

# **Elder Abuse Police Guidelines**

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## **ELDER ABUSE INVESTIGATION GUIDELINES FOR POLICE SERVICES**

Use these Guidelines in conjunction with the *Domestic Violence Handbook for Police and Crown Prosecutors in Alberta* (DV Handbook) and the *Domestic Violence Police Guidelines*.

### **PURPOSE**

These Guidelines share best practices regarding elder abuse investigations to assist police services in developing policy, procedures and training. These guidelines are for the Royal Canadian Mounted Police and Municipal and First Nations police services in Alberta.

### **SECTION 1: DEFINITIONS AND CONSIDERATIONS**

**Elder abuse** is any action or inaction by those in a trusting relationship that jeopardizes the health and wellbeing of an older adult. Some forms of abuse are: emotional/psychological, financial, physical, sexual, misuse of medication and neglect.

- Elder abuse victim are 65 years of age and older,
- Victims are referred to as older adults.

**For investigations of intimate partner violence between older adults refer to the *Domestic Violence Police Guidelines*.** Domestic violence ‘grown old’ is when domestic violence started earlier in life and persists into old age.

**Elder abuse is unique in nature** due to vulnerability factors such as:

- physical frailty of the older adult,
- isolation,
- immobility,
- cognitive ability,
- dependency on others for care and assistance,
- lack of social support, and/or
- shame of disclosing abuse - as perpetrator maybe a family member.

**Positions of Trust** in elder abuse can include:

- Spouses, adult children, grandchildren, other family members, caregivers both paid and unpaid, service providers or other individuals in situations of power or trust.
- Care facilities (refer to *Protection for Persons in Care Act*).

**Positions of Trust** in elder abuse excludes:

- unknown offender relationships.

**Service provider, as defined in the *Protection for Persons in Care Act*,** means an individual employed by or engaged for services by a service provider who provides care or support services to a client in:

- a lodge accommodation as defined in the *Alberta Housing Act*,
- an approved hospital as defined in the *Hospitals Act*,
- a facility designated under the *Mental Health Act*,
- a nursing home as defined in the *Nursing Homes Act*,
- a hostel or other establishment operated to provide accommodation and maintenance for unemployed or indigent persons,
- a social care facility as defined in the *Social Care Facilities Licensing Act*,
- a facility as defined in the *Social Care Facilities Review Committee Act*, or
- any person designated by the regulations as a service provider.

The individual has a duty:

- to take reasonable steps to protect the client from abuse while providing care or support services, and
- to maintain a reasonable level of safety for the client.

**Cognitive Impairment:** Every investigator is encouraged to use the following guidelines when interviewing a victim of elder abuse who appears confused, repetitive, or unable to answer general questions.

Confusion and taking a statement: If confusion in an older adult is observed, please continue taking the statement if this seems possible. If it is not, seek medical intervention immediately. Consult with the older adult's physician to determine when taking a statement will be possible. If it is deemed that it will not be possible and the confusion is not likely to subside, gather all evidence necessary to continue with the investigation if there are obvious signs of abuse.

Confusion in older adults can be caused by a number of factors including: physical illness such as Urinary Tract Infections (UTI's) or dehydration, over or under medicating, stress, depression or cognitive decline. However, there should not be an automatic assumption that the confusion is cognitive impairment.

In recognition of cognitive impairment use the following A B C tool:

- Affect: How is the person presenting? Angry? Agitated? Thoughts muddled? Could also be quiet, withdrawn or depressed.
- Behavior: What is the victim doing? What are they asking for? Is the person's request making sense? Are they neatly dressed and groomed? Are they dressed appropriately for the season? Are they dressed in layers? Do they hesitate to speak? Own the guilt in discussions (i.e. It's my son, so it's my fault)?

- Cognition: Ask the person their name, address, day of week and date. Conduct a cognitive capacity check by asking the person to spell the word WORLD forward and backward. Point to your watch and ask them to identify what it is. Possible language and educational barriers need to be taken into account when asking these questions.

If the person has difficulty with answering these questions, you may need to seek a mental health professional for further cognitive assessment before attempting to take a statement from them.

- When investigating an incident of elder abuse and the victim appears to have cognitive decline the following are important considerations to determine vulnerability:
  - signing of financial documents – does the victim understand what they have signed? When was the document signed? According to any documentation did the victim have capacity at the time; was the victim coerced into signing (i.e. before or after geriatric assessment)?
  - providing a witness statement – can they provide details?
  - safety – do they recognize the safety concerns (are they able to use the phone, or understand what to do in case of an emergency)? Are they physically able to get away?
  - ability to manage their daily affairs independently - do they depend on the abuser for assistance? If so, who will be able to assist without the abuser present?

## **Forms of Abuse**

### **Emotional/Psychological abuse includes:**

- humiliation,
- isolation,
- intimidation,
- threats,
- inappropriate control of activities, and
- removal of decision-making power when the older adult still has capacity to make his/her own decision.

**Financial abuse indicators include:** sudden changes in a bank account or banking practice (unexplained withdrawals of large sums of money by a person accompanying the older adult).

Types of financial abuse include:

- coercing an older adult into signing a document (i.e. contracts, wills, power of attorney),
- negotiating an older adult's cheques without authorization,
- stealing or misusing an older adult's money or possessions,
- forging an older adult's signature, misuse of power of attorney,
- using an older adult's bank card for personal gain, and
- denying the older adult access to their own finances.

**Physical abuse includes:**

- any kind of physical assault, such as slapping, pushing, kicking, punching, pinching,
- injuring with an object or weapon,
- deliberate exposure to severe weather,
- inappropriate dispensing of medication by caregiver,
- unnecessary physical restraint, and
- strangulation.

**Sexual abuse includes:**

- unwanted sexual behaviours including sexual comments,
- exploitive use of pornography, such as forcing the victim to view it against their wishes,
- fondling, or
- sexual assault.

**Medication abuse includes:**

- the misuse of an older adult's medications and prescriptions intentionally or unintentionally,
- withholding medication,
- over-medicating, or
- not complying with refills of prescriptions.

