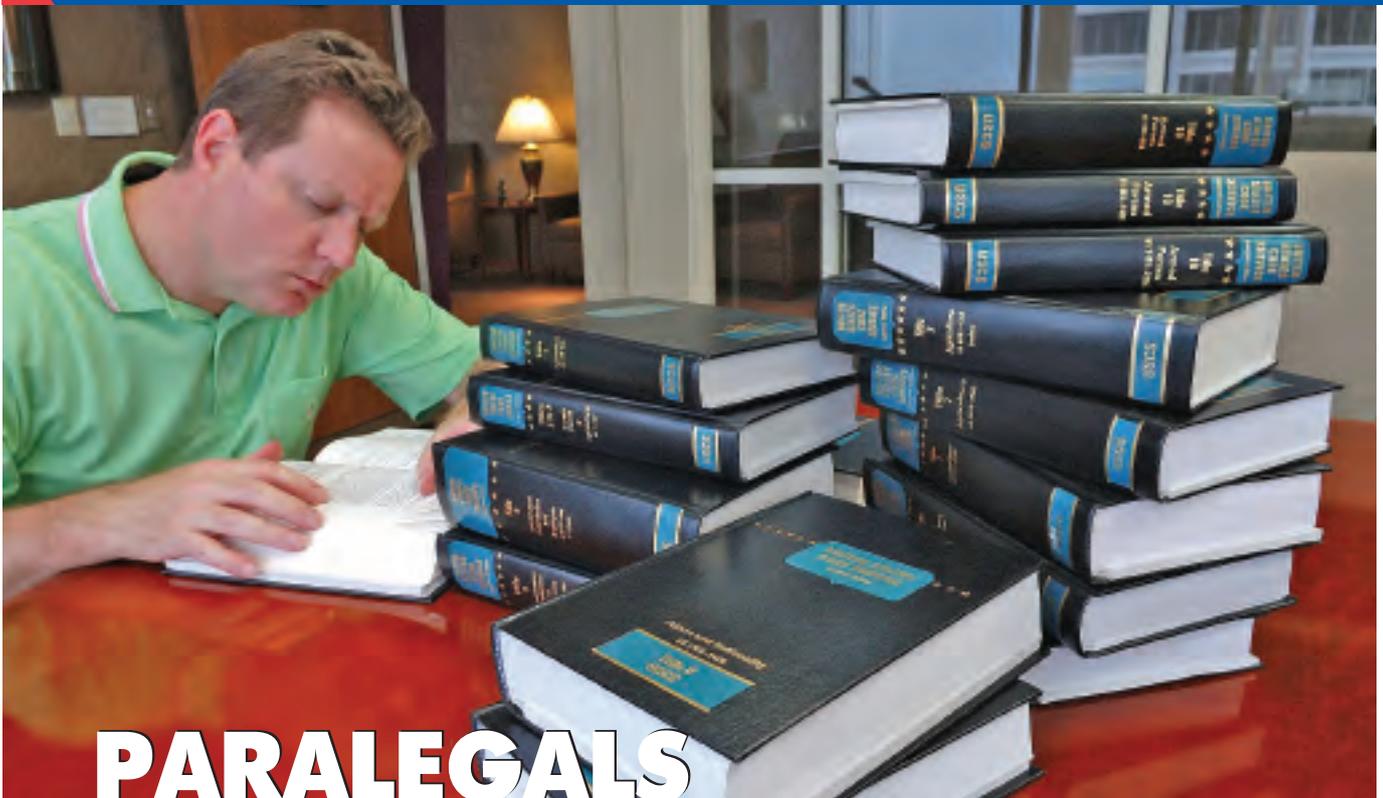
## A Lack Of Confidence



*Many institutions in American society do not inspire much hope. The percentage of respondents who have a "great deal" or "quite a lot" of confidence in:*

\* First time included in annual survey

Source: Gallup Poll



# PARALEGALS 'WALK THE LINE'

ASSISTING ATTORNEYS REQUIRES CARE AND DILIGENCE  
TO AVOID THE UNAUTHORIZED PRACTICE OF LAW

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**T**HAT OLD JOHNNY CASH STANDARD, “I WALK the Line,” could very well be the anthem of paralegals, who spend much of their days immersed in legal research and play an indispensable role in the legal affairs of the nation.

From full-time law firm employees to contracted document service providers, paralegals — sometimes known as legal assistants — often deal with functions of legal practice people typically associate with attorneys. Paralegals research case law, draft simple contracts and other standard legal documents, assist in estate planning, handle certain initial client meetings and often perform notarizations for their firm and clients. Paralegals do have a bit of legal discretion but within a very narrow range set by an overseeing attorney.

As a result, they often walk a fine line separating lawful performance of their duties from the unauthorized practice of law.

Almost every paralegal faces some inherent risk of crossing the line into unauthorized practice. But independent paralegals — paralegals who provide assistance directly to the public — are the ones challenging the boundary, according to the National Federation of Paralegal Associations, Inc. (NFPA).

“When reviewing the issue of UPL,” the NFPA recommends, “each paralegal must take into consideration their current roles and responsibilities as it relates to attorneys and to clients.”

The NFPA suggests that to avoid crossing the line, paralegals should not give legal advice or make legal determinations about a client’s documents or actions. In addition, the NFPA suggests that paralegals have an attorney review, approve and sign all correspondence which could be viewed as a legal opinion.

## **A GROWING PROFESSION**

The paralegal profession is about more than

taking on risks.

The U.S. Department of Labor (DOL) reports that employment for paralegals and legal assistants will grow much faster than it will for other professions or vocations through the year 2014. There's a great demand for their services in our litigious society.

Many paralegals also become Notaries to bolster their value to their employers. As any paralegal knows, in a myriad of legal documents, many require notarization. And well-trained, detail-conscious paralegal/Notaries can protect their employers from liability by making sure everything is done properly. Paralegals and legal assistants who become Notaries can enhance their skills and take their careers to a whole new level.

The paralegal's importance is underscored by the fact that attorneys who are also Notaries sometimes ignore basic principles of Notary law and find themselves disciplined by their bar associations. Legal assistant Notaries typically take more time and care to handle notarial transactions, protecting both the client and the practice.

The NFPA says that today's paralegals are given greater responsibility than ever before. Demand for them is increasing, according to the DOL. Corporations are boosting their in-house legal departments to cut costs, and a growing number of experienced paralegals are expected to establish their own businesses.

## A GOOD LIVING

For people who enjoy law but do not have a law degree, working as a paralegal might be ideal. The Labor Department reports that paralegals typically earn between \$31,040 and \$49,950. Earnings can even be much higher depending on the employer.

"Certain paralegals who work at large law firms may be well compensated. They are the information hub of the litigation," said attorney Jeffrey Loftness of Loftness and Anderson, P.A. in Shakopee, Minnesota.

"Although it can be very demanding and involve long hours, it can also be very challenging, exciting and thought-provoking," said Cindy Lopez, president of [www.NJParalegal.com](http://www.NJParalegal.com), an online community for New Jersey paralegals. "If you are in the research and investigative part of paralegal work, you work side-by-side with attorneys on interesting cases."

