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Women's Right to Know

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droit de la famille
Le droit de la femme à savoir

Older Women and Intimate Partner Violence

March 23, 2018

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Funded by:

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METRAC

METRAC, the **Metropolitan Action Committee on Violence Against Women and Children**

- works to end gender-based violence in diverse communities
- a not-for-profit, community-based organization

www.metrac.org

METRAC's **Community Justice Program**

- provides accessible legal information and education for women and service providers
- focuses on law that affects women, from diverse backgrounds, especially those experiencing violence or abuse

www.owjn.org

FLEW, **Family Law Education for Women** in Ontario

- provides information on women's rights and options under Ontario and Canadian law when families breakdown
- in 14 languages, accessible formats, online and in print

www.onefamilylaw.ca
www.undroitdefamille.ca

Presenters

Tamar Witelson

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Ontario



Elder Abuse Ontario

- Non-profit, charitable organization
- Established in 1990
- Funded by Ontario, through The Ministry of Seniors Affairs
- Implements the Ontario Strategy to Combat Elder Abuse 2002

Elder Abuse Ontario

The information and opinions expressed here today are not necessarily those of the Government of Ontario.

Mission: create an Ontario where all seniors are free from abuse and Neglect, through:

- Service Coordination
- Front Line Training
- Public Awareness
- Research and Evidence

Topics to be Covered

1. Abuse of Older Adults - Overview
 - intimate partner violence
 - older women and barriers to reporting partner abuse
2. Involving the Police
3. Duty to Report
4. Family Law Basics - If You Want to End Your Relationship
5. Additional Resources

Accurate as of the date of this webinar presentation: March 23, 2018

Acknowledgements: videos produced by EAO, METRAC, Ontario Association of Interval and Transition Housing (OAITH)



Overview

Abuse of Older Adults

- “Older adult” refers generally to adults 65 years and older
 - no specific age or general legal definition of “older adult”
- World Health Organization definition:
“Elder abuse is a single or repeated act, or a lack of appropriate action, occurring within any relationship where there is an expectation of trust, which causes harms or distress to an older person.” (WHO, 2017)

Abuse of Older Adults

Older adults can experience different kinds of abuse:

- Discrimination based on age
 - in employment
 - in delivery of services
 - in home rental or sale, residential care, social housing
- Abuse by caregivers and/or family members
 - physical, sexual
 - neglect
 - emotional, psychological, spiritual
 - financial

Abuse of Older Adults

- Abuse of older adults can include abuse by an intimate partner, such as:
 - historic patterns of abuse between partners
 - in a new relationship
 - new abusive behaviour related to aging of one or both partners
 - physical, sexual, emotional, psychological, spiritual, financial

Abuse of Older Adults

Financial abuse can happen when a person:

- Takes your money without permission
- Controls your access to money
- Lies about money
 - income (yours and theirs)
 - spending
 - borrowing/debt

Abuse of Older Adults

Financial abuse can happen when a person:

- Forces you to spend your money by:
 - violence or threats of violence
 - yelling or anger
 - withholding affection
 - denying access to grandchildren or other family/friends/caregivers
 - Threats of abandonment

Abuse of Older Adults

- Risk of abuse increases at relationship breakdown
- Depression, decreasing mental or physical health
- Other characteristics that increase the risk of family violence generally:
 - Female
 - Gay, lesbian, bisexual, trans, questioning
 - Indigeneity
 - Living with a disability

Abuse of Older Adults

Research:

- 8% of Canadians older than 55 years said they had been abused or neglected in the previous year
- Psychological, financial and physical abuse were the most common forms of elder abuse
- Spousal violence among older adults is gendered
 - more than double the rate for women than men

Abuse of Older Adults

Research:

- In police-reported cases of abuse of older women, the accused is most often:
 - spouse (33%)
 - adult child (31%)
- 20% of women killed in Ontario are 55 years or older
(Learning Network Femicide Report, for 1974-2012)

Abuse of Older Adults

- Health impacts of abuse of older adults include:
 - physical injuries
 - poor mental health
 - emotional distress
 - suicide
 - increased risk of chronic diseases (cancer, heart disease, diabetes)
- Other risks:
 - social isolation
 - retaliation; acceleration of abuse

Barriers to Reporting Partner Abuse

- Older women are less likely to report abuse by a partner, or to seek help
- Some reasons for not reporting include:
 - not recognizing the situation as abuse
 - historic, ongoing
 - social norms about relationships
 - self-blame, shame, embarrassment
 - fear of consequences for herself
 - won't be believed
 - will be blamed for "allowing" the abuse
 - loss of partner's support
 - loss of home
 - loss of independence/decision-making rights
 - fear of consequences for partner
 - possible criminal consequences

Questions

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Example Video “Mena’s Story”



play video

Mena's Story

Intimate Partner Violence Safety Issues:

- Mena's partner, Anju, is controlling the family's money
- Anju's health is deteriorating, and she is insisting that Mena be her sole caregiver
 - extreme stress and isolation for Mena
- Anju was violent
 - assaulted Mena, could escalate
- Police were called, partners were separated

Audience Poll #1

Mena and Anju are older, and police know that Anju's health concerns make her dependent on Mena to care for her daily needs. In this situation, the police can decide to not charge Anju with domestic assault.

