

AGING AND THE LAW SERIES

What Every Professional Needs to Know

ELDER ABUSE & NEGLECT

Faculty: Laura Watts, LL.B., National Director, CCEL

Defining Elder Abuse and Neglect

- The term “elder abuse” has various definitions, depending on the context in which it is used (e.g. legal, health care, social work).
- “Elder abuse” is often defined as an action or inaction by an individual that results in harm to an older person.
- Abusers may be family members, friends, caregivers, persons in a position of trust or power, or even strangers.

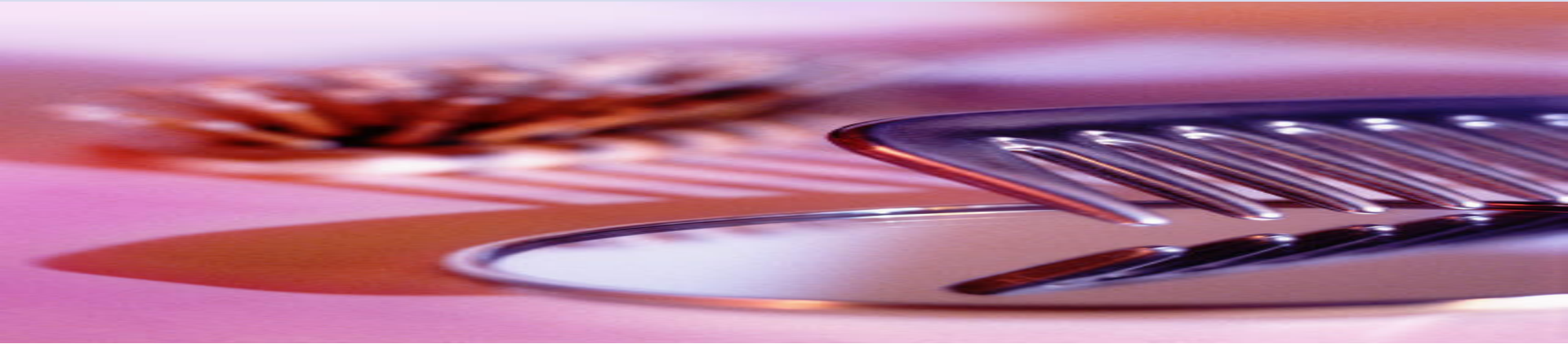
Defining Elder Abuse and Neglect

“Neglect” refers to the failure of a caregiver to provide needed assistance (goods or services) to an older person.



(Seniors Canada, “Facts on Neglect of Seniors”,
<http://www.seniors.gc.ca/c.4nt.2nt@.jsp?lang=eng&cid=159>)

Self-Neglect



“Self-neglect” is the failure of an older person to properly care for his or herself. This may include refusing assistance from others.

This form of abuse may be linked to physical limitations of older persons or cognitive difficulties.

Recognizing Elder Abuse and Neglect

Elder abuse includes

- Physical abuse
- Sexual abuse
- Emotional / psychological abuse
- Financial abuse or exploitation
- Neglect & self-neglect

Abuse may take shape as an isolated incident
or pattern of behaviour.

Types and Indicators of Abuse and Neglect



Physical or Sexual Abuse

Forms of *physical or sexual abuse*

- Violent or rough behaviour :
pushing, kicking, beating, hitting, grabbing
- Unwanted sexual contact of any kind
- Confinement or restraint

Physical or Sexual Abuse

Indicators of *physical abuse*

- Bruises / black eyes
- Welts, rope marks
- Swelling
- Broken assistive devices
- Lacerations
- Punctures
- Untreated injuries
- Fractures, sprains, dislocations
- Restricted movement
- Adult reports being abused
- Internal injuries
- Burns
- Pain, itching or bruises around breasts and genital area
- Torn, stained or bloody underclothing
- Venereal disease, genital infections
- Vaginal / anal bleeding
- Repeated falls