"What I like most is the research — finding different



cases, laws and statutes. I enjoy legal writing and the chance to analyze," said Joan Lewis, a senior legal assistant at Scan Health Plan in Los Angeles, California.

Community colleges and other institutions offer two-year associate degree programs, four-year bachelor degree programs, and even accelerated certificate programs that only take months to complete. Advanced certification is available to paralegals who wish to specialize in a particular area of law.

"As the law has become more complex, paralegals have responded by becoming more specialized," according to the Labor Department's Web site.

"It's recommended that you graduate from an ABA-accredited school also offering job placement and internship," said Lopez.

"Whether it's a two-year or a four-year program, the most important thing is that it's an ABA-accredited program," agreed Lewis. "Otherwise, you will lack credibility."

For helpful paralegal information, job tips, online support and quarterly newsletters, the National Notary Association offers professionals in the field membership in its Legal Professionals Section. For more information, visit [NationalNotary.org/Sections](http://NationalNotary.org/Sections). [NNA](http://www.NNA.org)

# WHO ARE

## ‘Personal Knowledge’

By Michael Mink  
mmink@nationalnotary.org

**Today it's necessary to go beyond the surface, to go more than skin deep**

For centuries, Notaries have relied on “personal knowledge” as the most convenient and, presumably, the safest method for identifying a signer. This has been especially true for Notaries who repeatedly notarize for familiar people, like bosses, coworkers, clients and friends.

The logic behind personal knowledge lies in the notion that repeated personal contact with a signer — bolstered by mutual relationships with other people in trustworthy circumstances — removes any reasonable doubt of a signer's true identity. In fact, the National Notary Association for years has supported personal knowledge as the “safest and most reliable” method for identifying a signer.

But times have changed. Criminals are now more sophisticated, as are the crimes they perpetrate. When a Notary relies on personal knowledge, the certainty of identity may exist only with the Notary — not with other parties relying on the

authenticity of a particular document.

One of the cornerstone practices of the American Notary office — vigorously promoted by the NNA — is to create a complete journal record of every notarial act as evidence for the legal system should a transaction come into question. With mortgage fraud and identity theft skyrocketing, local, state and federal law enforcement officials are relying more than ever on Notaries to provide solid evidence of fraudulent transactions. Yet, when a Notary's journal only lists the vague term “personal knowledge” as the method of identification, that lack of specificity can cause fraud investigations to grind to a halt.

An impostor tricking a Notary about identity doesn't just affect the Notary; it could be part of a much bigger picture that includes identity theft, immigration fraud, corporate graft and terrorism, all of which are high on the list of law enforcement priorities. Mortgage fraud cost the housing industry \$4.2 billion in 2006 alone,

according to the Prieston Group, which specializes in mortgage fraud protection.

Even if a Notary happens to know a signer well enough to be sure that person hasn't assumed an alias or is using a stolen or counterfeit ID, the Notary can never truly know a signer's motives, or even if the transaction at hand is honest. Situations change and so do persons' scruples. Divorce, for example, can lead to acrimony and result in many types of fraud. And it's entirely possible the Notary doesn't know that his childhood friend's legal name is actually Robert John Smith, not John Smith; that seemingly harmless misunderstanding can be exploited.

While all states currently allow Notaries to use “personal knowledge” to identify signers, most states do not provide a clear definition. The ambiguity forces Notaries to decide on the definition. Yet, defining personal knowledge can be surprisingly difficult so

# YOU?

## Challenged

Notaries may opt to subscribe to former U.S. Supreme Court Justice Potter Stewart's famous definition of obscenity: "I know it when I see it."

The Tennessee Supreme Court once said that personal knowledge is "knowledge independent and complete in itself, and existing without other information."

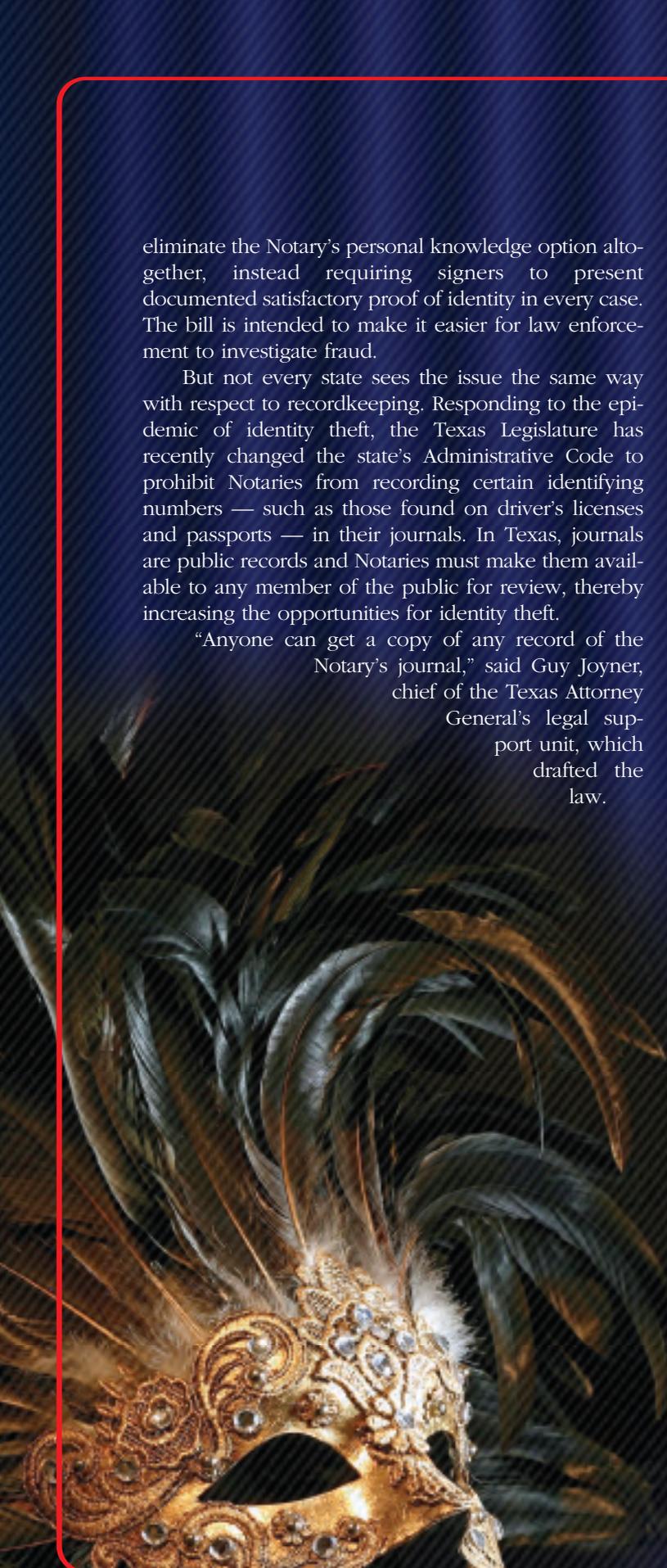
The NNA says it is "a strong familiarity with an individual resulting from numerous interactions over a period of time sufficient to eliminate every reasonable doubt."

