

## **Elder Abuse**

Prepared by the Canadian Resource Centre for Victims of Crime

### **Introduction**

Older people today are more visible, more active and more independent than ever before. However, as the population of older Canadians grows, so does the hidden problem of elder abuse. Moreover, as the population of baby boomers<sup>1</sup> grows older, the prevalence of elder abuse is expected to escalate. Each year hundreds of thousands of older persons are abused, neglected and exploited by their family members and others<sup>2</sup>. Elder abuse is consistently unreported for various reasons, with dependency upon the abuser being the main reason. It is also difficult to put an end to unless people recognize the abuse and let someone know it is happening. Older people who experience abuse may suffer serious health implications, as well as various psychological disturbances, including heightened stress levels, anxiety, depression, and helplessness.

### **What is elder abuse?**

Elder abuse is any form of mistreatment, action or inaction by any individual or institution, which causes harm, threatens harm or jeopardizes the health or well being of an older person. Elder abuse takes on several forms according to the type of harm resulting.

Physical abuse – using physical force that results in physical injury, pain or impairment. This includes assault, battery or restraint.

Sexual abuse – nonconsensual sexual contact of any kind with an older person.

Emotional/Psychological abuse – verbal assaults, humiliation, threats, harassment, intimidation, or other abusive behaviours which result in emotional disturbances of the victim. It also includes the willful infliction of mental or emotional anguish by threat, humiliation or other verbal or nonverbal conduct.

Financial Exploitation – the misuse or withholding of an older adult's resources by another, to the older adult's disadvantage. It also includes illegal or improper use of an older person's funds, property or resources.

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<sup>1</sup> Canadians born in the years of 1946-1964

<sup>2</sup> Poirer, D. & Poirer, N. (1999) *Older adults personal relationship. Why is it so difficult to combat elder abuse and, in particular, financial exploitation of the elderly: Final Report*. Law Commission of Canada research paper. [http://www.lcc.gc.ca/research\\_project/99\\_elder\\_2-en.asp#p1](http://www.lcc.gc.ca/research_project/99_elder_2-en.asp#p1)

Neglect – failure to provide for personal care (food, shelter, medical care, social contact) or forceful confinement or restraint of the older adult (either intentionally or unintentionally).

Domestic Violence – escalating pattern of violence by an intimate partner where violence is used to exercise power and control.

## **Prevalence**

In Canada, a national telephone survey in 1990 revealed that 4% or 100,000 elderly persons living in dwellings have recently suffered from one or more events of abuse<sup>3</sup>. The General Social Survey issued in 1999 showed that approximately 7% of elderly have suffered some form of abuse by an adult child, caregiver or spouse during a five-year period. It is believed that as many as 10% of the elderly living in the community and using community-based services are subjected to abuse.<sup>4</sup> Moreover, elder abuse shows an escalating pattern: from 1986 to 1998 elder abuse has increased by almost 20% nation-wide.<sup>5</sup>

Research studies also show that only 1 in 4 cases of elder abuse are reported.<sup>6</sup> Psychological and financial abuses are listed as the most common types of abuse, both reported and unreported. Physical abuse is third most prevalent type of abuse, generally perpetrated by spouses.

## **Who is victimized?**

Any person aged 65 and older may be a victim of elder abuse regardless of economic, social, ethnic or cultural background. Victims come from all walks of life; they may be male or female; frail or in good health. The most typical victim is described to be a female of the average age of 72, living with the abuser.

## **Who is the abuser?**

The abuser is typically a family member taking care of the elderly person, staffing personnel from the institution where the elderly person is living, or a spouse. It is not uncommon for the abuser to be a friend or a person whom the elderly is dependent

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<sup>3</sup> Podnieks, E., Pillemer, K., Nicholson, J.P., Shillington, T. & Frizzel, A. (1990) *National Survey on Abuse of the Elderly in Canada*, Toronto

<sup>4</sup> Health Canada (2000), *Abuse and Neglect of Older Adults: a Discussion Paper*

<sup>5</sup> Statistics Canada (1999), *General Social Survey*

<sup>6</sup> Statistics Canada (1999), *General Social Survey*

upon, as they are in the position of power over the senior. Psychological problems are often present, such as abusive or violent patterns and psychopathology in the personality of a caregiver who abuses the elderly. Poor adjustment is a contributor as well; inability to sustain employment, failing relationships, and anti-social behavior being main signs of poor adjustment. Difficulties coping with stress brought by caring for the older person may also contribute to the abuse. However, no matter the factors involved, abusers make a choice to be abusive.