Emotional or Psychological Abuse

Forms of *Emotional / Psychological Abuse*

- Shouting and bullying
- Insults or name calling
- Threats of violence or abandonment
- Intimidation or belittling
- Humiliation
- Harassment
- Treating an older person like a child
- Ignoring the person or isolating them from his or her family, friends, or regular activities
- Inappropriately infringing on privacy



Emotional or Psychological Abuse

Indicators of *Emotional / Psychological Abuse*

- Heightened levels of upset or agitation
- Unexplained feelings of hopelessness, guilt or inadequacy
- Unusual withdrawal from family and friends
- Discomfort or anxiety in the presence of particular people
- Reluctance to speak about the situation

Financial Abuse

Forms of *Financial Abuse*

- Misuse of funds or property
- Theft, exploitation or scams
- Abuse of power of attorney
- Fraud or forgery of documents

Financial Abuse

Indicators of *Financial Abuse*



- Unpaid bills
- No money for basics
- Absence of aids, medications, etc.
- Sudden appearance of previously uninvolved relatives
- Forged signature
- Power of Attorney granted under unusual circumstances
- Adult complains of not knowing where money / assets have gone
- Abrupt changes in will / accounts
- Family member / representative refuses to spend money on the adult's behalf

Neglect and Self-Neglect

Forms of *neglector self-neglect* may include failure to provide

- Water or food
- Shelter
- Clothing
- Medication or medical attention
- Assistance with basic necessities



Neglect and Self-Neglect

Indicators of *neglect or self-neglect*

- Dehydration or malnourishment
- Untreated bedsores or other medical problems
- Unsanitary household conditions or lack of personal care
- Unsafe living conditions or homelessness



Canada

- Seniors Canada – 1 in 12 older adults in Canada are victims of abuse or neglect
- A new prevalence study
- Many victims of abuse are unaware they are being abused, particularly in cases of financial exploitation
- Many reasons not to report



Reporting Abuse

There are also many barriers to reporting abuse that victims in Canada face:

- Victims may have restricted mobility or other physical or cognitive limitations that prevent them from seeking help
- Abusers are often caregivers or in a position of power over the older person, which removes control from the victim
- Victims may be isolated from outside resources
- Other barriers may exist : language, transportation, lack of knowledge of resources available to assist



Risk Factors of Abuse

Why older adults (especially women) may be at a high risk of abuse

- They are unable to call for help or protest
- They are dependent on others
- They have never learned assertiveness
- Many people have access to their homes
- There is a history of abuse
- They are not believed
- The abuse has not been officially identified



Dynamics of Power and Control

- Targeting and grooming victims
- Undue influence and financial exploitations
- Charm and manipulation
- Exploiter excuses
- The appearance of willing participation by the victim in activities that run contrary to their beliefs or best interests
- Trauma reactions of victims



Dynamics of Abuse

- Individual actions can not be taken in isolation
- Not caused by stress of caregiver
- Motivating factor is to have power and control
- Often similar dynamics to stalking and other crimes

Perpetrators

- Most commonly a family member
- Neglect is the most common, followed by abuse by a spouse and abuse by an adult child
- Dependency on the part of perpetrator is a factor
- Financial greed and a sense of entitlement are key factors for financial abuse