Thus, does personally known mean somebody you grew up with, or somebody you met last month?

"We find out all the time that Notaries who think they know somebody, really don't," said fraud expert, Detective Chris Christopher of the Los Angeles County Sheriff's Department. When it comes to investigating real estate-related crimes, he said, "personal knowledge kills us" because it's not as well-documented as satisfactory evidence.

In California, Assemblywoman Sharon Runner introduced legislation to





eliminate the Notary's personal knowledge option altogether, instead requiring signers to present documented satisfactory proof of identity in every case. The bill is intended to make it easier for law enforcement to investigate fraud.

But not every state sees the issue the same way with respect to recordkeeping. Responding to the epidemic of identity theft, the Texas Legislature has recently changed the state's Administrative Code to prohibit Notaries from recording certain identifying numbers — such as those found on driver's licenses and passports — in their journals. In Texas, journals are public records and Notaries must make them available to any member of the public for review, thereby increasing the opportunities for identity theft.

“Anyone can get a copy of any record of the Notary's journal,” said Guy Joyner, chief of the Texas Attorney General's legal support unit, which drafted the law.

Despite the differences among states in keeping journal records, the FBI remains a staunch advocate for solid identifying data in Notary journals. The tens of thousands of mortgage fraud and other identity crime cases it investigates every year hurt lending institutions, real estate professionals, consumers and, ultimately, the health of the U.S. economy.

“From an investigatory standpoint, a journal with reliable identifying data is extremely useful in any investigation,” said FBI Supervisory Special Agent Stephen Kodak, Jr.

### **A CHANGING LANDSCAPE**

Personal knowledge is a holdover from a simpler time when people lived in more isolated, small communities and knew almost every neighbor by name. Identification by personal knowledge was not just one convenient option for the Notary — it was virtually the only option. Before government-issued IDs and databases, personal knowledge was the primary means of determining who a signer was. And if a signer was not personally known to the Notary, then the Notary likely knew another individual who did personally know that signer. The thinking of lawmakers back then was that Notaries were trustworthy because they had deep roots in their area and knew their citizens.

But today as people move across the country on a whim, when friendships are formed on MySpace and business is conducted anonymously online, the worthiness of personal knowledge as an identifier is being challenged.

Mortgage fraud mastermind Matthew Cox, who pleaded guilty to bilking more than \$12 million from banks in five states, committed many of his crimes while on the run from federal authorities and lived under aliases for years. Individuals like Cox give new meaning and discredit to the concept of personal knowledge.

For signers with fraudulent intentions, convincing a Notary to rely on dubious “personal knowledge” to make an identification can be a handy way to avoid presenting incriminating evidence. Without the record of a signer's driver's license number or other evidence in a Notary's journal, it's far more difficult for law enforcement to locate possible suspects or key witnesses in fraud investigations.

One school of thought contends that Notaries



should take it upon themselves to raise the bar on identification and documentation standards, regardless of how little their respective states might require.

Criminal investigators are increasingly relying on Notaries to help create a stronger chain of evidence through detailed journal records.

An ID card number provides investigators better information to document a crime, find a person, determine if the ID is valid, or put missing pieces together in a way that the vague statement of “personal knowledge” cannot. The journal entry of a Notary who

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## Personal knowledge alone doesn't provide the safeguard it used to.

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relies on personal knowledge not only lacks an ID card number, but also independent confirmation of an address.

Additionally, personal knowledge can “allow a few bad apple Notaries who are accomplices to crime to claim they did their job correctly,” said Paul Howard, District Attorney for Fulton County, Georgia, which is one of the leaders of mortgage fraud in the nation.

Prosecutors generally see personal knowledge as inherently unreliable, as thousands of real estate fraud cases involve notarizations which shouldn't have occurred.

“If you're required to show adequate proof of ID, there's a paper trail and we can document it if necessary,” said Jim Provenza, special assistant to L.A. County District Attorney Steve Cooley. “The vast majority of Notaries are honest, but that personal knowledge exception really leads to more trouble than it's worth in terms of fraud enforcement.”

The pending legislation in California would require a signer's thumbprint to be recorded in the Notary's journal for any power of attorney notarization. Thumbprints or any other available prints are already required there for a deed, quitclaim deed, or deed of trust affecting real property. Officials there believe the only way to prove that somebody signed a document is if their thumbprint is in the Notary's journal.

That is why the NNA urges all Notaries to obtain a clear thumbprint from every signer in their journals, and encourages every state to adopt thumbprint requirements.

### **RAISING THE BAR**

While demanding a proper ID adds another hurdle for someone thinking about committing a crime, failing to describe that ID adequately in a journal makes it harder for law enforcement to find and prosecute signers.

All but six states either mandate journals for some or all notarizations, or strongly recommend that Notaries use them.

In no state does any law or rule prevent Notaries from maintaining a journal.

Law enforcement officials

believe

Notaries must raise their standards for keeping and maintaining their journals. When an investigation leads to a Notary's doorstep, a notarization based on personal knowledge might be a dead end. But so, too, is a notarization based on satisfactory evidence without proper journal documentation.

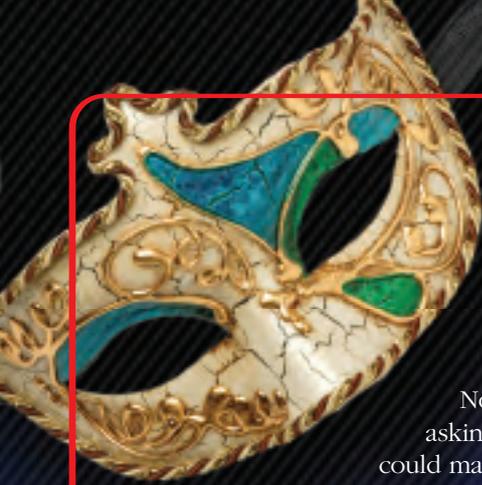
Not only does a journal document valuable information for law enforcement, it can also be the Notary's best protection against accusations of being a willing accomplice to a crime.

Considering how easy it is to obtain a fake ID, Notaries can only do so much to detect and deter imposters, but keeping a journal helps them do the best they can.

“It's extremely easy these days to get a false driver's license. It's easy to get false documentation. A Notary can only do so much. At least a good journal entry is some written documentation that shows they checked something that looked to be authentic,” said Heather Proctor, a Nevada Deputy Attorney General.

Even a false ID can yield clues to find an impostor. At a minimum, it saves time by telling investigators that certain ID information is fraudulent.

While California is the only state which currently has a statutory



requirement for journal thumbprints, there is nothing to prevent a Notary in any state from asking for one. Any Notary could make it a personal policy to require fingerprints when notarizing real estate transactions or powers of attorney, as long as that Notary applies the same policy with every signer to avoid accusations of discrimination.

