

Improving Access to Justice ¹

At present, very few abuse cases involving seniors make it to court.
Are there ways to improve the situation?

<i>The Challenge</i>	<i>Possible Solutions</i>
<p>Seniors</p> <ul style="list-style-type: none"> - May not be aware that the abuse they are experiencing is a crime - May be afraid or shamed that someone in their family has hurt them this way - Many older adults in Canada (up to 50%) experience difficulties with functional literacy. - Some seniors may be unaware of the contents or effects of legal documents as a result of literacy problems. Physical conditions such as vision impairment can also impede their understanding. 	<ul style="list-style-type: none"> - Public education talking about types of abuse that are crime. - Normalize the experience - "this happens in many families. It's not just you." - Consider having police work with trained seniors in a team approach to reduce seniors' fears (approaching "senior to senior") - Victim assistance to support and encourage seniors, particularly throughout the criminal process. - Helping to let seniors know that an important way of helping one's grown children is making their accountable for their actions. - Any legal information used for seniors should be written with this in mind.

¹ Prepared by Charmaine Spencer, Gerontology Research Centre, Simon Fraser University, Vancouver, B.C. for the Conference "Building a Society for All Ages: Community -University Partnerships in Research, Education, and Services for Older Adults." May 12-13, 1999. Reprinted with permission.

<i>The Challenge</i>	<i>Possible Solutions</i>
<p>Police and Service Providers</p> <ul style="list-style-type: none"> - Often not aware that abuse can happen in later life - May feel ill equipped to help in these cases - Some may have ageist attitudes - May assume that family members are "giving care", and are simply "stressed out caregivers", and shouldn't be giving charged. - Often want a quick answer- "charge or not charge"--may interpret a senior's difficulty in making decisions about or vacillation in laying charges as a sign of deteriorating mental incapability. - Domestic violence charging policies don't seem to apply to abuse by offspring. - Simply telling seniors that "sorry, it's a civil matter" (not helping them connect to other legal resources or community resources). - May feel it is futile to charge, especially if Crown does not follow through by prosecuting. 	<ul style="list-style-type: none"> - Provide education and training for police officers on aging and abuse in later life. - Use of specialized elder abuse teams (police working in conjunction with other professions and trained seniors). - Use of forensic auditors for some forms of financial abuse. - Education on common stereotypes. - Education on the dynamics of abuse. - Promote understanding of the effect that abuse has on decisionmaking. - At a policy level, broaden the charging policy to include grown offspring, living with or apart from the senior. - Educating police on the available community resources - Specifically identify types of resources that would be most helpful in particular types of situations. - Support for police officers, positive feedback from the community when their involvement has been helpful.

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<p>Crown</p> <ul style="list-style-type: none"> - May assume that senior not capable of giving reliable and credible evidence - May assume that "just because old", won't live to make it to trial - May have difficulty proving cases beyond a reasonable doubt 	<ul style="list-style-type: none"> - Education on aging and abuse in later life - Education on stereotypes - Support to the senior throughout the process to get the best evidence possible - Look at ways to expedite these cases - Need to collect evidence from reliable collateral sources - Also need good records in hospitals, from community agencies in touch with senior
<p>Judges</p> <ul style="list-style-type: none"> - May not be aware of abuse in later life as a social problem, or the special elements of it - May not give sufficient latitude to older adults in terms of witnessing; taking their evidence in alternate formats 	<ul style="list-style-type: none"> - Judicial training on aging and abuse in later life - Must be formally given this type of latitude (e.g. in rules of court), so that lawyers can refer to it and make use of it in court. - Development of legal principles in contract law, family law, wills and estates, etc. That understand older adults', their personal relationships, their socio-economic realities
<p>Legal Aid</p> <ul style="list-style-type: none"> - Often does not cover the kinds of situations that affect the seniors, however the perpetrator may be able to get legal representation 	<ul style="list-style-type: none"> - Broaden Legal Aid availability to cover these type of "family law matters" or poverty law matters. The loss of financial resources, for example, undermines all parts of the senior's life.

<i>The Challenge</i>	<i>Possible Solutions</i>
Lawyers	
<ul style="list-style-type: none"> - Typically not knowledgeable about aging issues; or abuse issues in later life - Very little has been written in this area for the Canadian lawyer - "Elder law specialists", where they exist, may tend to focus on estate planning or guardianship (in other words, planning for death, or working with family on issues where senior is assumed incapable) 	<ul style="list-style-type: none"> - Curriculum development in law schools on "elder law" and meeting the legal needs of an aging population, generally - Development of continuing legal education focussed on legal issues for an aging population - Broaden "elder law" in Canada to include all aspects of healthy aging, the full range of issues affecting people in their later years.

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Court Houses	
<ul style="list-style-type: none"> - May be environmentally inaccessible for the senior who has mobility impairments, hearing problems or visual difficulties - Physical set-up of some court rooms may work against older witnesses (e.g. being able to sit down) 	<ul style="list-style-type: none"> - Conduct an environmental assessment of your local facilities to see what barriers they create for seniors with disabilities - Advance planning to accommodate the physical challenges facing some seniors.