

ELDER MISTREATMENT

BUILDING ELDER FRIENDLY FUTURES LOCALLY AND GLOBALLY
OCTOBER 8-9, 2014 | UNIVERSITY OF WASHINGTON – SEATTLE

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ELDER MISTREATMENT: AN OVERVIEW

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Definition of Elder Mistreatment

- Acts or failures to act that result in harm or a serious threat of harm to the health or welfare of a vulnerable older adult
- Involves a “caregiving dyad”
 - *Vulnerable* older adult
 - “Trusted other” with a duty of care
- May be domestic or institutional

Serious issues that are not “EM,” but important

- Abuse of a non-vulnerable older adult
 - Example: Physical assault of older woman by grandchild
- Stranger crimes.
 - Example: Assault of an older adult at a bus stop by a stranger
 - Example: Financial scams
- Resident-on-Resident Aggression
 - Example: Nursing home resident hits another resident
- Self-neglect
 - Example: Older adult with decision-making capacity decides not to bathe, eat, seek medical attention

Types of Elder Mistreatment

- Neglect
- Financial or material exploitation
- Emotional abuse
- Physical abuse
- Sexual abuse
- Abandonment
- Violation of personal rights
- Some Domestic Violence in Later Life

Scope of the Problem:

Institutional Settings

- On an average day
 - 1.5 million people in 16,100 licensed nursing homes in US
 - 900,000 to 1 million people live in 45,000 residential care facilities in US
- <http://www.cdc.gov/nchs/fastats/nursingh.htm>
- No reliable prevalence estimates

Domestic EM Prevalence (U.S.)

5,777 respondents; 60 years or older in a randomly selected national sample

EM Type	Lifetime Prevalence, %	Prevalence Since Reaching Age 60 Years, %	Past-Year Prevalence, %
Emotional	21.7	13.5	4.6
Physical	12.0	1.8	1.6
Sexual	7.0	0.3	0.6
Potential Neglect			5.1
Financial (family)			5.2

Acierno, et al., 2010. *Am J Public Health*, 100, 292–297.

Domestic EM Prevalence (U.S.)

Interviews of 4,156 older New Yorkers or their proxies. Documented cases from New York State = 292

	Documented Rate per 1,000	Self-reported Rate per 1,000	Ratio of Self-Reported to Documented
NY State – all forms of abuse	3.24	76.0	23.5
Financial	.96	42.1	43.9
Physical and Sexual	1.13*	22.4*	19.8
Neglect	.32	18.3	57.2
Emotional	1.37	16.4	12.0

Documented Case rate includes physical abuse cases only. Physical and sexual abuse data were combined in the Self-Reported Study. Sexual abuse rate for the Documented Case Study was 0.03 per 1,000.

Lachs and Berman, 2011



Why don't victims report?

- *Victims fail to report because:*
 - Impaired cognitive or physical function
 - They are intentionally isolated by their abuser
 - Shame, embarrassment, guilt, self-blame
 - Fear of reprisal
 - Pressure from family members
 - Fear of losing their home and independence
 - Cultural mores

Bonnie and Wallace, 2003

Why don't mandatory reporters report?

- Professional orientation
- Knowledge/education
- Assessment
- Interpretation
- Systems

Schmeidel , et al., 2012, J. Elder Abuse Neg

Physical Neglect

- *Failure to provide*
 - food, hydration, clothing, proper housing (heat), physical therapy, or hygiene
 - physical aids,
 - hearing aids, dentures, eyeglasses;
 - wheelchairs, canes
 - for the vulnerable older adult's safety

Manifestations of possible physical neglect

- Pressure ulcers
- Malnutrition
- Dehydration
- Poor personal hygiene
 - Decayed teeth
 - Overgrown nails
 - Matted or infested hair
 - Excoriations
- Extreme weight loss
- Repeated falls
- Repeated fecal impaction
- Soiled clothing/linens
- Inappropriate dress
- Untreated wounds
- Over- or under-medication
- Learned helplessness or passive behavior

* Neglect or aging or illness? Perpetrated by other? Intentional or unintentional? Criminal or not?

Manifestations of physical abuse

- Ranges from slapping and shoving to severe beatings and restraints with ropes or chains
- Pushing, striking, slapping, burning, biting, or pinching
- Force-feeding
- Prolonged or repeated incorrect positioning
- Improper use of restraints or medications
- Lab findings consistent with over- or under-medication
- Repeated unexplained injuries; pattern injuries; burns; bruises
- Injuries not consistent with story
- Refusal to go to the same ED for repeated injuries

Psychological neglect

- Leaving the older adult alone for long periods of time; isolating them; restricting contact with others
- Ignoring the older adult or giving them the silent treatment
- Failure to provide companionship, changes in routine, news, or information
- Treating the older adult like a child

Manifestations of possible psychological neglect

- Withdrawal
- Depression
- Agitation
- Infantile behavior
- Expression of ambivalent feelings toward family members or caregivers

Psychological abuse

- Behavior that causes mental anguish
 - Berating language
 - Harassment or intimidation
 - Threats of punishment or deprivation (nursing home threat)
 - Treating the older adult like an infant
 - Isolating the older adult from family, friends, activities

Manifestations of Possible Psychological Abuse

- Depression
- Agitation
- Infantile behavior
- Withdrawal and/or isolation
- Poor eye contact
- Appearing fearful
- Limited verbal responses
- Hesitancy with speech
- Abuser speaks for the patient

Manifestations of possible sexual abuse

- Complaints by victim
- Unexplained vaginal or anal bleeding
- Torn or bloody underwear or absorbent pads
- Bruised breasts
- Unexplained STDs or other genital infections

Manifestations of possible financial/material abuse

- Denying the older person a home
- Stealing money or possessions
- Coercing the older person into signing contracts or assigning DPOA
- Purchasing goods
- Making changes in a will
- Failure to use available funds and resources necessary to sustain or restore the health and well-being of the older adult

Violation of person rights

- When the abuser denies the older adult the right to:
 - Privacy
 - Make decisions regarding health care or personal matters
 - Forcible eviction and/or placement in a nursing home

Abandonment

- RCW 9A.42.010
- “...leaving a child or other dependent person without the means or ability to obtain one or more of the basic necessities of life.”