**Neglect is defined as:** any lack of action required to meet the daily needs of any older adult. It includes the inadequate provision of:

- food,
- clothing,
- shelter,
- required medication or other kinds of personal care, and
- social companionship.

This may include leaving a person in a shower or bathtub until they agree to comply with the abuser's wishes or refusing to assist them in going to the washroom until such time as they comply.

There are two forms of neglect:

- Passive Neglect is the unintentional failure to fulfill a caretaking obligation; infliction of distress without conscious or wilful intent, etc.
- Active Neglect is the intentional failure to fulfill care-giving obligations; infliction of physical or emotional stress or injury; abandonment; denial of food, medication, personal hygiene, etc.

## **Need for Coordination and Collaboration**

Every police service is encouraged to participate in a coordinated community elder abuse response committee with community service providers and agencies. These committees can assist in addressing a number of community related issues surrounding elder abuse such as:

- defining roles and responsibilities of organizations involved in providing service to victims,
- identifying gaps in the response continuum,
- ensuring all staff (dispatch/911 officers) are trained to recognize the unique traits of elder abuse,
- providing assistance to victims in cases that do not proceed to court or where charges have not been laid,
- establishing criteria for a case and/or system review,
- subject to privacy requirements, sharing case-specific information among relevant member organizations to provide a coordinated response,
- monitoring and evaluating the responses by organizations,
- reviewing the availability of services to victims,
- risk assessment and safety planning,
- developing local community strategies and responses to address and prevent repeat victimization, including promoting and supporting follow-up with victims of elder abuse, and
- developing initiatives/programs for prevention and early intervention.

## **SECTION 2: SUPPORT TO VICTIMS**

Victims of elder abuse may experience severe trauma, particularly when the abuse has continued for an extended period. Victims may have depression or anxiety after experiencing years of cumulative stress, hopelessness and trauma. If the abusive person is an adult child or grandchild there can be complex emotions that impact how the victim manages or views the situation. Arresting the perpetrator may be perceived by the victim as a catastrophic loss as the perpetrator may be the caregiver or a key source of financial support. Loss of independence and a decline in mental and physical health may be unintended consequences of the arrest of the perpetrator. Often victims of elder abuse are reluctant to identify their experience as abuse. If the abuse is historical the older adult may not identify their experience as abuse and see it as normal for their relationship. Police must be aware of these risk factors in order to identify abuse.

The guidelines contained in the *Victims of Crime Protocol*, and the companion *Roles and Responsibilities* document, identify roles, responsibilities and specific procedures for police officers when assisting victims. Responsibilities include informing victims:

- that victim services are available to assist with the following:
  - information on local resources to assist victims,

- if charges are laid, providing updates regarding the criminal justice process to the victim,
  - court orientation,
  - information on victim impact statements, restitution and financial benefits for victims of crime,
  - information about the criminal justice process, practical emotional support, and referrals to community agencies based on need (i.e. shelter, counseling), and
  - communicating in 110 languages other than English, as well as TTY services for the deaf.
- Victim Services is available for 24 hour crisis response.

For a detailed list of police responsibilities when assisting victims through the investigation and criminal justice processes, please refer to the chart on page 72 of the *Victims of Crime, Roles and Responsibilities* document. Copies are available from Alberta Justice and Solicitor General Victims Programs at 780-427-3460 or link to the *Victims of Crime Protocol* at the following address:

[https://www.solgps.alberta.ca/programs\\_and\\_services/victim\\_services/help\\_for\\_victims/Publications/Victims%20of%20Crime%20Protocol.pdf](https://www.solgps.alberta.ca/programs_and_services/victim_services/help_for_victims/Publications/Victims%20of%20Crime%20Protocol.pdf)

In addition to completing a comprehensive investigation, best practice for police members responding to elder abuse occurrences include:

- attending the residence when the victim or suspect returns to take possession of personal belongings if concerns for the victim’s safety exist. If either party contests property removal, the member should advise the parties of the need to seek a civil remedy,
- arranging for transportation to a shelter or place of safety, if necessary, with the location remaining confidential and not released to the suspect or third parties, and
- educating the older adult in safety planning and the importance of keeping their whereabouts confidential.

### **Specialized Victims**

Best practice is to recognize that certain victims require information specific to their situation. In addition to police-based Victim Services Units, some communities have specialized community-based victim services agencies that focus their support on the needs of one or more “specialized” groups of victims such as:

### **Immigration Status/Concerns**

According to Citizenship and Immigration Canada (CIC), those who are sponsoring their parents or grandparents and who submit the application for sponsorship/permanent residency on or after January 2014, are now responsible for their loved ones for the next 20 years.



Those who applied and or have been in Canada before January 2014 and who may have received their Permanent Residency, fall under the previous legislation, requiring responsibility for their loved ones over a period of 10 years.

### **Victims with Disabilities**

Some victims of elder abuse may have special needs because of their limited physical or cognitive abilities. These factors increase their vulnerability and make it extremely difficult for them to report their victimization, call for assistance, or in some cases participate fully in the investigation and prosecution of their case.

The Canadian Network for the Prevention of Elder Abuse report, *Health Effects of Abuse and Neglect of Older Adults*, identifies signs and effects of elder abuse:

- Abuse and neglect are a major source of stress and can have long-term effects on the health and wellbeing 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 and panic attacks are common stress-related symptoms among older adults who experience abuse.
- Some older adults have less physical strength and less physical resilience than younger people. They 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. Hip fractures in an older adult may be a death sentence.
- As a result of abuse or neglect, some 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.
- Some abused older adults may start to eat less (or more), use more medication 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.
- Victims with special needs should be referred to specialized support services, where available, to ensure they receive protection, physical assistance, medical treatment, or other services as needed.
- Ensure that victims are in a safe environment before leaving the scene. It is important to recognize that the person (family member or service provider) the victim is dependent on to meet their needs could be the offender and that an alternate caregiver for the victim may be needed.

### **Court Support**

Older adults who are victims of elder abuse may need special consideration when appearing in court for judicial proceedings and may benefit from:

- court preparation in their home – due to mobility and health concerns,

- transportation to and from court,
- mobility assistance when testifying,
- increased breaks while testifying,
- if diabetic, ensure they have appropriate food items to maintain their sugar levels,
- assistance due to hearing or eyesight loss,
- accompaniment during the court process to ensure they understand what is happening,
- several days of debrief after court to ensure they understood the outcome of the court process, and
- an independent interpreter.