Many law enforcement officials want to see Notaries record more detail in their journals. For example, instead of just recording that a grant deed was notarized, it is suggested that Notaries record who received the deed, or document an escrow number, a title number or a loan number. That way, if a grant deed or deed of trust shows on a certain escrow or loan and then it turns up on a different one, they can show a suspect filed a false document and can charge them with that crime.

In Georgia, Howard has an especially tough time prosecuting mortgage fraud cases because the state doesn't require a journal, much less thumbprints.

"That's probably one of the reasons that our state, and particularly our county, is prone to mortgage fraud," Howard said. "We simply can't find people."

Texas officials are not convinced. They believe less is more when it comes to journals.

"Most of the real estate laws require identification and all in the file," Joyner said. "Most of the title companies in Texas require it."

While that may be true, incriminating paperwork has a tendency to get "lost" when it is needed in an investigation. But conscientious Notaries do not lose their journals.

## **MOVING FORWARD**

Many real estate fraud cases are not investigated for years — sometimes as long as 10 years — after the notarization was performed, because it often takes that long to discover. This puts any ensuing investigation behind before it even starts.

If personal knowledge were used and the

Notary has died, there might well be no way to get all the necessary facts needed to find the signer or prosecute the case, because a Notary's personal knowledge cannot be duplicated or recorded.

Some Notaries and state officials say it would be cumbersome and unnecessary to check identification every time for a person, such as a supervisor who may need his or her signature notarized several times per day.

While abolishing the personal knowledge option could cause some headaches for Notaries, proponents of reform say that is a "red herring" issue.

"I suspect as a practical matter, if a Notary looked at a person's identification once a day they're probably not going to look at it a second or third time that day," Provenza said.

Removing personal knowledge as a method of identification is another way to ensure that Notaries are checking IDs as a deterrent to crime, said California Assemblywoman Runner, who is also a former Notary.

"Its one of the ways we can put another obstacle up for those who want to commit crimes," she said. "If someone has their signature

notarized many times during the day, they could keep their license out until they go home that night. The majority of Notaries understand it's important to document everything they can."

Today's sophisticated, technologically-savvy criminals make it incumbent on Notaries more than ever to create and preserve a detailed, comprehensive and documented record of their notarizations. Personal knowledge alone doesn't provide the safeguard for the public that it used to, and Notaries have a responsibility to do everything in their power to protect consumers from fraud.

In a future when fingerprints and other biometric information are the norm, law enforcement will turn to Notaries even more to help stem the tide of fraud and other identity-related issues.

As Christopher said: "People need Notaries Public. They can't get anything recorded without them." **NNA**

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**Incriminating paperwork has a tendency to get "lost." But conscientious Notaries do not lose their journals.**

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# To Provide And Preserve: Journals Help Fight Fraud

When authorities discover a case of mortgage fraud, one of the first places they often turn for clues is a Notary's journal. That is, if the Notary keeps a journal — or keeps one the way it's supposed to be kept.

A properly maintained and safeguarded journal can be a valuable asset to law enforcement. Forty-four states either require a journal for at least some notarizations or recommend using them; and no state prevents Notaries from maintaining one.

To provide the best documentation:

**Use chronological and bound journals.** *The Notary Public Code of Professional Responsibility* states, "The Notary shall record every notarial act in a bound journal or other secure recording device, and safeguard it as an important public record." This keeps journal entries intact and protects them against tampering.

Enjoa® electronic journals automatically default to keep entries by date and therefore chronologically.

**Make legible entries.** Unreadable information or a messy thumbprint or fingerprint is sometimes worse than not recording the information at all. Don't hesitate to use the thumbprint box on the line below if needed. There's isn't any rule saying there's only one line to a signer; use as many as you need to record legible information. Neatness really does make all the difference for documentation purposes.

**Secure your journal.** Paper journals should be stored under lock and key at all times to protect them from alteration. Electronic journals already have advanced security protections, so they don't need to be locked up other than to protect the keypad from being taken. To protect against fire and flood damage, consider purchasing a fire and waterproof safe, secure container or filing cabinet. At a minimum, store journals in an elevated space to protect against potential water damage.

Don't just secure your journal at the end of the day. Anytime your journal isn't under your direct supervision, such as when taking a lunch break, lock it up.

When a client signs your journal, don't forget

to protect the sensitive information of other entries by covering them with a piece of paper or cardboard.

**Dispose of old journals.** Maintaining a well-documented journal doesn't do authorities much good if it's lost or discarded in the event of the Notary's retirement or death.

Notaries must understand their state's requirements for handling old journals. Notaries employed by a company are still responsible for their journal even after they leave the firm.

"In the absence of official rules for disposal of the journal of notarial acts, the former Notary shall store and safeguard each journal at least 10 years from the date of the last entry in the journal," says the *Code*.

## Journal Requirements By State

Almost every state requires or recommends journal entries for some or all notarizations



**U.S. States  
with no  
statutory journal  
law or  
recommendation**

**U.S. States  
requiring a  
journal entry for  
some or all  
notarizations**

**U.S. States  
which  
recommend  
keeping a journal**



# A BRAVE NEW WORLD: INTERNATIONAL NOTARIES

By David S. Thun  
dthun@nationalnotary.org

AROUND THE GLOBE, INTERNATIONAL COMMERCE IS  
BRINGING NOTARIES OF DIFFERENT NATIONS TOGETHER

**N**O MATTER WHERE YOU TRAVEL IN THE WORLD, you're likely to find a Notary. From Europe to South America, from banks to embassies, Notaries provide services for individuals signing important documents. But not all Notaries are the same.

Notaries living in other nations often have significantly different duties. In the United States, the role of Notaries varies widely even from state to state. And as international commerce becomes more common and telecommunications technology makes the exchange of documents among nations faster than ever, smooth interaction between Notaries of different nations is more important. But the differences can sometimes lead to challenges and misunderstandings regarding international documents.

In most countries, Notaries are legal professionals with functions similar to attorneys. They often are responsible for drafting, authenticating and archiving important documents related to real estate

transactions. They also draft contracts and other commercial agreements.

In the United States, Notaries are ministerial officers — they perform a narrowly defined set of duties according to specific instructions. The main function of U.S. Notaries is to serve as impartial, third-party witnesses to document signatures. Notaries establish the identity and willingness of document signers, and administer oaths and affirmations. U.S. Notaries are not authorized to give legal advice or prepare documents on behalf of signers.

## U.S. CIVIL LAW NOTARIES

A handful of U.S. states commission civil law Notaries, whose duties more resemble their international counterparts.

Louisiana retains a unique legal code from its origins as a French colony. As a result, its Notaries have broad powers to prepare documents and authenticate

their execution. Both attorneys and non-attorneys may serve as Notaries in Louisiana; attorney-Notaries have statewide jurisdiction, while non-attorneys have jurisdiction within the parish where they are commissioned.

In Florida, the Department of State may appoint attorneys who have practiced law in the state for at least five years as civil law Notaries. These Notaries have the same powers as lawyer-Notaries in other nations; and have worldwide jurisdiction to perform their duties. Florida civil law Notaries also are authorized to perform any of the duties of a non-attorney Florida Notary Public, including officiating marriages. Alabama also has civil law Notaries who have similar qualifications and duties to Florida's.