### **Why abuse happens**

There are many different reasons why abuse might occur and it is important to note that every instance is unique. Some factors that have been identified include:

- A history of abuse between family members, for example, spousal abuse becomes elder abuse, or abused children become abused caregivers to elderly parents.
- Dependency, for example, the elderly person becomes dependent on family members, or someone is dependent upon the elderly person for money or housing.
- Stress might be caused by a number of factors such as mental or physical illness, financial pressures, lack of support systems, lack of choice for accommodation for an elderly person, or fear of one's own aging.
- Alcohol or drug use.
- Greed.
- Lack of knowledge about the degree of care and needs of an elderly person.
- Lack of respect given to elderly people in a society that values youth, self-reliance, and energy.
- Lack of professional awareness about the problem of elder abuse, so that it might continue undetected.<sup>7</sup>
- Institutional issues: poor working conditions, work overload, low salaries, inadequate staff training and supervision, and prejudiced attitudes.
- Frailty of an elderly person increases the chance of being abused.

### **Risk factors for abuse**

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<sup>7</sup> Canadian Legal FAQs, information retrieved from: <http://www.law-faqs.org/elder/eld-gen03.htm>

- The senior citizen is socially isolated, especially due to physical disabilities or impairment.
- Victim suffers from some form of mental impairment, for example, dementia.
- Older adult has substance abuse problems, for example, alcohol or medication. Signs of abuse, for example, forced drug injection, may get misidentified as signs of voluntary substance use. Alcohol abuse can also impede access to services.
- Language barriers for the elderly person.
- Cultural barriers for the elderly person.
- Being a woman; women are at greater risk of being victimized.

### Signs of abuse

The following are the most common indicators of the presence of elder abuse. However, these are not the only signs possible since each case of abuse is unique to the personality of the abuser and victim, as well as the situational circumstances.

#### Physical Abuse:

##### Victim

- Bruises, black eyes, scratches, etc
- Broken bones, signs of being restrained.
- Lab finding of overdose on certain medications.
- Sudden change in behaviour.

##### Abuser

- Refusal to allow others to see the elder.
- Family members provide different explanations re: nature of bruises/injuries.
- Makes sure health providers are changed often.

#### Sexual Abuse:

##### Victim

- Bruises among breasts and genital area.
- Unexpected STD's.
- Unexpected anal or vaginal bleeding.
- Torn, stained or bloody underclothing.
- Inappropriate, unusual sexual behavior.

##### Abuser

- Inappropriate, unusual sexual behavior.
- Aggressive sexual behaviour.
- Inappropriate sex role relationship with victim.
- Makes sure health providers are changed often.

Financial Abuse:

Victim

- Sudden changes in bank account statements.
- Abrupt changes in will.
- Unpaid bills.
- Unexpected money transfers.

Abuser

- Excessive interest in the elder's money.
- Implausible explanations regarding where money gets spent.
- Absence of documentation.
- Over involvement and preoccupation with the financial matters of the elderly.

Neglect:

Victim

- Inappropriate dress.
- Poor hygiene.
- Malnourishment.
- No energy or spirit.
- Dehydration.

Abuser

- Expressed anger, frustration, or exhaustion.
- Lacks caregiving skills.
- Refuses outside help or applying to services.
- Isolates the elder form outside world.

Psychological Abuse:

Victim

- Emotionally upset or agitated.
- Extreme withdrawal, non-responsive.
- Avoids eye contact.
- Distance from caregiver.

Abuser

- Nervous, fearful or quiet and passive.
- Try to prevent private conversation with victim.
- Impatient, irritable.
- Demeaning statements about the elderly person.

**Health Implications**

Abuse and neglect are a major source of stress and can have long-term effects on the health and well-being of older adults. The stress of abuse may trigger chest pain or angina, and may be a factor in other serious heart problems. High blood pressure, breathing problems, stomach problems (ulcers), and panic attacks are common stress-related symptoms among older people who experience abuse.

Abuse has a significant impact on people at any age, but older adults can be especially vulnerable. In general, older adults have less physical strength and less physical resilience than younger persons. Some older adults may be very frail, or already have disabilities or impairments that leave them particularly vulnerable. Older bones break more easily and take longer to heal. An injury or accumulation of injuries over time can lead to serious harm or death. For example, physical abuse may result in a hip fracture.

Many older adults experiencing abuse or neglect are isolated. Individuals who abuse or neglect older adults often threaten, harass, or intimidate them. For example, some abusers threaten to not let older adults see their grandchildren. Others may prevent older adults from having visitors, or may threaten to leave them alone.