If any specialized resources are required for the victim to testify (hearing aid, mobility issues etc.), advise the Crown Prosecutor as soon as possible so they can make an application to the court for necessary arrangements.

### **SECTION 3: INITIAL RESPONSE PROCEDURES**

Best practice includes the following:

- follow police service policy regarding entry into residence to check on the welfare of a person or 911 hang-up call,
- follow police service policy regarding officer safety,
- upon arrival:
  - separate the parties,
  - assist any party in obtaining medical assistance, if necessary,
  - preserve evidence,
  - determine and document the relationship between the accused and the victim (including the legal relationship, i.e. is the accused a Trustee of the victim),
  - make detailed notes, including the actions, utterances and injuries of all parties involved, and
  - assess environment for signs of neglect and control (i.e. tie downs on wheelchairs or lack of food in the home).
- a detailed occurrence report is to be completed for every elder abuse occurrence regardless of whether any charges are laid or an offence alleged, and the information entered on the police service's information system for future reference, and
- additional objective measure questions for consideration with respect to elder abuse:
  - Can you tell me the day, date, year? Can you tell me your address?
  - Doctors' name and last time visited?
  - Any prescription and non-prescription medications, and how are they filled (in person, telephone, delivery, by a designate)? Who administers medication?
  - Family, friends visiting the home? Who? How often? Last time they visited?
  - Professionals visiting the home? What organization (i.e., Social Work, Home Care, Clergy)? Last time they visited?
  - Is assistance required for chores (i.e., groceries, food preparation, cleaning)? By whom/what organization?
  - Is assistance required for personal care? (i.e. bath assist or toileting).

## **Warrant Permitting Entry (WPE)**

If the police member is unable to justify immediately entering the residence to check on the welfare of a person pursuant to police service policy, The *Protection Against Family Violence Act* (PAFVA) provides the authority to obtain a warrant to enter. Under Section 10 of PAFVA, the police may obtain a warrant to enter a dwelling to check on the welfare of a person suspected to be the victim of family violence. In cases where there is reason to believe a family member has been the subject of family violence and the police have been refused access to that person, a police officer may apply to the court for a WPE.

A Justice of the Court of Queen's Bench, Provincial Court Judge or a Justice of the Peace may issue a WPE on application made by a peace officer if satisfied by information on oath that there are reasonable and probable grounds to believe:

- the person providing the information on oath has been refused access to a family member, and
- the family member may have been the subject of family violence and will be found at the place to be searched.

The warrant permits the police:

- to enter the place named in the warrant and any other structure or building used in connection with the place, to search for, assist or examine the family member, and
- with their consent, to remove the family member from the premises for the purpose of assisting or examining the family member.

## **SECTION 4: CONDUCTING A COMPREHENSIVE INVESTIGATION**

Elder abuse occurrences can be complex investigations. Investigations may involve numerous investigative steps, multiple types of abuse, may co-exist with other investigations, or one type of abuse may lead to another. The two most identified types of occurrences reported are financial and psychological abuse. Investigators conducting complex financial abuse investigations can reference Appendix A: *Elder Financial Abuse Investigative Checklist*.

Best practise for conducting the investigation include:

### **1. Elder Abuse Victim**

- Statement taken,
- Photographs taken initially,
- Photographs taken 2-3 days later,
- Evidence seized,
- Injuries detailed,
- Disability and mobility issues detailed,
- *Consent for Release of Medical Information* form completed by victim or substitute decision maker (if applicable),

- *Consent for Release of Financial Information* form completed by victim or substitute decision maker (if applicable),
- Establish duty of care, if any, between offender and victim and applicable court orders (i.e., Guardianship, Trusteeship, Power of Attorney, Personal Directive, Will).

## 2. Offender

- Located and arrested (if applicable) or request warrant,
- Emergency Protection Order served, if applicable,
- Cautioned statement taken,
- Photographs taken,
- Evidence seized from offender,
- Previous police reports,
- Establish duty of care, if any, between offender and victim. Court orders applicable (i.e., Guardianship, Trusteeship, Power of Attorney, Personal Directive, Will).

## 3. Witnesses

- Statements taken,
- Neighborhood inquiries.

## 4. Scene

- Photographs of any damage,
- Photographs of location,
- Photographs of mobility aids, structural adaptations for disabled/immobile,
- Evidence seized (ripped clothing, damaged property, prescription bottles, etc.).

## 5. 911/Emergency Operational Communication Centre (OCC) recording

- Recording requested.

## 6. Firearms/Weapons

- Seize all weapons/firearms if used,
- Seize licensing documents (if applicable),
- Canadian Firearms Registry Office (CFRO) check,
- Consider application for Stand Alone/Preventative-Prohibition if firearms owned by accused, but not used in the offence,
  - Firearms can be seized without warrant if the officer believes there is a danger to the person or the public, under Section 117.04 of the *Criminal Code*, regardless of whether a weapon was used in the original call for service. The investigator should always consider seizing all weapons in the home under this authority.
- Information to obtain warrant if weapons/firearms not seized initially.

**7. Protection Against Family Violence Act (PAFVA)**

- Emergency Protection Order (EPO) application,
- Referral to Queen’s Bench Protection Order (QBPO) application (in non-emergency situations),
- Conditions and firearms addressed in EPO/QBPO,
- Warrant Permitting Entry (see *Initial Response Procedures*, Section 3).

**8. Judicial Interim Release (JIR) Process (Bail)**

- Prepare Bail package – check JOIN for convictions and charges that are not on CPIC,
- Consider bail revocation,
- Remand/Release with conditions,
- Firearms or prior weapons charges addressed,
- Conditions of release,
- Victim informed of results,
- Narrative reference to relationship power imbalance, and accompanying impact on victim vulnerability if applicable.

**9. Canadian Police Information Centre (CPIC)**

- Add Warrant in first instance if applicable,
- Special Interest Police (SIP),
- Accused entry,
- EPO (once respondent has been served or document attempts to serve),
- Caution “Elder Abuse” entry,
- Release Conditions,
- Address of Interest.