### INTERNATIONAL ISSUES AND MISUNDERSTANDINGS

The major differences between U.S. Notaries and Notaries in other countries often lead to confusion when dealing with signers and documents from other nations. One of the biggest issues in the U.S. has been misuse of the Spanish-language title, "*Notario Publico*."

Many immigrants from Latin countries mistakenly assume that U.S. Notaries have the same authority to give legal advice and prepare documents as Notaries in their home countries. Unscrupulous individuals set up businesses styling themselves as *Notarios* to take advantage of this misunderstanding.

These illegal *Notarios* often charge immigrants thousands of dollars for ineffective and fraudulent legal services. Many immigrants who contact *Notarios* for help with immigration proceedings later find out the *Notario* failed to perform any services on their behalf, resulting in deportation proceedings, or the services they provided were incomplete at best. This problem has received national attention in recent years. Today, many U.S. states forbid the use of the term *Notario* or other foreign-language translations of the title "Notary Public" and require Notaries who are not attorneys to post notices in their offices that they may not offer legal advice.

Sometimes signers with documents originating in other countries are asked to obtain notarial services that would be legal in other countries but not in the United States. One example of this is "Life Certificates." These are documents used by foreign governments to confirm that pension recipients living in the United States are still alive. The "Life Certificate" typically directs a Notary to certify that the named pensioner is alive as of a certain date and affix an official seal to the document. In most states, Notaries are prohibited from carrying out that task and would have to refer the request to a qualified individual who can verify the document, such as an attorney or consular officer for the country the document originated.

## Different Nations, Different Notaries



The duties and training of Notaries in civil law nations is significantly different from their common law counterparts in most U.S. states. Here are some comparisons:

#### CIVIL LAW NOTARIES:

- Legal training and education similar to attorneys.
- Authorized to draft and authenticate documents for business transactions.
- Archive records of transactions.

#### COMMON LAW NOTARIES:

- In the United States, commissioned by state agencies.
- Verify identity of document signers, administer oaths and affirmations.
- Do not prepare documents or offer legal advice.

Source: NNA Research Center

### BRIDGING THE GAP

The rapid evolution of electronic technology in the business world is helping bridge the gap between Notaries of different countries. With international business transactions increasingly being executed electronically, digital documents and signatures need to be secure and legally acceptable.

In 2005, a historic meeting took place between The Hague Conference on Private International Law and the International Union of Latin Notaries at the NNA's 27th annual Conference in Las Vegas, Nevada.

During this meeting, representatives from 32 nations agreed to work together to create global standards for the acceptance and authentication of eDocuments and eSignatures and develop a secure electronic form of *apostille* — an international certificate used to verify the authenticity of a notarization.

In 2006, The Hague Conference and the NNA launched the e-APP Pilot Program to develop the technology to issue electronic *apostilles*. Earlier this year, the first *e-Apostille* was sent from Kansas to Colombia.

With the continuing evolution of the Notary office, Notaries around the world can look forward to an era of closer cooperation in the years to come. [NNA](#)

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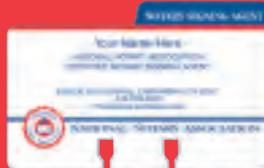
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Shipping \$9.95 (\$11.95 for \$65 and over)	\$ _____
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 Organization: \_\_\_\_\_  
 Address:  Business  Home  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
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 E-mail: \_\_\_\_\_  
 NNA Member Number (required): \_\_\_\_\_  
 Check/Money Order (payable to NNA)  Visa  MasterCard  American Express  Discover  
 Card No.: \_\_\_\_\_ Expires: \_\_\_\_\_  
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 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
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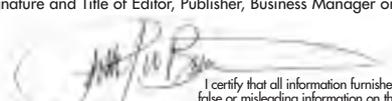


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# ADOPTION DOCUMENTS: A CHALLENGE FOR NOTARIES

WHETHER THE ADOPTION TAKES PLACE HERE OR  
ABROAD, BE ALERT FOR UNUSUAL EVENTS AND ISSUES

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**F**OR MANY PEOPLE, ADOPTION IS A MIRACULOUS event, helping them experience the joys of creating a family.

Given how cumbersome, time-consuming, and fraught with bureaucratic red tape adoption is, it can seem almost as miraculous as childbirth itself. But every year, as many as 150,000 children are given new homes by American parents. More and more of these Americans are adopting children from other countries.

Between 1996 and 2002, the total number of adoptions in the United States increased 26 percent, according to a report from the National Council for Adoption. During that same period, the number of foreign children adopted by American parents increased 86 percent.

Americans have been adopting more than 20,000 foreign children a year since 2002, according to the U.S. Department of State. And with all the paperwork that needs to be filed, Notaries are right in the middle.

A Notary's professionalism is crucial to a successful adoption. Should a document be incorrectly notarized, it may take the applicant's months — or even years — to resubmit the necessary documents. What's more, many foreign nations have unusual requirements for international adoption documents that Notaries don't encounter with other types of documents.

Prospective parents have to submit forms verifying their background and finances as well as immigration papers for the child. Depending on the child's native country, adoptive parents may also have to submit a doctor's statement about their medical history. If these documents are improperly notarized, the adoption may be delayed or rejected.

"The most common issues I've encountered are incorrect notarial language, absence of date or venue information and the Notary's signature not exactly matching the name on his or her commission," said Jill Touloukian, an adoptive mother and Notary in Palo

Alto, California. She also works as a consultant to people seeking to adopt abroad. “Some Notaries will notarize photocopies of birth certificates, marriage certificates or other vital records, which is not allowed in any state that I’m aware of. I warn prospective adoptive families that Notaries are not supposed to do that and that such documents may be rejected.”

### WATCH FOR UNUSUAL SITUATIONS

In many nations, Notaries often have duties differing greatly from their counterparts in the United States. As a result, adoption agencies must carefully check the qualifications of Notaries they work with, or find unusual solutions to fulfill foreign document requirements without violating U.S. Notary laws.

Mary Ann Curran, director of social services for World Association for Children and Parents, a nonprofit international adoption agency based in Seattle, Washington, described one international adoption where she was asked to produce certified copies of a local law for the adoption — something a U.S. Notary couldn’t do.

“In the United States, we notarize signatures, but in this country it was different,” Curran said. “When we run into problems, we have to get creative.” That meant asking a judge to write a statement attesting to the law’s information, and having the judge’s signature notarized on the statement. “It can be challenging, and some countries are more demanding than others,” Curran said.

Leslie Truex, a social worker with Virginia-based ABC Adoption Services Inc., described an adoption of a Russian child where Russian officials wouldn’t accept notarizations if the Notary Public’s commission expired within the next year.

“A dossier of adoption documents can sometimes sit in a foreign country for six to 10 months before it’s looked at,” she said. “You don’t want the Notary’s commission to have expired before it’s received. It’s a good idea to check with the adoption agency to see if there are any special instructions regarding

documents. Generally the agency will check them over, but if you ask in advance, you won’t have to renotarize.”