Impact on the Victim

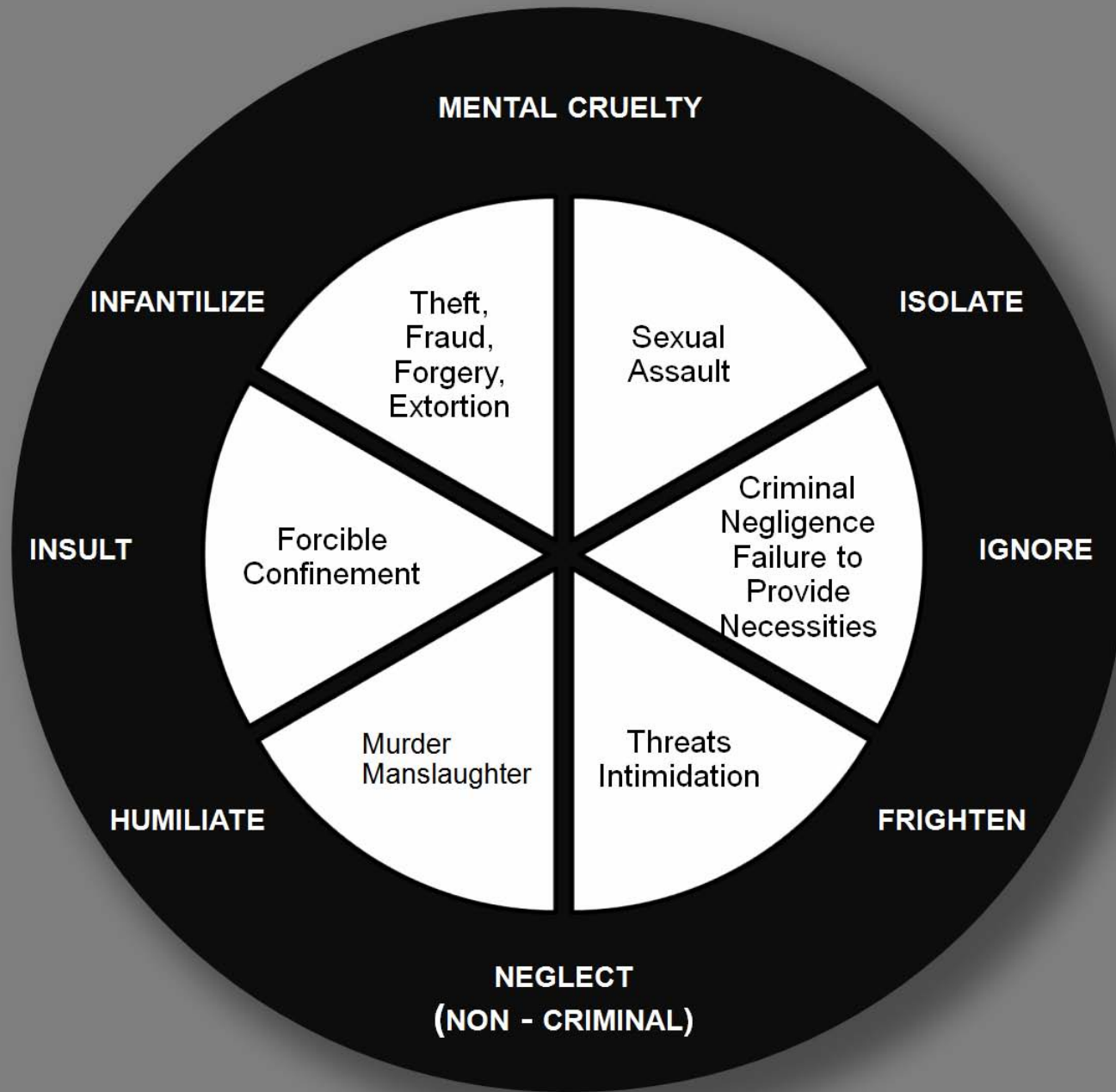
- Victims may be afraid to disclose the abuse
- Cumulative effect of abuse can be significant
- Abusers may seek out victims who are vulnerable
- Some abusers will systematically isolate the victim to keep the victims dependent and compliant

Practice Tips - Introduction

- Often discussions of Elder Abuse focus on specific abusive actions, whereas the dynamics of abuse are more subtle
- The impact of the trauma on the victim often looks similar to dementia or other cognitive defects
- These situations are very complex
- Manipulation of victims has been described as similar to undue influence

Practice Tips Continued: Indicators of Abuse

- Keep a look out for indications of financial abuse
- Some of these indicators taken out of context can look like the client is confused



Criminal/Non-Criminal Activity Wheel

Relationship Between Victim and Perpetrator

Types of Elder Abuse

- Spouse or partner (domestic violence)
- Adult children
- Caregiver or other non relative in position of trust
- Stranger (such as scam artist)
 - depends on your definition of abuse

Responses to Elder Abuse

- **Putting Community Supports in Place**
 - *If abuse is minor or older adult needs support*
- **3rd Party Interventions**
 - *Under legislation or protocols when person is unable to act on own*
- **Civil Action**
 - *Older adult takes court action to recover assets or to be compensated*
- **Criminal Charges**
 - *If crime has been committed*