**10. Documentation**

- Detailed notes to include actions, utterances, injuries, and all observations at the scene (details of importance for elder abuse may include the number of pills remaining in a pill bottle).
- Detailed reports outlining all the action taken.

**11. Specialized Team/Referrals**

- Law enforcement elder abuse team, Police and Crisis Team, Rural Police and Crisis Team, if applicable,
- Coordinated Community Response to Elder Abuse Team, if applicable,
- Victim Services,
- Shelter,
- Community Social Work,
- Home Care,
- Hospital (refer to Legislation section “formal patient”),
- Integrated Threat and Risk Assessment Centre (I-TRAC) – trained in risk/threat assessment which includes specific tools such as the *Elder Abuse Risk Assessment* (EARA) designed for older adults.

## **SECTION 5: INTERVIEWING PROCEDURES**

Best practice is to interview the victim(s), suspect, and witnesses, including:

- person(s) who reported occurrence to police communications,
- neighbours,
- family members,
- caregivers,
- emergency personnel,
- children, including adult children (where appropriate),
- any other person who observed or heard the incident, and
- financial institutions if financial abuse is apparent.

### **Method of Interview**

Best practice is as follows:

- witnesses should be interviewed separately from one another and directed not to discuss the events among themselves,
- an interpreter (non-family member) is used when necessary to obtain a full account of the incident,
- before interviewing, determine if the older adult has been diagnosed with cognitive impairment. If observable concerns arise during the interview, document this and seek assistance from a qualified/specialized professional to make a determination on the ability to conduct an interview,
- investigators must obtain a handwritten statement (pure version) from the witness, followed by Q&A recorded on the statement to obtain a full account of the witness's recollection of the events. The witness should review and sign their statement when possible,
- in addition to a written statement, take a KGB (video, see next section for further information) statement with adult victims that includes cognition demonstrations (pg. 4),
- if the witness is unable to provide a written statement, the member may record the statement of the witness, have the witness review the statement, confirm it is accurate, and sign/initial the statement (even if it is recorded in the member's notebook), and
- in cases where a child has witnessed the incident, or is a victim of an offence, all efforts to ensure a "child friendly" interview must be taken. Where possible, the interview should be videotaped so that it can be used in evidence. Child and Family Services must be notified.

### **Sworn Video Recorded Witness Statements**

The police service procedures should address obtaining sworn video recorded witness statements, in accordance with the KGB (*R v B. (K.G.), [1993] 1 S.C.R. 740*) guidelines. Sworn statements and the tests of reliability and necessity should be considered with respect to the victims:

- age,
- physical disability that may impact future court attendance, and
- medical conditions; consideration of life threatening injury incidents and/or terminal illness.

Individuals with mild to moderate cognitive decline should be considered reliable witnesses unless a medical professional says otherwise. If they have cognition issues, the victim will likely continue to experience a decline in memory and long waits for trial could be a challenge in seeking prosecution. Therefore a KGB statement is essential to have the potential to prosecute. The value of performing cognition tests during a KGB statement is beneficial to demonstrate the older adults' competency in the event they cognitively decline prior to court.

## **SECTION 6: SAFETY PLANNING FOR THE OLDER ADULT**

This section provides information relevant to safety planning for an older adult. Its purpose is to enhance the available information on safety planning for domestic violence and it can be used in conjunction with resources already familiar to the service provider.

### **Considerations for Providing Services**

Trauma-informed care requires that the service provider is informed about, and sensitive to, the impact of the victim's trauma and adjusts how services are delivered in order to accommodate the victim's unique vulnerabilities. Trauma-informed care means ensuring that the victim feels safe, that the service provider is experienced and trustworthy, and that the victim is given as much choice and control as possible in their situation. It is essential that services to an older adult be trauma-informed.

When working with a victim of elder abuse, their frailty or vulnerability must be considered when providing services and planning for safety. It is also important to recognize they may be coping with physical barriers to receiving services such as changes in sensory abilities, mobility, agility and cognition. Hearing loss or diminishment is the most common sensory impairment and disability rates tend to increase with age. There are other factors a service provider should take into consideration when working with an older adult, including:

- resources on elder abuse, including safety planning material, have to be available in larger print and simple fonts,
- mobility maybe reduced and this may affect plans the older adult has for escaping the abuse or meeting with service providers. It may be easier for a service provider to conduct a home visit with the older adult if it is safe to do so,
- cognitively, the ability to process and integrate information slows down with age, so service providers must be patient, clear and direct when providing information or instructions. If necessary, provide small amounts of information at a time,

- signs of mental confusion, depression or anxiety can be mistaken as growing older or as dementia; however, these signs may be a result of abuse or neglect or physical illness, and
- these barriers can be compounded by a victim who speaks English as a second language.

### **Barriers to Reporting**

Elder abuse includes many of the same behaviors attributed to domestic violence, but can also include neglect. It can also occur in a wider range of settings and relationships. Perpetrators can be spouses, children, grandchildren, other relations, friends, residents in an institution and/or paid caregivers.

There are many incidents of elder abuse that go unreported. Reasons include:

- shame that a family member is treating them badly,
- fear of retaliation, punishment or of the abuse escalating,
- fear of being placed in an institution or having to move from their home,
- fear of losing a caregiver or contact with a family member,
- fear of being sent back to their country of origin,
- a belief they are getting what they deserve (i.e., may feel they were not a good parent),
- fear of not being able to see grandchildren,
- love for the accused despite the abuse,
- hope that the abuse will stop,
- fear of authority figures and criminal justice system,
- social isolation or the inability to report the abuse due to physical limitations,
- fear of abandonment, and
- lack of capacity or functioning to disclose the abuse.

Abuse can also occur in situations where the victim is the primary caregiver to their abuser and the victim worries about who will care for their abuser if someone intervenes. Examples include:

- Intimate partner violence – husband has dementia and is physically harming wife. Rather than removing wife to shelter, husband should be removed for medical intervention - psychiatric assessment through the use of a *Form 10 Apprehension by a Peace Officer* under the *Mental Health Act*.
- Dependent adult is abusive toward parents. Remove adult child to hospital for psychiatric assessment using the authority under the *Mental Health Act*.