Truex and Curran also said that most notarized international adoption documents require an *apostille* to be attached. An *apostille* is a certification from the state Notary-regulating agency that the Notary’s commission is valid and the foreign country receiving the documents can accept the documents without additional authentication

from other U.S. government agencies. Though each state has its own policies for obtaining an *apostille*, generally a signer can obtain one by mailing the document to the state’s Notary-regulating agency after notarization, accompanied by a written request specifying the country the document is being sent to and a processing fee.

If documents are improperly notarized, the adoption may be delayed or rejected.

### PATIENCE, COMPASSION APPRECIATED

Curran encourages Notaries handling adoption documents to be patient with signers. Prospective parents are under a great deal of pressure.

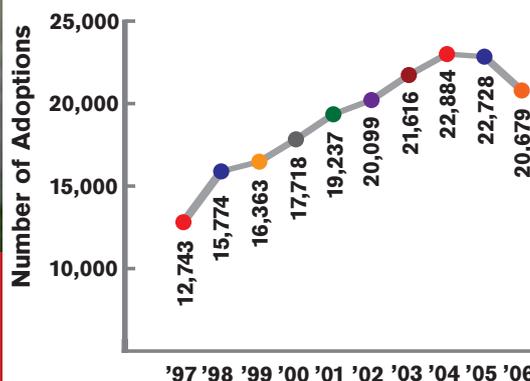
“It’s a huge amount of work, and they are asked to do a lot of things outside the normal routine of their lives,” she said. “Some families going to Notaries are really stressed out. Please try to help them find solutions to their issues that are acceptable to notarial laws and procedures.”

“We’re very grateful to those Notaries who make themselves available during the night or who come to a doctor’s office for an unexpected notarization,” she said. “It’s tedious work getting adoption dossiers together, and it’s great when families get that encouragement and help from Notaries along the way.” [NNA](#)

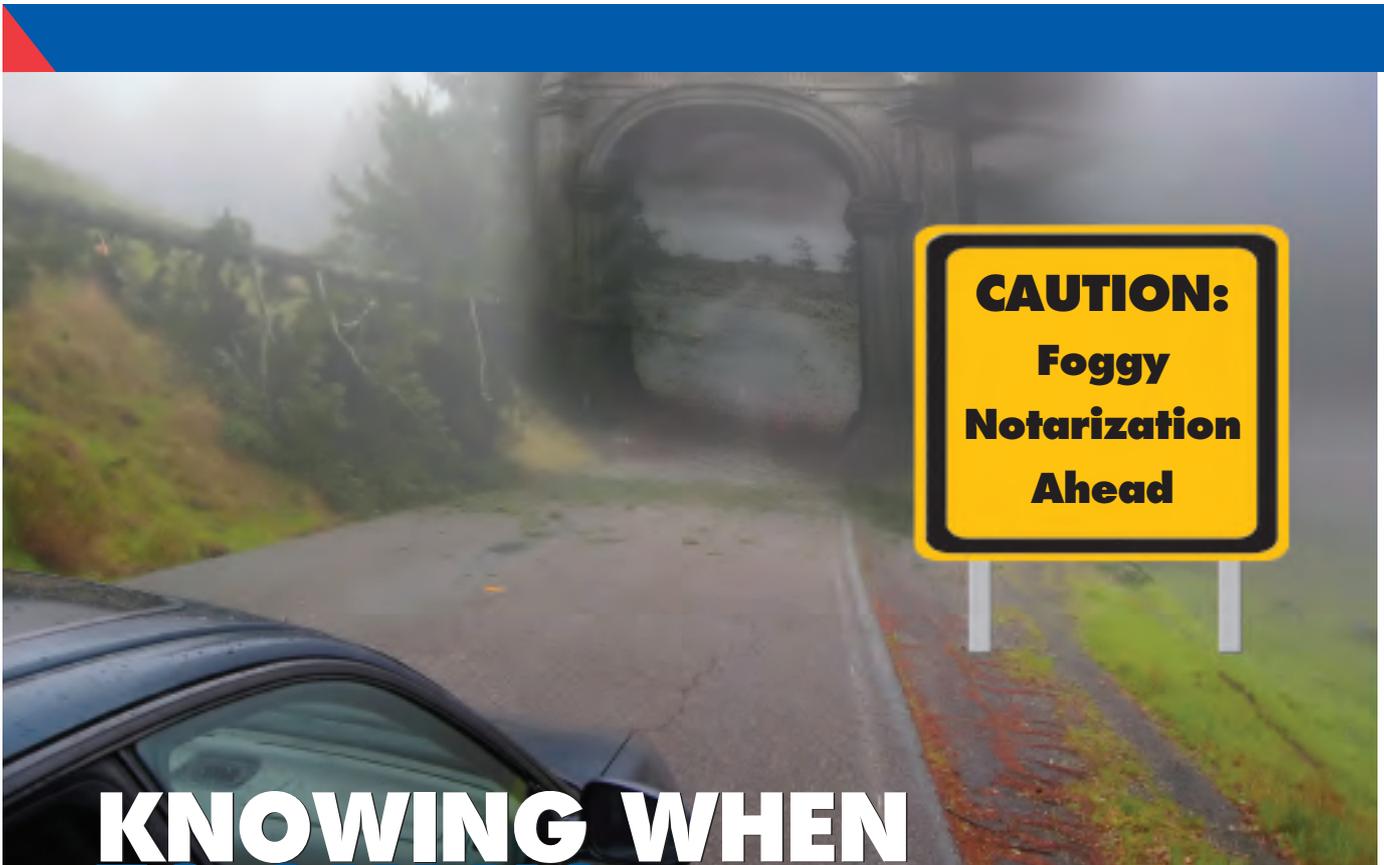
## FOREIGN ADOPTIONS INCREASING



The number of foreign children adopted by U.S. couples has increased dramatically during the past 10 years.



Source: U.S. State Department



# KNOWING WHEN TO SAY NO

By Nevin Barich  
nbarich@nationalnotary.org

DECIDING WHETHER TO REFUSE A NOTARIZATION ISN'T  
ALWAYS CUT-AND-DRIED; IT'S A MATTER OF JUDGMENT

---

**R**EFUSALS ARE INEVITABLE FOR NOTARIES. AT one time or another, most Notaries have come across a signer who has asked them to perform an act that they couldn't lawfully do. Perhaps the request wasn't allowed in that particular state, or maybe the Notary was asked to do something unlawful, such as a non-attorney giving legal advice about a document.

Handling these types of situations, when it comes right down to it, is simple common sense: Say "no." If you are asked to perform an illegal act, just refuse and explain why it's against the law.

But what if the situation isn't so obvious?

What if you're asked to notarize something that, while perfectly legal, is so rarely done that you'd never heard of it? Or what if the request is actually fairly common but you simply don't know how to proceed? What happens then?

## THE NOT-SO-UNCOMMON REQUESTS

There are a number of notarial requests that, while not typically asked for every day, are not so uncommon where you shouldn't know whether it is lawful in your state, or how to proceed.