LEGAL ISSUES AND CONCERNS

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Stats on VAPO

	2008		2009		2010		2011		2012		2013	
	Case Count	Order Count	Case Count	Order Count	Case Count	Order Count	Case Count	Order Count	Case Count	Order Count	Case Count	Order Count
Sum:	345	725	395	954	433	1018	522	1152	613	1397	706	1543

Table & statistics courtesy of AOC

Stats on Guardianship

2013 - 2,560 new guardianship cases in Washington state

Year to date (Until 07/31/2014) – 1,382 new guardianship cases in Washington state

GDE	GDN	GDP	LGD	LGE	LGP	MGD	TOTAL
GUARDIANSHIP OF THE ESTATE	GUARDIANSHIP	GUARDIANSHIP OF THE PERSON	LIMITED GUARDIANSHIP	LIMITED GUARDIANSHIP/ ESTATE	LIMITED GUARDIANSHIP/ PERSON	MINOR GUARDIANSHIP	TOTAL
61	19227	127	517	30	17	192	20171

Table & statistics courtesy of AOC

Scope of the issues

- Many cases go undetected and unreported
- Difficulties in finding Guardians willing to serve
- Constraints of low income vulnerable adults
 - Lack of financial resources available for payment
 - Many cases are very intensive and time consuming in the early stages of the proceeding and quickly exhaust the limited financial resources.
 - \$175 per month DSHS reimbursement rate to Guardians

Changes to Vulnerable Adult Statute

Prior to 2007 the statute was very difficult to navigate and utilize

In 2007, several substantive and procedural changes were enacted that made that VAPA user-friendly, economical and effective

- Creation of uniform mandatory forms
- Simplifying terms on how to obtain a VAPO
- Waiving the filing fee (previously \$200.00) in all cases
- Broadening the number of people who can petition for a VAPO
- Authorizing APS and other governmental entities, such as law enforcement, to petition for a VAPO
- Enabling non-attorneys to assist a petitioner in obtaining a VAPO
without violating Washington's laws against practicing law without a license

Mandatory reporting requirements

- <http://www.alsa.dshs.wa.gov/aps/mandatory.htm>
- Mandatory reporters
 - Employees of DSHS
 - Law enforcement
 - Social Workers, etc.
- Must make report if there is reason to suspect a vulnerable adult has been sexually or physically assaulted, or if financial exploitation, abuse, abandonment, neglect has occurred

How families accept neglect or DV in their lives

- Financial reasons
- Mental and physical disabilities
 - Dementia
 - Lack of mobility
- Fear of abandonment
- Cultural considerations
- Lack of awareness associated with abuse

Do all cases lead to criminal charges?

Limitations to the system

- What are the resources available to address the legal issues of guardianship?
- Limitations stem from
 - Prioritization
 - Resources
 - Volume
 - Finances
 - Communication

Civil remedies

- What can the public do through civil remedies?
- Civil remedies may be an option to assist persons who have suffered neglect, abuse, or financial exploitation
- Remedies may include:
 - Injunctive or other equitable relief
 - Compensatory damages
 - Punitive damages
 - Pain and suffering damages
 - Attorney's fees and costs

WHEN MISTREATMENT IS A CRIME

Detective Nadia Fiorini, Seattle Police
Department

“JULIE”

A victim of criminal neglect and financial exploitation.

- 83 years old
- Resides in own home.
- Has dementia (scored 3 out of 30)
- Unemployed daughter moves into her home to take care of her.
- Friends and extended family are turned away by daughter.

What happened?

- Prosecution
 - Charges of Criminal Mistreatment and Theft
- Guardianship
 - Adult Protective Services

Missed Red Flags

- Isolation
- Significant changes in “Julie’s” condition.
- Significant changes in the environment.

NEGLECT

When is it criminal?

RCW 9A.42

Criminal Mistreatment 1-4

- Defendant assumed responsibility to provide, or employed to provide
- To a dependent person
- The basic necessities of life
- Recklessly/negligently
- Causes harm/imminent risk of harm
- By withholding any basic necessities of life

What are the basic necessities of life?

- Food
- Water
- Shelter
- Clothing
- Medically necessary health care including, but not limited to health-related treatment or activities, hygiene, oxygen, and medication

Possible Indicators of Criminal Mistreatment

- **Untreated** medical conditions
- **Untreated** pressure ulcers
- Dehydration / Malnutrition
- Withholding medication or Over-medicating

What to Do if You Suspect Neglect

- Don't just rely on the word of the caregiver!
- If you feel you don't have enough information to report neglect, you may request a welfare check.
 - If an emergency, call 911
 - If not an emergency, call the non-emergency number for the local police department.
 - Seattle Police non-emergency: 206 625-5011

What to do if you suspect Neglect

- If information gives you reasonable cause to believe neglect is occurring, report it to DSHS
 - Call Adult Protective Services for neglect in a private residence
 - 1-866-221-4909 state wide or 206 341-7660 in King County
 - Call Residential care services for neglect in Long Term Care Facilities
 - 1-800-562-6078 state wide

What To Do if You Suspect Neglect

- If the victim has injuries or other obvious signs of neglect, also report to law enforcement.
- Be aware that the victim's location may be a crime scene.