



# June 15, World Elder Abuse and Awareness Day

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## **Elder Fraud and Abuse**

“The Perfect Storm”

*Elder fraud and abuse is a serious issue in Canada. It is up to all of us to work together to help prevent it and to provide awareness and education about the issues in our own community. This presentation represents an introduction to Elder Fraud and Abuse in Canada with a focus on financial abuse. For additional information on other forms of elder abuse please contact the author directly or one of the additional resources provided within this presentation.*

### **Summary:**

With the changing demographics in Canada, elder fraud and abuse has become a growing concern that is expected to intensify in the coming years. It is anticipated that by 2031, one in four people living in Canada will be over 65 years of age. Elder fraud and abuse can take many forms and may involve any act or gesture that harms or threatens to harm an elder including, physical, sexual, financial, and psychological abuse, as well as neglect.

The financial side of elder fraud and abuse involves the misuse of an elder’s funds and assets, obtaining funds without the knowledge and consent of the elder and using those funds not in the

best interest of the elder. This is also referred to as material abuse. It is estimated that 10% of elder people in B.C. have been victims of financial abuse with an average loss amount over \$20,000 each. This changing demographic, along with their accumulation of wealth, is creating the perfect storm when it comes to elder fraud in Canada.

### **The Abusers:**

Abuse of elders often occurs within the family by adult children, or grandchildren, but elder fraud and abuse can also be perpetrated by anyone else who is in a position of power, trust, or authority. This can include relatives, friends, and neighbors, paid caregivers, landlords and even financial advisers.

### **Potential Signs of Elder Fraud and Abuse:**

Most victims of elder fraud and abuse do not even realize that they are being victimized. There are several reasons for this including frailty, dementia, and isolation. Therefore, it is so important to recognize the signs of abuse listed below. If you have any reason to suspect that someone is possibly a victim of elder fraud and abuse, help them by contacting your local police agency to file a report.

- Unpaid bills
- Sudden change in lifestyle
- Forged signatures
- Sudden accrual of debts
- Sudden sale or change in title
- Unexplained transfer of funds
- Power of Attorney or Wills changed under unusual circumstances
- Sudden change in withdrawal amounts
- Elder complains about missing money or assets
- Elder reports financial abuse

### **Investigative Considerations:**

#### **Safety**

The first consideration for any report of elder fraud and abuse is the safety of the elder. We must ensure that the elder is safe from further neglect. Depending on the situation, this may involve police apprehension of the elder under the Mental Health Act, a restraining order against the abuser and / or assistance under the Adult Guardianship Act.

#### **Interviewing elders**

Developing a rapport with the elder is very important during interviews as the elder may be reluctant to speak with you. Mainly because they have been relying on and trusting the abuser for assistance with daily activities, including cooking and cleaning, and do not have any other source of assistance. Take the time to build a bond with the elder and be respectful.

## **Gather documents including Power of Attorney**

As with any allegation of fraud, gather the documentation including bank statements, receipts, bills, power of attorney, wills, medications, and any other documents they you may require. In addition, take notes and photos regarding the current residence of the elder. Is the residence clean and is there food in the fridge?

## **Obtain additional statements as required**

Obtain additional statements from family, neighbors, caregivers, and anyone else that can provide information including the elder's physician. Is there anyone else that may have been victimized or other people that may have been involved with the abuse of the elder?

## **Contact the Public Guardian and Trustee of British Columbia**

The Public Guardian and Trustee of British Columbia can aid with reports of elder fraud and abuse. They are only one of the many resources available in British Columbia. They have numerous powers under the Adult Guardianship Act to assist with reports of elder fraud and abuse, including restraining orders, legal authority to enter a residence, support, and assistance orders. Along with the police they also can freeze assets and bank accounts.

[Public Guardian and Trustee of BC](#)

## **Provide support and services to the elder**

Support and services are provided through a joint community effort to ensure that the elder is provided with a care plan including continued assistance as required. These support services can include anything from assisted living, management of estate and living expenses and other services such as home support and Meals on Wheels.

## **Civil and Criminal investigations:**

In some cases, there may be family members who decide to proceed civilly against the abuser with respect to fraud. In other cases, the victim is left penniless or is too frail and unable to seek support and assistance to obtain some form of restitution from the abuser. Under the Canadian Criminal Code there are several offences that may apply when evidence of a crime has been committed against an elder which include:

- Negligence 215(1)
- Criminal Negligence 219
- Theft 322(1)
- Theft by a person holding Power of Attorney 331

- Criminal breach of trust 336
- Destroying title documents 340
- False pretence 261-365
- Extortion 346(1)
- Forgery 366(1)
- Misappropriation of money held under direction 322(1)
- Fraud 380
- Theft by person requiring account 330(1)
- Theft, forgery of a credit card 342(1)
- Criminal negligence causing bodily harm 221
- Mischief endangering life 430(5.1)
- Administering a noxious substance 245
- Failing to provide necessaries of life 215
- Identity fraud 403(1)
- Identity theft 402.2(1)

**Public Interest to Prosecute:**

In any case involving elder fraud and abuse there can be many obstacles. These include a lack of cooperation from the victim, poor health, or impending mental incapacity and even the death of the victim prior to the case ever going to court. There is also the competing demand for police resources and complexity of elder fraud and abuse cases that makes criminal prosecution often extremely difficult. Each case of elder fraud and abuse needs to be addressed individually to determine what the level of public interest is, including such factors as:

- The seriousness of the allegations
- Use of a weapon
- Existence of previous convictions
- Whether the elder was in a vulnerable situation

– Whether the offender was in a position of trust

### **Current legislation in Canada:**

Although there is no specific Criminal Code offence for elder abuse in Canada, in December 2012 Bill C-36 was given royal assent. This new bill now specifies that “evidence that an offence of elder abuse has a significant impact on the victim, considering their age, and other personal circumstances including their health and financial situation” is an aggravating factor to be considered during sentences for a crime. This basically means that the judge may impose a lengthier sentence to better reflect the gravity of the offence.

Aggravating factors 718.2(a) of the Canadian Criminal Code

[Bill C-36 Elder Abuse](#)

### **Resources:**

Elder fraud and abuse is a serious issue in Canada. It is up to all of us to work together to help prevent it and to provide awareness and education about the issues in our own community. Below are links to additional resource materials for your use. If you have any questions or comments, please contact me directly anytime.

[BC Association of Community Response Networks](#)

[Public Guardian and Trustee of BC](#)

[BC Centre for Elder Advocacy Support](#)

[Canadian Network for the Prevention of Elder Abuse](#)

[SFU Department of Gerontology](#)

[Fraser Health Authority](#)

[National First Nations React Tool](#)