For example, Notaries often get confused when asked to notarize a certified copy of a document. Some states allow a Notary to certify a copy of a document. Other states, however, allow only certain documents to be copy-certified. Still, others don't allow copy certification to be done at all.

It is the responsibility of the Notary to know whether such "uncommon, yet not unheard of" requests are lawful in his or her jurisdiction, said Charles N. Faerber, vice president of Notary affairs for the National Notary Association.

Having said that, he continued, if the request is lawful but you are uncertain how to proceed, do not continue. Instead, refer the signer to another Notary.

“However, the Notary should then immediately find out how to perform that particular request — and maybe take the opportunity to become educated on other legal but unfamiliar requests. That way, the Notary won’t have to refuse a lawful, fairly common notarization again,” Faerber said.

### UNDUE CAUSES FOR REFUSAL

As important as it is to know how to handle potential refusals from signers based on their document requests, it’s just as important to remember that Notaries should never refuse a notarization based solely on the person in front of them. This is such a strong ethical tenet of the Notary Public office, in fact, that the NNA’s *Notary Public Code of Professional Responsibility* addresses it directly

According to Article I-A-1 of the *Code*, Notaries “shall never refuse to perform a lawful and proper notarial act without due cause.”

Furthermore, Article I-A-3 of the *Code* states Notaries Public “shall not refuse to perform a lawful and proper notarial act because of the signer’s race,

nationality, ethnicity, citizenship, religion, politics, lifestyle, age, disability, gender or sexual orientation, or because of disagreement with the statements or purpose of a lawful document.”

Refusing to notarize due to a strong suspicion of improper motives (e.g., an identification document which has a photograph that appears tampered with) is fine.

Beyond that, however, it has long been the position of the NNA — as well as of all state laws — that no notarization should ever be refused unless the actual request is unlawful, the signer’s identity is in question, or there is undue hardship for the Notary.

### KNOW THE LAW, KNOW WHEN TO SAY NO

Notaries increasingly are being called upon by the general public to secure their document transactions. As such, Notaries must be more on the ball than ever before.

Notaries must know their state laws, what services they can and can’t provide, and being aware on how to perform the legal notarial requests made of them. [NNA](#)



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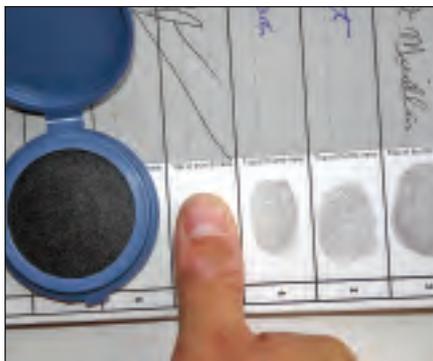
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## Thumbprints: The Stamp Of A Professional

THIS IDENTIFYING MARK HAS BECOME CRITICAL TO MAINTAINING THE HEIGHTENED STANDARDS OF THE NOTARY OFFICE

### THE FINGERPRINT FUTURE

In the 1989 film “Back to the Future, Part II,” Marty McFly and Emmett “Doc” Brown use a time machine to travel to the year 2015. There, besides flying cars, hover boards and nostalgic 1980s cafes, they discover that thumbprints are used to replace all the traditional identifying and accessing devices — from driver’s licenses and passports to credit cards and house keys.

Why? “Your thumbprint never changes,” Doc explains to Marty.

Though taking a signer’s thumbprint for a Notary journal entry is not required in the United States — with the exception of real property documents in California — the practice of obtaining a signer’s print in journal entries is a tremendous deterrent against fraud. Many ID thieves looking to get a phony document notarized are hesitant to leave behind such an absolute identifying mark.

As business and government increasingly turn to notarization — both paper-based and electronic — to add a vital layer of security to their documentary transactions, taking a signer’s thumbprint in the journal has taken on a new importance. It’s becoming a standard of professionalism for the Notary office.

### THE PROFESSIONAL CHOICE

Stephan Cole is a Notary Signing Agent from Tulare, California. In his work, Cole often comes across documents — such as deeds of trust — for which a thumbprint is required by law in a Notary’s journal entry.

“Since it’s such a strong measure against fraud, I felt that I, as a Notary, needed to get a thumbprint from all signers, regardless of the law, in order to best protect their interests,” Cole said.

Cole’s decision to ask for a thumbprint every time is an example all Notaries would do well to emulate. The time has passed when taking a journal thumbprint was just a prudent option. With identity theft and imposture now proliferating as never before, the world is now at a point where this procedure is something professional Notaries *must* do.

Taking a thumbprint is easy. A signer can simply touch a thumb to an inkless pad and then affix an imprint on the journal page, or press the thumb tip firmly on a scanning pad if the journal is electronic.

“It’s a very simple procedure and, more importantly, it stamps you as a professional public servant,” Cole said.

### DEALING WITH REFUSALS

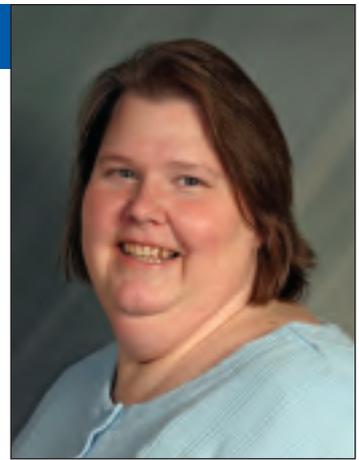
Technically speaking, any signer in a state which doesn’t require a journal thumbprint has the right to refuse to leave such a print. That said, a Notary in any state also has the right to refuse a notarization if the signer’s refusal to leave a thumbprint, along with other evidence, causes a compelling doubt about the signer’s identity.

If you make it your policy to ask each and every signer for a journal print, the fact you will be avoided by most forgers and imposters tends to offset any criticism that you are applying standards above and beyond the requirements of law. It is much easier for a Notary to get into trouble by falling short of statutory standards than by exceeding them.

Notaries who insist on journal thumbprints are not just upholding the very highest professional standards. They also are demonstrating that their respected, centuries-old Notary office is aggressively meeting the security challenges of the modern world.

# You Don't Have To Choose Between Paper And Electronic

By Terilynn Garrett  
NNA Hotline Counselor  
tgarrett@nationalnotary.org



Through the use of eNotarization, the Notary office has undergone major changes in the last few years to increase security, trust and reliability of electronic transactions. As a Notary

and NNA Hotline counselor for the past six years, I've become intimately familiar with the Enjoa® electronic notarization and journal system. As such, I'm fully prepared to perform electronic notarizations and to guide all Notaries jumping on board. But as the Notary world goes digital, there remains some confusion about how it all works. **L.S. from Bonita, California** called to ask:

**I'm quite excited about the idea of electronic notarizations, but I'm a little confused. Will I have to choose what kind of Notary I am, or can I still do both paper and electronic notarizations?**

There is no law preventing a Notary from using both methods as long as you perform the notarization according to standard Notary practices. For example, personal appearance is always required regardless of whether the notarization is on paper or done electronically. Also, when going back and forth between paper and electronic in California, you still must maintain one sequential journal whether it is traditional or electronic.