While safety planning with an older adult, it is important to remember that elder abuse can take many forms, often with more than one type of abuse occurring at the same time. The two most identified and reported types of elder abuse are financial and psychological. Therefore, it is good practice to ask the older adult questions relating to all types of abuse and not just the form of abuse that has been identified or is suspected. It is also important to recognize factors that make them vulnerable to abuse. For example, physical health and cognitive functioning issues will tend to remain or become more pronounced with aging.



## **Key Messaging to Victims**

It is important for older adults to receive key messages relating to the abuse they are experiencing to help clarify their thoughts and help them make decisions about safety.

- Abuse at the hands of another person can happen at any age. It is never acceptable.
- Abuse does not stop on its own. If it is ignored, it will continue, and may even get worse.
- You can take actions on your own and with the help of others to end the abuse.
- You have the right to have control over your life.
- Abusive behaviour is not healthy for you or for your abuser.

## **Safety Planning**

There are steps an older adult can take to make their environment safer. Below are some general suggestions an older adult can follow to promote their safety, though they may not apply to every situation.

- Talk about their situation with a person they trust such as a family member, friend, doctor, spiritual leader or personal support worker.
- Decide on a code word that lets trusted people (friend, family member, or neighbor) know they need help and the police should be contacted.
- Have a friend or support person check in with them at regular intervals, and if they cannot make contact with the older adult, arrange to get help.
- Know who they can contact for emergency transportation and who they can stay with temporarily.
- Have a trusted third party look over any documents they may be asked to sign.
- Have mail re-directed to a trusted person.
- Advise the bank if there are concerns with the older adult's finances.
- Check bank account statements often or enlist the help of a trusted third party and have the statements sent to them.
- If the perpetrator is violent, the older adult should plan an escape route from their residence that takes into account any physical limitations they may have. Encourage them to regularly go over this plan in their mind.

## **Creating a Safety Pack**

An older adult can prepare to leave their abusive situation by creating a safety pack in advance. They may need the help of a trusted person to gather items together in a suitcase, bag or box and store it in a safe place for them. Other options include storing the items in one room or hiding a list containing all of the items for reference. Considerations for a safety pack for an older adult:

- create a list of current medications and phone numbers for the pharmacies from which the medications are purchased,
- copies of any legal documents and/or keys for safety deposit box (Will, Power of Attorney, Personal Directives, Citizenship, health care card, social insurance card etc.),

- names and phone numbers of all of their doctors,
- spare eyeglasses, dentures, hearing aids, and other assistive devices such as a cane, or walker required in daily life, and
- phone numbers of supports and services available in the community for older adults.

### **Leaving the Abuse:**

If the victim is leaving an abusive situation or going to a shelter, some important questions and considerations should be addressed.

- Does the shelter accommodate persons with disabilities? Call the elder abuse shelters first to determine if they accommodate people (men/women/couples) with disabilities and have health care services available. Those with cognitive impairment should be assisted to connect with supportive family to ensure the safety of the older adult. If there is no supportive person then the victim should be taken to hospital.
- Are personal caregivers/homecare allowed to support the individual while in the shelter and if so, are there gender restrictions for personal caregivers attending the shelter?
- Is the older adult aware of the various supports for elder abuse in the community and which ones do they plan to contact when they reach safety? A best practice in elder abuse is to assist the older adult to connect with services. This is an age group that typically does not reach out without support to access services.
- Does the older adult need medical attention? It is a good idea to encourage the older adult to seek medical attention as they may have experienced neglect, medication abuse or drug interactions in addition to any obvious physical injuries.
- If the abuser is responsible for the care of the older adult and is removed from the situation, care will have to be arranged.
- Can the older adult provide the necessities of life for themselves while in a shelter or living independently?
- As a result of the ongoing vulnerability of the older adult, Emergency Protection Orders (EPOs), Queen's Bench Protection Orders or Restraining Orders should be considered as an additional layer of safety. EPOs work well with older adults who have experienced abuse by someone they know and trust including family members and guardians.
- Victims of financial abuse should be encouraged to create a Power of Attorney as a safe guard to prevent future financial abuse.

## **SECTION 7: LEGISLATION AND ELDER ABUSE IN ALBERTA**

### **Protection Against Family Violence Act (PAFVA)**

The purpose of PAFVA is to provide protection and assistance to victims of family violence and enables victims to obtain protection orders against perpetrators of violence. The legislation also grants law enforcement personnel the legal tools to identify and assist individuals who may have been victims of family violence.

When victims are seniors, PAFVA covers:

- the forced confinement of a senior,
- physical and sexual abuse of a senior,
- actions which cause property damage or a reasonable fear of injury, and
- elder abuse where the abuser is a family member who resides with the senior.

Under PAFVA, police can obtain a WPE (see WPE on pg. 12) from a Provincial Court Judge, Justice of the Peace or Justice of the Court of Queen's Bench when grounds exist to believe that access to the senior has been refused, the senior may have been the subject of family violence, and the senior can be found in the place to be searched.

PAFVA does not cover elder abuse committed by individuals who are not related to the senior, such as a caregiver who is not related to a senior. If the abuse occurs in a hospital, nursing home, seniors' lodge or some other facility for seniors funded by the government, the provisions of the *Protection of Persons in Care Act* apply.

### **Protection for Persons in Care Act (PPCA)**

The purpose of the PPCA is to ensure that publicly-funded agencies such as hospitals, seniors' lodges or long-term care centres protect Albertans from abuse and maintain a reasonable level of safety. The PPCA also provides for investigation of reported abuse and/or safety concerns for adults in these publicly-funded facilities.

In the PPCA, Section 7(1), every person who has reasonable grounds to believe there is or has been abuse involving an adult who receives care or support services from a hospital or lives in a care facility must report abuse to:

- a complaints officer within the facility,
- the police, or
- another authorized person, body or committee authorized to investigate abuse.

If a complaints officer believes that a criminal offence may have been committed, the matter will be referred to the police for investigation.