True or False?

Audience Poll #1

False.

This is a situation of assault between intimate partners. In Ontario, police must follow a Mandatory Charging Policy when they think that one partner has probably physically assaulted the other.

Anju has been charged with assault. The Crown Counsel, probably with Anju's defence lawyer and the judge, will determine how to proceed with the charges.

Helping Mena with a Safety Plan

- Give Mena information about:
 - the Local Health Integration Network (LHIN) home and community care
 - ask about in-home and caregiver supports
 - provide contact information
 - offer to help Mena call and discuss options
 - mediation or family counselling for older adults
- Suggest talking to any agencies that work with Anju and can help the situation, or provide caregiver relief
- Prepare a list of emergency contacts, with address and phone numbers
 - family members
 - friends
 - doctor

Helping Mena with a Safety Plan

- Discuss what to do if Anju becomes angry or violent
 - go to a room and lock the door
 - keep phone close by
 - go to a place close to an exit to the outside
- List community phone numbers to call for help:
 - local women's shelter, Assaulted Women's Helpline, 911 (police)
- Create a list of safe places where Mena can go and stay (family, friends, shelter)
 - include address and phone number

Helping Mena with a Safety Plan

Help Mena pack a bag in advance, keep in a place easy to grab and go

- change of clothes
- personal washing products
- medications
- personal identification, health card, important documents
- money
- extra money for taxi or public transit
- sentimental or valuable items



Involving the Police

Involving the Police

- **Assault** -- criminal offence of intentionally applying force to another person, without consent
- **Domestic Assault** – assault between intimate partners
- **Intimate Partners** – two people of any sex or gender, currently in or who were in an intimate relationship
 - they do not have to be living together

Involving the Police

- Anyone can report an assault to police
- Ontario **Mandatory Charging Policy** – if police investigate and think that an assault between intimate partners probably happened, police **must** lay a charge
- One or both partners can be charged
- Police determine who is the “primary aggressor”, who probably started the dispute or acted in the most serious and aggressive way

Involving the Police

- The police will usually separate the partners, while the charges are being dealt with
- Some police services have special staff to help with cases involving older adults
- Victim/Witness Assistance Program (V/WAP) is available to give information and support to the partner who may have been assaulted

Involving the Police

- Crown Counsel decides whether to prosecute
 - a government lawyer
 - acts in the public interest
- If there are personal care issues, or concerns about the capacity to understand the legal process, it is important to tell police, V/WAP, the Crown Counsel

Involving the Police

- **Sexual Assault** – assault of a sexual nature, touching or trying to touch a person in a sexual way, without the person’s consent
- **Consent** – freely agreeing to the sexual activity, without feeling required to, and understanding the nature of the activity
- **Sexual Exploitation of a person with a mental or physical disability** – when a person of trust, authority, support/dependency tells or makes a person with a disability to touch their own or someone else’s body, for a sexual purpose, and there is no consent

Involving the Police

Consent to sexual activity:

- Necessary in any relationship, including marriage
- Is not legally valid, if a person uses their position of trust, authority, support/dependency to persuade someone into sexual activity
- Cannot be legally valid with a person who is “incapable” of consenting to the sexual activity



Example Video "Glenda's Story"



play video

Audience Poll #2

In this video, Glenda has suffered abusive treatment by her son, including: (Click all that apply)

- a) financial abuse
- b) psychological abuse
- c) assault

Audience Poll #2

Answers: A, B but not C

Glenda is concerned that her son is spending her money without her permission, which may be *financial abuse*. His threats to send her “back to the old country” are *psychological abuse*.

It does not appear that her son deliberately applied force to her without permission (assault). But his rough, careless behaviour that put her safety at risk, could be considered *physical abuse*.

Audience Poll #3

If someone calls the police, and the police decide that Glenda's son probably did mean to push her, which would be assault, then police have to apply the Mandatory Charging Policy and lay a charge.

True or False?

Audience Poll #3

False.