**I am moving to Maryland and would like to practice there as a Notary Signing Agent. I've heard there are restrictions, so is that even possible?**

**N.R., Oak Harbor, Washington**

You may operate as a Signing Agent in Maryland as long as you are both a Notary and a licensed title insurance producer. To learn how to get a title producer license, call

the Maryland Insurance Administration at (800) 492-6116, or visit their Web site at [www.mdinsurance.state.md.us](http://www.mdinsurance.state.md.us).

**I work in a bank with a Notary who recently refused to notarize a document because the person was not a bank customer. Is this legal? It is our bank's policy to notarize documents regardless of whether the person has an account.**

**B.A., Charlotte, North Carolina**

Unless you are in Florida, it is a violation of the Notary's role as a public official to deny a notarization to a non-customer, even if the Notary is an employee of a private company. In Florida, however, the Governor's Notary Section has decided that it is not unlawful for an employee-Notary to serve only customers during normal working hours.

**I forgot to affix my seal on a document, but otherwise notarized it correctly. The original document was sent back to me so I could affix my seal. Do I need to require the signer to personally appear before me again when I attach my seal?**

**G.L.R., Waterloo, Iowa**

As long as you have the original document returned to you and you can find the entry for the notarization in your journal, it is not necessary for the signer to appear before you again. Just affix your seal on the Notary certificate and send the document back to the receiving agency. Make note of your actions in your original journal entry.

*You can reach Terilynn and all our experienced Notary Hotline counselors at*

**1-888-876-0827**

*5 a.m. to 5 p.m. PST  
Monday through Friday.*

*Hotline answers are based on laws in the state where the question originated and may not reflect the laws of other states. If in doubt, always refer to your own state statutes.*

— The Editors



# Raiders Of Stolen Identities: Pulling Them Out of Thin Air

All across the country, you can stroll into a local Coffee Bean & Tea Leaf, Borders bookstore or a Starbucks, get your soy latte, and cruise the Internet on your laptop.

What you don't know is the guy sitting across the room, sipping his chocolate mint decaf and hunched over his laptop, might not be on TMZ.com checking out the latest Lindsay Lohan scandal. Instead, he might be pirating your Wi-Fi connection and pulling sensitive information from your computer.

Wireless air piracy has become a serious identity theft threat in large part because it is one of the least understood threats.

Most of us have anti-virus protection and anti-spam software on our computers, but too few people protect themselves from Wi-Fi invasions. So ID thieves cruise the thousands of public Wi-Fi's around the country, using "sniffing" programs — downloaded free from the Internet — to spy on our internet activity for everything they can get. Passwords and credit card numbers used to conduct eCommerce suddenly are vulnerable, as are important personal files.

In a case reported in *USA Today*, a technology systems manager in New York City used his laptop to troubleshoot a problem on his company's server while at a park. A thief picked off his username and password and compromised the company's server.

However, there are ways to shoot down wireless ID thieves:

**Activate the proper software.** Because many consumers aren't aware of the problem in the first place, they aren't aware of the software solution. Even wireless providers don't always readily promote it even if it's free. Call your provider or someone knowledgeable about computers if you need help finding and installing the proper software

protection. This software encrypts communications between a laptop and wireless router, thereby thwarting most would-be thieves.

### **Take common sense precautions.**

Major sites such as AOL, Google and Yahoo!, along with banking and eCommerce sites, protect consumers by encrypting their information. Look for the secure site address heading of "https," along with a closed padlock icon. Both T-Mobile and AT&T, who together account for some 15,000 public Wi-Fi's, recommend you only use those kind of Web sites when transmitting sensitive data.

**Protect Your Home Wi-Fi.** Public Wi-Fi's are a problem because they tend to be unencrypted for customer access. Most people don't know that home Wi-Fi routers can easily be protected by activating its encryption feature — called Wi-Fi Protected Access (WPA or WPA2). The activation instructions are in the router's instruction manual.

Despite all the precautions, no system is impervious to hackers. Sophisticated and determined ID thieves can breach even the best software protection and router encryption if they want to spend the time and effort, so be aware of your surroundings when accessing sensitive information. Still, software and router encryption effectively blocks the majority of less skilled ID thieves and deters the sophisticated ones. There is no reason to hack into a protected network when there are so many unprotected ones.

Knowledge and awareness are the keys, because when it comes to your wireless protection, you should never leave things up in the air. — *Michael Mink*

*"We make a living by what we get, but we make a life by what we give."* — Winston Churchill



## Getting Into The Holiday Spirit By Helping Others

Amid the whirlwind of last-minute shopping, racing to family gatherings, fighting for parking spaces at stores and other Thanksgiving to New Year's chaos, it's

important to remember that the holidays also embrace the spirit of giving.

Many cultures encourage a generosity and benevolence when observing holidays. During Hanukkah, for example, children are encouraged to give money to charity — called *tzedakab*. Muslim observers of Ramadan are urged to give *zakaat*, or a portion of their wealth to those who are in extreme need.

Regardless of belief or culture, the holiday season brings out the kindness of many people. More than 50 percent of all charitable giving is done between Thanksgiving and Christmas Eve, according to Charity Navigator, an online guide to philanthropic organizations. In 2006, the nonprofit Web site Network for Good reported an average of over \$100,000 in donations each day during December. And while some people may be battling their way through shopping malls to grab the last Tickle Me Elmo off the toy store shelf, 84 percent of those same malls are also hosting charity events to help raise funds for those in need.

Notaries can take advantage of the extra opportunities for giving during this season. It only takes a few moments to leave unopened gifts at Toys For Tots kiosks on local street corners, or to drop a few dollars into a Salvation Army Santa's bucket. And as always,

the National Notary Foundation welcomes support for its ongoing contributions to scholarship, disaster relief, medical research and other charitable causes, with 100 percent of all contributions going directly to supported charities.

So if the holiday craziness starts getting to you, take some time to help those in need. The best way to celebrate the true spirit of the holidays is through giving.

### 'Giving Helps You Appreciate The Good Things In Your Life'

Last December, things weren't going so well for Maria Anna Finley. Her bookstore — a business that has been in her family for 25 years — was struggling. But lean finances didn't deter Finley from donating to the National Notary Foundation during the holidays. "Even though things weren't going so well then, it was still good to give," she said.



*Maria Anna Finley*

For Finley, who is a Notary in Sacramento, California, helping others is a regular part of her life. In addition to her charitable donations, she has volunteered to work at a local hospital for nine years. Finley said the needs of hospital patients help her keep her own concerns in perspective.

"Hearing some of the patients' stories, my problems are nothing in comparison," she said. "Giving helps you appreciate the good things in your own life."

Finley encourages others to make an effort to give to those in need during the holidays. "I know that for my husband and I, it gives you a warm feeling to be able to help someone," she said. "The holiday season is a time to give, and we all have a lot to be thankful for, so give what you can."