The PPCA [Section 7(2)] states that a person is allowed to disclose confidential information when notifying an appropriate authority about concerns regarding abuse, subject to solicitor-client privilege [Section 7(3)].

## **Adult Guardianship and Trusteeship Act (AGTA)**

The AGTA contains provisions that offer protection to vulnerable adults over the age of 18 years who may want assistance or are no longer able to make financial or personal decisions.

The AGTA is applied in situations when an adult has lost capacity and does not have either a personal directive or a Power of Attorney.

In the AGTA, there is a process on how to address concerns when one has reason to believe that a guardian or trustee failed to comply with a guardianship/trusteeship order and accompanying duties, and the failure is likely to cause harm or financial loss to a represented adult.

Documented concerns are investigated. Investigations are conducted and/or overseen by the Office of the Public Guardian and Trustee.

If the subject matter of a complaint involves an offense under the *Criminal Code* or any other statute or regulation in Alberta, then the complaints officer may direct the complaint to a police service in accordance with Section 79(1) of the AGTA.

## **The Personal Directives Act**

A Personal Directive is a legal document that provides seniors and other adults with the means to plan for the time when they are incapable of making personal decisions for themselves. In a Personal Directive, a person may name one or more people to make health care and other kinds of personal decisions for them during the time when they are not mentally competent to do so. These individuals are known as agents. The person making the Personal Directive (the "maker") can also indicate the areas in which they want their agents to make decisions for them and include instructions regarding the care and treatment they do and do not want to receive when they become incompetent.

### **Key Points**

- The Personal Directive must be in writing, dated and signed before a witness. The witness cannot be the spouse of the maker or the spouse of the agent.
- The maker has to have mental capacity to enter into the agreement.
- The Personal Directive comes into effect upon the written declaration of mental incapacity by two service providers, one of which must be a physician or psychologist, or can come into effect with the agent and a physician or psychologist. The *Declaration of Incapacity* must be the government prescribed Schedule 2 or 3, not a written letter or document made up by a lawyer.
- The Personal Directive terminates upon death of maker.

- A Personal Directive can be revoked by the maker, in whole or in part, as long as he/she is mentally competent to do so. It can be revoked by:
  - specifying a date or event in the Personal Directive that will lead to its revocation,
  - making a new Personal Directive that contradicts the original (to the extent of the contradiction), or
  - making a new Personal Directive or document that indicates the senior's intent to revoke the original personal directive.

### **Power of Attorney Act**

A Power of Attorney (POA) is a legal document that enables one person to give another person the authority to deal with their property and financial affairs. The person granting the Power of Attorney is called the "donor" and the person who is given the authority to deal with the donor's financial affairs is referred to as the "attorney". A person must be mentally competent to grant a Power of Attorney; that is, they must understand what they are doing in giving someone else the authority to handle their financial affairs.

The authority granted to an attorney by a donor can take many forms. For example:

- immediate Power of Attorney: the donor can assign authority to a donor as soon as it is signed,
- Enduring Power of Attorney (EPOA): Attorney can continue to act even if the donor loses capacity. A person might represent themselves as having POA when in fact it does not come into effect until the donor has lost capacity, as verified by their doctor, and
- EPOA must be in writing, dated and signed by donor, and witnessed and signed by the witness in the presence of the donor.

### **Key Points**

- The donor has to be mentally competent to make a Power of Attorney,
- Attorney's authority may terminate or the donor can apply to revoke it,
- Attorney's authority terminates upon death of the donor,
- Donor is at risk for abuse when the attorney's duties are not listed or an accountability clause requiring the attorney to account and record financial activity is not present.

### **Mental Health Act**

Contains provisions to help safeguard and protect the health and wellbeing of individuals who are in the care of health professionals and Alberta's health care system.

There are provisions in the *Mental Health Act* that will allow for people to receive mental health care treatment involuntarily as a "formal patient": a person committed to a mental health facility.

The following are some ways this can happen:

- Physician - A doctor can issue an admission certificate after examining a person if he/she believes that the person is suffering from a mental disorder and is in a condition presenting or likely to present a danger to himself or others and cannot be treated except as a formal patient. The admission certificate enables authorities to apprehend the person, convey him/her to a mental health facility and observe, examine, assess, treat, detain and control the person for a 24 hour period. The person must be released after the 24 hour period has expired unless a second admission certificate is issued by a second physician.
- Judge's Warrant - Individuals may also apply to a provincial court judge for a warrant to apprehend and convey a person to a mental health facility for an initial assessment. A judge may issue a warrant if he/she is satisfied that the person is suffering from a mental disorder, is in a condition presenting or likely to present a danger to himself or others and there is no other way to have the person examined.
- Police Officer's Powers - A police officer has the authority when, on reasonable and probable grounds, the officer believes that the person is suffering from a mental disorder and is in a condition presenting as an immediate danger to himself or others and the person should be examined to protect the person's safety or the safety of others. The circumstances need to be such that there is no time to go to court and apply for a warrant to apprehend the person. The apprehended individual must be taken immediately to a medical professional for assessment. Under the DSM5 (Neurocognitive Disorders) reasons associated with cognitive impairment are considered mental disorders.

#### Referenced

- 1) "A Practical Guide to Elder Abuse and Neglect Law in Canada" Canadian Centre for Elder British Columbia Law Institute July 2011

[http://www.bcli.org/sites/default/files/Practical\\_Guide\\_English\\_Rev\\_JULY\\_2011.pdf](http://www.bcli.org/sites/default/files/Practical_Guide_English_Rev_JULY_2011.pdf)

- 2) "Seniors and the Law: A Resource Guide 3<sup>rd</sup> Edition" by the Alberta Civil Liberties Research Centre (c) 2000,2003, 2010

<https://static1.squarespace.com/static/511bd4e0e4b0cecdc77b114b/t/544fee77e4b0c2f7a273bd44/1414524535962/Seniors+Manual+3d+Final.pdf>