Client Interaction: Older Adults

- Meet with the client alone
- Create a safe and supportive environment
Be aware of physical limitations such as hearing difficulties or mobility challenges
- Listen carefully and be patient
Respect cultural and generational differences



Client Interaction: Older Adults



It is important to identify and respect reasons why a victim of elder abuse may choose to live with the abuse as opposed to seeking assistance

- *Victims may have genuine attachment to their abuser*
Concern for consequences for abuser (especially family members or spouse)
- Victims may be unaware that they are being abused
Denial or avoidance of the issue

There may be fear of

- ~ Abandonment ~ Retribution
- ~ Isolation ~ Stigma

It's a Crime

Federal

Instances of elder abuse or neglect may be prosecuted under the *Criminal Code*, though there is no specific crime of "elder abuse":

- Neglect cases prosecuted under the "failure to provide the necessities of life" (s. 215)
- Manslaughter (s. 236)
- Home invasion cases prosecuted under the robbery and breaking and entering provisions of the Code (s. 344(b) and s. 349(1))
- Assault (s. 266)
- Sexual assaults (s. 271(1))
- Fraud (s. 380(1))

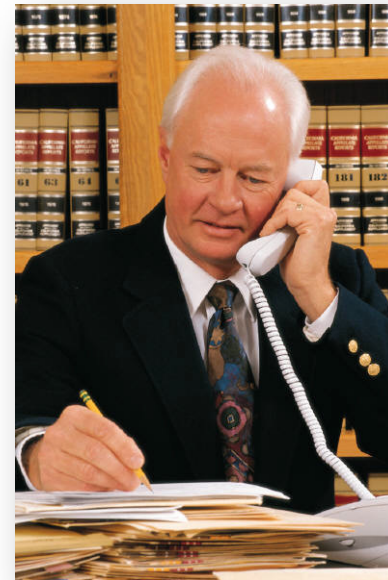


Relevant Civil Legislation

Provincial

Elder abuse and neglect may be addressed at the provincial level under the following types of related legislation:

- Adult protection
- Guardianship
- Power of Attorney or Trustee
- Domestic violence
- Residential care protection
- Family services



Civil Law



Civil Law

Elder abuse and neglect may also be addressed via the Civil Law:

- Fraud
- Undue influence
- Battery & assault etc...

Resources

- Federal and Provincial Ministries for Seniors
- Local health authorities
- Adult protective services
- Family violence hotlines
- R.C.M.P.
- Crime Stoppers : 1-800-222-TIPS



Summary

Canadian Resources

- Canadian Centre for Elder Law
www.bcli.org/ccel
- Canadian Network for the Prevention of Elder Abuse
www.cnpea.ca
- Advocacy Centre for the Elderly (Ontario)
www.acelaw.ca
- BC Centre for Elder Advocacy and Support
www.bcceas.ca
- Government of Canada – Dept. of Justice
<http://www.justice.gc.ca/eng/pi/fv-vf/pub/elder-aines/index.html>
- Government of Canada – Seniors
<http://www.seniors.gc.ca/c.4nt.2nt3col@.jsp?lang=eng&cid=161>
- National Initiative for Care of the Elderly
www.nicenet.ca

Additional Resources

For information about how you can become a Certified Professional Consultant on Aging (CPCA) visit us at our website www.agefriendlybusiness.com

For information about the Canadian Centre for Elder Law visit us at our website www.bcli.org

THANK YOU!

For more information, please contact us at:

Email: info@agefriendlybusiness.com

Telephone: 1-877-272-9066

Fax: 604-648-9647

Mailing Address:

Age Friendly Business
907-6540 Hastings Street,
Burnaby, British Columbia,
Canada, V5B 4Z5





© 2010 - 2011 The Academy of Age Friendly Business (AAFB). All rights reserved.

This presentation is for informational purposes only. AAFB makes no warranties, express or implied.
Aging and the Law is a proud member of the Age-Friendly Business™ International Group of Companies.