As a result of abuse or neglect, older adults often experience worry, depression, or anxiety. These signs may be mistaken for memory loss or illness, when really they are the effects of stress or worry. An older adult may also feel shame, guilt, or embarrassment that someone in the family or someone close has harmed them. Some abused older adults may start to eat less, use more medications or drink more alcohol to help cope with the emotional and physical hurt. They may have difficulty sleeping or sleep too much. Some abused or neglected older adults may lose interest in life or become withdrawn. Some may have suicidal thoughts.<sup>8</sup>

### **Should I report suspected abuse ?**

If there is any possibility of immediate danger of physical harm, then you should consider notifying the police or social services immediately. Otherwise, it is important to deal with cases of suspected abuse with a degree of care, particularly because the abuser might retaliate against the elderly person. It is also important to respect the dignity of the elderly person who might choose to accept or reject help.

Agreement on the part of the elderly person to any subsequent actions is very important, unless the person is not mentally competent. For this reason, you should speak to the elderly person before taking any action and be sure that all possible outcomes of intervention are considered. In order to help him/her make their decision, you can highlight resources on elderly abuse and the names of agencies that can offer assistance.<sup>9</sup>

### **Why victims might deny abuse**

Many cases of elder abuse do not get reported. Moreover, elderly people will often choose to deny abuse if suspected for various reasons, such as the following:

- Non-recognition: Victims might not be aware that the abuse is abnormal or wrong. It might be considered part of lifestyle, culture, or relationship. Victims

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<sup>8</sup> Ontario Seniors Secretariat, "Abuse of Older Adults: Signs and Effects", retrieved from: [http://www.citizenship.gov.on.ca/seniors/english/weaad/all/Fact4\\_WEAAD.pdf](http://www.citizenship.gov.on.ca/seniors/english/weaad/all/Fact4_WEAAD.pdf)

<sup>9</sup> Canadian Legal FAQs: retrieved from: <http://www.law-faqs.org/elder/eld-rept02.htm>

also may not understand the nature of abuse generally, for example, mental confusion, blackouts, misinterpretation of events, might attribute abuse to their imagination, forgetfulness (in the case of dementia), elderly men may have traditional values about the sexes (women being the weaker sex) which would not allow them to recognize a woman as an abuser, or that the treatment they receive is abusive.

- Control: Victims might perceive the event as under their control; perceive abilities to cope with the abuse. Or, fear that if the abuse is disclosed, someone else will take control of their life.
- Rationalization: Self-blame, for example, "It could have been worse". Or, a belief that they are getting what they deserve, for example, if they feel they were not a good parent.
- Shame: Fear of being judged by others; fear of the family being judged by others.
- Fear of abandonment/dependency: "If the abuser leaves, who will take care of me?"
- Fear of being placed in an institution.
- Fear of retaliation.
- A belief that police or social services cannot help them.
- A belief that they cannot prove the abuse is happening.

### **How to support someone who discloses elder abuse**

Very often, family members or close friends of elderly persons suspect abuse is happening, but the victim does not admit, disclose or report it for one reason or another. It is important to give an opportunity for a person to tell you about what happened. Facilitate responses by asking non-threatening, reassuring and supportive questions such as the following:

- "How are things at home?"
- "Are you getting all the care you need?"
- "Who makes decisions in your life, like how and where you should live?"

Developing a trusting relationship with the elderly person and his/her family members is a good strategy. Make sure the victim understands their rights to live free from abuse and how to identify grounds for complaints. Remind the victim that abuse can happen at any age. It is never acceptable. It is a violation of one's rights as a human being and it should not be tolerated.

**If you are being abused you should know:**

- The abuse is not your fault.
- You do not deserve to be abused.
- All forms of abuse are **UNACCEPTABLE**.
- Abuse should not be tolerated in any culture or religion.
- You have the right to live without fear.
- You have the right to have control over your life.
- You cannot control the abusive person's behaviour.
- Abuse often gets worse over time.
- You have the right to be safe and secure.

Often when someone is being abused they may feel all alone in the world. They may think they are the only person who is being mistreated. You need to know that many people are abused and while some people choose to leave the situation, others choose to remain and take steps to ensure they are as safe as they can be.