**Financial Abuse of Elder Investigative Checklist**

1. Identify and interview witnesses (e.g., financial institutions, care facility, neighbor, family of victim, suspect and lawyers).
2. Interview victims and alleged abusers separately.
3. Determine the relationship between the parties: Is the suspect a member of the victim's family? Is he or she in a position of trust? Does he or she live with the victim?
4. Find out the sources of income, dollar amounts and payment due dates. Determine, if applicable, where cheques are deposited?
5. Determine the extent of the victim's estate, including real properties, bank accounts, certificates of deposit, stocks, home furnishings, personal belongings, and vehicles. Where are these located? Are there safety deposit boxes? Where are the keys and who has access to the box? Where are the personal belongings (i.e. jewelry, art, valuable collections) kept? Insurance policies? What kind of insurance and who are beneficiaries?
6. Find out who owns the victim's home, whose name is on the land title, who pays rent, and who pays the taxes.
7. Find out whose names are on bank accounts, investment accounts, etc. as well as location of bank, type of accounts and approximate balance in each.
8. Find out who is the agent: Personal Directive, Power of Attorney, Guardian/Trustee; and obtain copies of documents.
9. Find out who pays the bills. What is the amount of monthly bills? Who writes and signs cheques? What debts exist?
10. Find out how the older person's source of income (i.e. pension) or other income cheques are received and deposited in the bank. Obtain victim's bank records by way of consent from victim or substitute decision maker. Find out how cash is obtained. Are there credit cards or Automated Teller Machine (ATM) cards? Does victim use them? Who else is listed on accounts?
11. Determine if anyone is using the victim's residence or utilities without permission.
12. Find out if loans and/or gifts have been recently made and to whom.
13. Determine if there is a will and where it is located.
14. Determine whether the victim is literate.
15. Secure samples of the victim's and the alleged abuser's signature.
16. Determine what documents signed by the victim have placed the estate in the suspect's control. They may include Power of Attorney, bank signature cards, and vehicle pink slips.
17. Get copies of whatever documents were signed.
18. Determine the income of the alleged abuser.
19. Collect evidence from other agencies.
20. Check for previous criminal charges against the alleged abuser. Find out whether the victim is receiving adequate medical care, food, clothing, etc.

21. Determine the victim's cognitive capacity; is the victim capable of understanding documents, testifying, or assisting in the investigation?
22. If the person is incapacitated, or their capacity is questionable, contact family members, friends, or service providers to obtain mental health evaluations and histories. These should include information about the length of time that the victim has had diminished capacity in order to determine if they were able to give consent at the time the statement was given.
23. If questionable purchases have been made, find out the value of the purchases, by and for whom they were made, the value of the purchases in relation to the abuser's salary and whether there has been a history of gift giving.
24. Determine if the older person's estate is still at risk of theft and/or misappropriation. If so, secure the estate as soon as possible.
25. Follow the funds! Determine who has (or had) possession of all misappropriated funds or property.

[Adapted from the Delaware Office of the Attorney General's *Financial Exploitation Investigative Check List* and *Financial Abuse of the Elderly* by Lisa Nerenberg, Produced by the San Francisco Consortium for Elder Abuse Prevention for the National Center on Elder Abuse, 1996]



**Alberta Elder Abuse Information and Resources**

**Police**

Edmonton's Seniors Protection Partnership

<http://www.edmontonpolice.ca/CommunityPolicing/FamilyProtection/ElderAbuse.aspx>

Calgary Elder Abuse Response Team

<http://www.calgary.ca/cps/Pages/Community-programs-and-resources/Crime-prevention/Elder-abuse.aspx>

RCMP Elder Abuse Information <http://www.rcmp-grc.gc.ca/ccaps-spcca/elder-aime-eng.htm>

RCMP Senior's Guidebook to Safety and Security <http://www.rcmp-grc.gc.ca/pubs/ccaps-spcca/seniors-aines-eng.htm>

**Help Lines/Crisis Lines**

Provincial Family Violence Info Line toll free 310-1818 for resource information in your area.

Edmonton Seniors' Abuse Help Line 780-454-8888

Calgary Elder Abuse Resource Line 403-705-3250

**Shelters**

Locate a shelter in Alberta:

<https://www.acws.ca/shelters> or call the [Alberta Council of Women's Shelters](#) toll-free at 1-866-331-3933

Edmonton Seniors Safe House <http://www.mysage.ca/help/seniors-safe-house>

Calgary Kerby Rotary Shelter <http://kerbycentre.com/calgary-adult-services/shelter/>

**Information on Elder Abuse**

Alberta Elder Abuse Awareness Network <http://www.albertaelderabuse.ca/>

Alberta Seniors Elder Abuse Resources <http://www.seniors.alberta.ca/seniors/elder-abuse-resources.html>

Alberta Government Programs and Information on Elder Abuse

<http://www.programs.alberta.ca/Living/13797.aspx?N=770&Ns=13705+13709+13749>

**Fraud**

Service Alberta Tip Sheet on Fraud Awareness <http://www.servicealberta.ca/560.cfm>

**Protection Orders**

Legal Aid Alberta <http://www.legalaid.ab.ca/help/EmergencySituations/Pages/EPOP.aspx>

**Categories and Indicators of Elder Abuse and Related Criminal Code Offences**

**A. Physical Abuse:**

Physical abuse is physical force or violence that results in bodily injury, pain, or impairment. It includes assault, battery, and inappropriate restraint.

1. Indicators:

- a. The senior:
  - i. Fractures, sprains, dislocations, or broken bones.
  - ii. Burns from cigarettes, appliances, or hot water.
  - iii. Abrasions on arms, legs, or torso that resemble rope or strap marks.
  - iv. Bruises.
  - v. Repeated falls.
  - vi. Delay in seeking treatment.
  - vii. Injuries have not received proper medical attention.
- b. The suspect:
  - i. History of making threats.
  - ii. History of substance abuse.
  - iii. Victim of abuse as child.
  - iv. Dependent on senior's income or assets.
  - v. Inconsistent explanation for senior's injuries.

2. *Criminal Code* offences:

- a. Assault Section 265.
- b. Assault with Weapon or Causing Bodily Harm Section 267.
- c. Aggravated Assault Section 268.
- d. Robbery Section 344.
- e. Counseling Suicide Section 228.
- f. Overcoming Resistance Section 246.
- g. Murder Section 229.
- h. Manslaughter Section 232.