The Mandatory Charging Policy only applies when the assault probably happened between intimate partners. It does not apply to other family members.

Helping Glenda with a Safety Plan

- Ask if Glenda is worried that her son might hurt her
- Discuss what to do if her son becomes angry or violent
 - go to a room and lock the door
 - keep phone close by
 - go to a place close to an exit to the outside
- List community phone numbers to call for help:
 - local women's shelter, Assaulted Women's Helpline, 911 (police)
- Create a list of safe places where Glenda can go and stay (family, friends, shelter)
 - include address and phone number

Helping Glenda with a Safety Plan

- Suggest Glenda and her son consider mediation or family counselling for older adults
- Glenda could talk to her bank manager, ask to change her passwords or open a new account
- Glenda could ask for legal advice
 - Advocacy Centre for the Elderly (ACE)
 - 1-855-598-2656 or 416-598-2656 (Toronto)

www.advocacycentreelderly.org
- Give Glenda information about the Local Health Integration Network (LHIN) home and community care
 - ask about in-home and caregiver supports
 - provide contact information
 - offer to help Mena call and discuss options

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Duty to Report

Reporting Elder Abuse

There is no law in Ontario that requires a member of the public to report abuse, neglect, or suspected abuse or neglect of an older adult who is living outside of a residential or care facility.

Duty to Report

- There is a duty to report if you see or suspect harm or risk of harm to an older adult living in a:
 - Long-term Care Home
 - Retirement Home
- Harm includes:
 - abuse
 - neglect
 - improper or incompetent treatment
 - misuse or unauthorized use of money
 - unlawful conduct

Duty to Report

- Duty applies to all members of the public
- Not required, if you are a resident of the same facility
- If you are a regulated health professional, such as a doctor, nurse, or social worker, you can be fined for not reporting
 - you may also face employment and professional consequences

Duty to Report

- Reports can be anonymous
- You will have to provide:
 - the name and address of the home
 - a description of what happened
 - when and where it happened (inside or outside the home)
 - who was involved

Duty to Report

- Long-term Care Action Line
 - 1-866-434-0144
- Retirement Homes Regulatory Authority
 - 1-855-275-7472
 - 1-855-ASK-RHRA
- Important to check your professional licensing requirement, staff policies and codes of conduct for other requirements

Help in the Community

- Safety planning, risk assessment, support/outreach services
- Violence Against Women (VAW) services
- Local Health Integration Network (LHIN)
- Hospital programs
- Shelters -- residential and outreach services
- Counselling, support services for older adults
- Women's centres, church groups, community groups, older women's groups
- Police services – seniors' support units
- Victims' Services
- Court – Victim/Witness Assistance Program

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Family Law Basics: If you want to end your relationship

Legal Rights

- Know your legal rights
- Different rights if you are:
 - married
 - unmarried
 - living together for 3 years or more
- Consider talking to a lawyer
- Get information: www.onefamilylaw.ca

Married Spouses

- Married spouses who separate in Ontario have rights under family law related to family property and money
- Each spouse gets an equal share of the amount that family property has grown during the marriage, such as:
 - value of the family home
 - value of pension, retirement savings
- Legal rules for calculating the “equalization payment” to the spouse with less property and money

Married Spouses

- Each spouse's debt is also included in the equalization calculation
- You may have the right to get monthly payments from your ex-spouse to help support you (called **spousal support**)
- If you have a child together, who is dependant on you because of a disability, you may have the right to get monthly payments from the other parent to help care for that child (called **child support**)

Married Spouses

- Signing a domestic contract can affect your legal rights to family property when you separate (such as a marriage contract, separation agreement)
- It is important to **talk to a family law lawyer** about your home, money and your rights when you end your marriage

Unmarried Couples

- If you have been living together but not legally married, the law to share family property does not apply to you
- The Court may still help you get a share of a home or business that you helped build, run or take care of

Unmarried Couples

- Under Ontario law, you are considered “**common law spouses**” if:
 - you have been living together for at least 3 years
- If you are common law spouses, you may have the right to get monthly payments from your ex-spouse to help support you (called **spousal support**)
- It is important to **talk to a family law lawyer** to find out if you have rights to get money or property when you end your relationship

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Additional Resources

Resources (Elder Abuse)

- Seniors Safety Line 1-866-299-1011
- Advocacy Centre for the Elderly (ACE)
 - Free Community Legal Clinic
- Canadian Network for the Prevention of Elder Abuse (CNPEA)
 - www.cnpea.ca
- Long-term Care Action Line
 - 1-866-434-0144
- Retirement Homes Regulatory Authority
 - 1-855-275-7472
 - 1-855-ASK-RHRA