You can do so by developing a safety plan. Steps to become safer may include:

- Tell someone you trust what is happening to you. This may be a family member, friend, a personal support worker who may be helping you around the house, your doctor, a trusted neighbour, a service provider, or anyone else you trust.
- Ask others for help if you need it. Be specific, if you can, about what type of help you need.
- If someone is hurting you or you do not feel safe you can turn to the police for assistance. Call 9-1-1 or call your local police service.
- Visit your local library, community centre or other information centres in your community to find out information about services that you could access. If you have access to the Internet, and it is safe for you to use a computer to search for this type of information, search on key words such as "abuse", "elder abuse", "violence and safety".<sup>10</sup>

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<sup>10</sup> Ontario Seniors Secretariat: "Safety Planning for Older persons", retrieved from: <http://www.citizenship.gov.on.ca/seniors/english/elderabuse-safetyplanning.htm>



Your safety plan may also include: changing an element of your environment; changing your relationship with the abuser; scheduling regular home visits by personal support workers; increased telephone contact with other family and friends; scheduling regular medical appointments; hiding emergency money somewhere outside the house; giving copies of important documents and keys to trusted friends and family members; having an escape route planned including a pre-packed bag of clothes, medicine or personal aids; and keeping important phone numbers of friends, relatives, emergency contact numbers close by or memorized.

### **Responses to elder abuse**

#### Legal Options:

Making a police report is often the first choice once elder abuse is disclosed. Reporting to the police might involve making a detailed verbal statement about the nature of abuse, having the police interview family members, caregivers and neighbours who may have evidence, taking photographs of evidence, physical examination if sexual or physical assault occurred and identifying the abuser and testifying against him/her in court.

Criminal charges may be filed by police or the Crown prosecutors. Cases are then heard in either criminal court or special set court for family violence cases, depending on the province or territory. Yet, elder abuse can be difficult to substantiate due to lack of independent witnesses in most of cases. One of the ways to avoid a case coming down to one person's word against another's is to keep a detailed record of the abuse, including dates/descriptions of occurrences, photographs (if possible) and/or financial statements.

#### Possible *Criminal Code* charges relating to elder abuse:

- In cases of PHYSICAL ASSAULT: assault, sexual assault, forcible confinement, murder/manslaughter, administering a noxious substance, counselling suicide, robbery, and aggravated assault.
- In cases of FINANCIAL ASSAULT: theft, fraud, robbery, forgery, extortion, criminal breach of trust, and conversion by trustee.
- In cases of NEGLECT: criminal negligence causing bodily harm and breach of duty to provide necessities of life.
- In case of PSYCHOLOGICAL ABUSE: intimidation, uttering threats, and criminal harassment.

- In cases of SEXUAL ABUSE: sexual assault, sexual assault with a weapon, threats to a third party or causing bodily harm, and aggravated sexual assault.

Possible Remedies:

Peace bonds may be issued in cases when personal injury or damage of property is feared. This may be the situation where an older adult is subjected to certain kinds of abuse. A peace bond cannot be used to protect from emotional or financial abuse. A court can grant a peace bond that requires the abuser to have no contact with the older adult and to stay away from specific locations. Peace bonds last up to 12 months in Canada and you should carry a copy with you at all times. You do not need a lawyer to apply for a peace bond. Each province has different procedures in place for applying, but generally, peace bonds can be accessed at your local Provincial Court - Criminal Division.

In cases of financial abuse, courts can make orders for restitution. When a person is sentenced for a criminal offence, the judge can consider a request for restitution (which is monetary compensation for a victim). The restitution or compensation will relate to losses suffered as a result of the crime. It can include such losses as stolen property, lost wages, and moving costs. The request has to be made before a judge sentences the offender, so it is important that the Crown prosecutor have all the necessary information before sentencing. The difficulty is that restitution orders are difficult to enforce. Victims will likely have to initiate proceedings in small claims court (for amounts up to \$10,000) because unfortunately, most restitution orders are not paid voluntarily in Canada.

Civil action might be taken in the form of a victim suing the offender to regain funds or property back in case of financial abuse. Suing civilly however is a long and expensive process with no guarantee that the offender can pay.

Physical abuse, assault and neglect are specified in *Criminal Code* and someone can be convicted of these offences. Victims of such crimes may be eligible to apply for compensation through provincial plans. Most programs require a police report to be filed within a year of the incident occurring (time limit extensions may be available) and for the victim to cooperate fully with the police investigation. A conviction is not required to receive compensation in most cases. This option is not available to victims of financial abuse or property loss/damage and criminal compensation is not available in all provinces.

It is important to note that the reporting of elder abuse is not mandatory in Canada, as it is for children. This is an area of the law that should be amended to ensure the protection and safety of seniors, who are also vulnerable members of society.

### **Power of attorney**

A power of attorney is a legal document that gives another person authority to act for you in respect of property and other assets. A power of attorney can be made at any time to give another person authority to act for you. If the power of attorney, however, is to last beyond a time when the maker of the document becomes incapable of making her or his own decisions, the document must explicitly state that fact. For example, if the power of attorney does not state that it will be effective at a time when you become incapable of making your own decisions, the document will become void at that time. In some provinces, powers of attorney will also become void when another decision-making authority is empowered under another law, such as mental health law.