**B. Sexual Abuse:**

Sexual abuse is any form of non-consensual physical contact. It includes touching, fondling, sexual threats or any sexual conduct with an older adult who is unable to understand, unwilling to consent, lacks the mental capacity to exercise consent or is threatened or physically forced to engage in sexual behavior.

1. Indicators:

- a. The senior:
  - i. Pain, bleeding, bruising in the genital or anal area.
  - ii. Bruises on external genitalia or inner thighs.
  - iii. Difficulty walking or sitting.

- iv. Torn, stained, or bloody underclothing.
  - v. Sexually transmitted diseases.
  - vi. Intense fear reaction to people.
  - vii. Displays self-destructive behavior (i.e. self-biting).
  - viii. Depression.
  - ix. Self-exposure.
- b. The suspect:
    - i. Over-protective of victim, hostile to others.
    - ii. Inappropriate sex-role relationship with senior.
    - iii. Social isolation.
2. *Criminal Code* offences:
- a. Sexual Assault Section 271.
  - b. Sexual Assault with Weapon or Causing Bodily Harm Section 272.
  - c. Aggravated Sexual Assault Section 273.

### **C. Financial Abuse:**

Financial abuse is any situation involving the dishonest use of an older adult's money or property or the failure to use an older adult's assets for that person's welfare.

1. Indicators:
- a. Unpaid bills, eviction notices, or notices to discontinue utilities.
  - b. Withdrawals from bank accounts or transfers between accounts that the older adult cannot explain.
  - c. Bank statements and canceled cheques no longer come to the senior's home.
  - d. New "best friends".
  - e. Legal documents, such as Powers of Attorney, which the older adult didn't understand at the time he or she signed them.
  - f. Unusual activity in the older person's bank accounts including large, unexplained withdrawals, frequent transfers between accounts, or ATM withdrawals.
  - g. A caregiver expresses excessive interest in the amount of money being spent on the older adult.
  - h. Belongings or property are missing.
  - i. Suspicious signatures on cheques or other documents.
  - j. Absence of documentation about financial arrangements.
  - k. Implausible explanations given about the elderly person's finances by the senior or the caregiver.
  - l. The senior is unaware of or does not understand financial arrangements that have been made for him or her.
2. *Criminal Code* offences:
- a. Theft Section 334.
  - b. Theft by Person Holding Power of Attorney Section 331.
  - c. Criminal Breach of Trust Section 336.
  - d. Misappropriation of Money Held Under Direction Section 332.

- e. Stopping mail with Intent Section 345.
- f. Extortion Section 346(1).
- g. False Pretenses Section 362(1).
- h. Forgery Section 366(1).
- i. Fraud (i.e. Active Mortgage, Land Titles) Section 380.

**D. Emotional or Psychological Abuse:**

Emotional or psychological abuse includes instilling the fear of denial of care and/or abandonment, or of violence. It can be a spontaneous or systematic effort to dehumanize or intimidate. It often diminishes the older adult’s sense of dignity and self-worth.

1. Indicators:

- a. The senior:
  - i. Has problems sleeping.
  - ii. Displays fear.
  - iii. Reluctance to speak openly.
  - iv. Exhibits depression and confusion.
  - v. Is emotionally upset, agitated, withdrawn, and non-responsive.
  - vi. Exhibits unusual behavior usually attributed to dementia (e.g. sucking, biting, rocking).
- b. The suspect:
  - i. Isolates the senior emotionally by not speaking to, touching, or comforting him or her.
  - ii. Speaks poorly of the senior.
  - iii. Treats the senior as an infant.
  - iv. Calls the senior names.

2. *Criminal Code* offences:

- a. Intimidation Section 423.
- b. Uttering Threats Section 423.
- c. Criminal Harassment Section 264(1).

**E. Neglect and Self-Neglect:**

Neglect is failure of caregivers to fulfill their responsibilities to provide needed care.

Active Neglect refers to behavior that is willful; that is, the caregiver intentionally withholds care or necessities. The neglect may be motivated by financial gain (e.g. the caregiver stands to inherit) or reflect interpersonal conflicts.

Passive Neglect refers to situations in which the caregiver is unable to fulfill his or her care giving responsibilities as a result of illness, disability, stress, ignorance, lack of maturity, or lack of resources.

Self-Neglect refers to situations in which there is no perpetrator and neglect is the result of the older adult refusing care.

1. Indicators:
  - a. Environmental:
    - i. Absence of necessities including food, water, heat.
    - ii. Locks in areas where food is kept.
    - iii. Inadequate living environment evidenced by lack of utilities, sufficient space, and ventilation.
    - iv. Animal or insect infestations.
    - v. Failure to provide adequate water, food, clothing or medication.
    - vi. Signs of medication mismanagement, including empty or unmarked bottles or outdated prescriptions.
    - vii. Housing is unsafe as a result of disrepair, faulty wiring, inadequate sanitation, substandard cleanliness, or architectural barriers.
  - b. The senior:
    - i. Poor personal hygiene including soiled clothing, dirty nails and skin, matted or lice infested hair, odors, and the presence of feces or urine.
    - ii. Infrequent bathing, poor hygiene.
    - iii. Unclothed, or improperly clothed for weather.
    - iv. Dehydration, evidenced by low urinary output, dry fragile skin, dry sore mouth, apathy, lack of energy, and mental confusion.
  - c. The suspect:
    - i. Depression or irrational behavior.
    - ii. Hostile towards others.
    - iii. Lack of concern for senior.
    - iv. Substance abuse.
2. *Criminal Code* offences:
  - a. Criminal Negligence Section 219.
  - b. Failing to Provide Necessaries of Life Section 215.

#### **F. Medication Abuse:**

Medication abuse is the misuse of an older adult's medications and prescriptions by self or others, including withholding medication or over medicating.

1. Indicators:
  - a. Little to no access to medication.
  - b. Medication in disarray.
  - c. Symptoms of "double dosing" (i.e. incoherent, disorientated, glassy eyes).
2. *Criminal Code* offences:
  - a. Administering a noxious substance Section 245.
  - b. Mischief Endangering Life Section 430(5.1).