Resources (Older Adults)

- Elder Abuse Ontario

www.elderabuseontario.com

- Senior Crime Stoppers 1-800-222-TIPS(8477)

www.ontariocrimestoppers.ca

- Toolkit: Safety Planning for Older Adults

www.owjn.org/2017/05/supporting-older-adults-to-create-a-safety-plan

- It's Not Right campaign

www.itsnotright.ca

- Luke's Place

www.lukesplace.ca/3714-2

- Office of the Public Guardian and Trustee

www.attorneygeneral.jus.gov.on.ca

Additional Resources

FLEW (Family Law Education for Women)

www.onefamilylaw.ca/en/resources/

Webinars:

Property Rights and Obligations of Married Spouses and Co-habiting Partners

Separation Agreements

Conflict, Court, or Another Way: Different Ways to Resolve a Family Dispute

Financial Support After Breakup: What Women Should Know About Child and Spousal Support

Spousal Support Basics and Partner Abuse

Ontario Women's Justice Network (OWJN)

www.owjn.org

Steps to Justice

www.stepstojustice.ca

Resources (Domestic Abuse)

For information, if your partner is abusive or violent:

- **Assaulted Women's Helpline** www.awhl.org
 - Toll-free: 1-866-863-0511 TTY: 1-866-863-7868
 - Toronto: 416-863-0511
- **Family Violence Authorization Program (Legal Aid Ontario)**
 - Free 2-hour emergency meeting with a lawyer
 - Offered through some shelters and community legal clinics
 - Toll-free: 1-800-668-8258
 - TTY: 1-866-641-8867
- **Barbra Schlifer Legal Clinic**
 - Toronto: 416-323-9149 x278 (legal intake)
 - TTY: 416-3231361
 - Free counselling, referral, legal and interpreter services to survivors of violence (Family, Criminal and Immigration law)

Resources (Domestic Abuse)

For information, if your partner is abusive or violent:

- **Ontario Coalition of Rape Crisis Centres**

www.sexualassaultsupport.ca

- **Network of Sexual Assault/Domestic Violence Treatment Centres**

www.sadvtreatmentcentres.net

- **Victim Services Directory**

www.justice.gc.ca/eng/pi/pcvi-cpcv/vsd-rsv/index.html

Resources (Human Rights)

Ontario Human Rights Commission (information)

www.ohrc.on.ca/en

Human Rights Legal Support Centre (legal advice)

- 180 Dundas Street West, 8th Floor, Toronto, ON, M7A 2R9
- 1-800-387-9080

www.onhr.on.ca

Human Rights Tribunal of Ontario (make a complaint)

- 655 Bay Street, 14th floor, Toronto, ON, M7A 2A3
- 416-326-9511

www.sjto.gov.on.ca/hrto/

Rights of Older Adults

- Dignity and Respect
- Autonomy
- Independence
- Access to Information
- Privacy
- Freedom
- Confidentiality
- Safety and Security
- Basic Requirements for Life
- Rights under the Ontario *Human Rights Code*



Resources (General)

Law Society of Upper Canada Lawyer Referral Service

<http://www.lsuc.on.ca/with.aspx?id=697>

- Toll-free: 1-800-268-8326
- Toronto: 416-947-3330
- TTY: 416-644-4886

Toolkit for a good Client-Lawyer Relationship

<http://schliferclinic.com/vars/legal/pblo/toolkit.htm>

- Barbra Schlifer Commemorative Clinic

Ministry of the Attorney General

<http://www.attorneygeneral.jus.gov.on.ca/english/>

- Toll free: 1-800-518-7901
- TTY: 1-877-425-0575

Find a community legal clinic near you

<http://www.legalaid.on.ca/en/contact/contact.asp?type=cl>

211 Canada.ca

<http://211canada.ca/>

Resources (Family Law)

Legal Aid Ontario

<http://www.legalaid.on.ca/en/getting/default.asp>

- Toll-free: 1-800-668-8258 TTY: 1-866-641-8867
- Toronto: 416-979-1446 (accepts collect calls)

Family Law Information Program (FLIP)

<http://www.legalaid.on.ca/en/getting/flip.asp>

Family Law Information Centres (FLICs)

http://www.legalaid.on.ca/en/getting/type_family.asp

Family Law Services Centres (FLSCs)

<http://www.legalaid.on.ca/en/contact/contact.asp?type=flsc>

Your Legal Rights www.yourlegalrights.on.ca

Canadian Family Law Lawyers Network (National)

www.cfln.ca

Family Responsibility Office Toll-free: 1-888-815-2757