A power of attorney can also empower a person or persons of your choosing to act on your behalf for personal care decisions. All provinces have laws that allow people to create a legal document setting out their wishes relating to personal care at a time when they are no longer able to make those decisions for themselves. The legal documents are called by different names in different areas. For example, in Alberta, it is called a Personal Directive; in British Columbia, a Representation Agreement; in New Brunswick, a Power of Attorney for Personal Care; and in Quebec, a Mandate in Anticipation of Incapacity.

Generally, the document will:

- name someone to make decisions on your behalf,
- name people who can determine that your own mental capacity is such that you can no longer make those decisions for yourself,
- name those who are and who are not to be told about the document becoming effective, and
- give instructions with regard to confidential information about you.

Each provincial law may have different requirements for creating a valid document, so it is necessary to find out what the law in your area requires. Generally, the maker of such

a document must be over a certain age, and the document should be signed and dated in the presence of a witness. There may be restrictions regarding who can witness the document, for example, the person designated in the document as the agent may be restricted from being a witness.<sup>11</sup>

The naming of power of attorney is important and should be someone you trust. It can be a relative, a friend or a professional you trust. The person you have appointed should keep an accurate account of all financial transactions. This person is entitled to payment unless you state otherwise and there is a fee payment set out in law.

A power of attorney for personal care enables the appointee to make personal care decisions such as health care, personal hygiene, nutrition, shelter, clothing and safety if you become incapable of making those decisions.

## **A Will**

A will is a legal document that sets out your wishes concerning the distribution of your property and possessions when you die.

- The maker of a will is called a "testator".
- If you die without leaving a will, you are said to have died "intestate". If you die intestate, the law then deals with the way your assets and possessions will be distributed. Generally, the rules set out an exhaustive list of alternative scenarios that deal with a surviving spouse and children and possibly a surviving adult interdependent partner. If there is no spouse, no children, and no adult interdependent partner, the estate goes (in order) to surviving parents, siblings, nephews and nieces, and next of kin.
- The property and possessions that you leave when you die are described as your "estate".
- When you make a will, you can appoint one or more persons to look after your estate. This person is called an "executor".<sup>12</sup>

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<sup>11</sup> Canadian Legal FAQs, retrieved from: <http://www.law-faqs.org/elder/eld-mngt01.htm>

<sup>12</sup> Canadian Legal FAQs, retrieved from: <http://www.law-faqs.org/elder/eld-will01.htm>

A will is one of the most important documents one will ever write. It is an opportunity to record your wishes for the dispersal of your property in the event of your death. It is best to use services of a lawyer of your own choosing when preparing a will. You cannot be forced to sign a will.

### **Resources for victims**

There are many agencies available in each province that can provide resources, assistance and guidance in cases of elder abuse. Most provinces have a directorate or specific provincial program dedicated to senior citizens. Try calling this provincial/territorial office first for a referral in your local community. Your local police or victim services program will also have many resources to assist you or your loved one.

### **Combating elder abuse**

Educating institutional staff and family members about the prevalence of elder abuse, the aging process and strengthening stress coping responses is an important step in reducing the occurrence of elder abuse. Recognition that seniors deserve a high quality of life that does not include abuse is also important. Most provinces in Canada have local services for elderly people subjected to abuse or at risk of abuse. Various prevention boards are established to raise awareness within the public about recognizing and reporting elder abuse. In recent years, there has been a shift toward establishing community protocols in an attempt to improve service delivery.

### **Conclusion**

Safety, both physical and financial, is one of the main issues for elderly people today. Yet, while many seniors share the fear that they will somehow become victims, elder abuse is not often talked about. More and more, we are seeing a growing awareness of fraudulent scams targeting elderly persons, but other forms of abuse are not yet recognized as a societal problem.

The consequences of abuse for elderly persons are serious. They include learned helplessness, mortality, depression, fear, anxiety, and variety of other psychological and physical disturbances.

The disclosure of elder abuse should be taken very seriously. People who suspect an elder is being abused should reach out to help and support that person while ensuring their autonomy is respected. It is important to consider all the ramifications

before reporting abuse to the authorities. If the senior is in good health and of sound mind, it should be their decision.

It is hoped that the decision to end the abuse by leaving violent surroundings or by reporting an abuser will be empowering for the victim. Remember that the senior will continue to need your understanding and support to help them cope and move forward.

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