

**The Honourable Gerry Phillips**

**Minister Responsible for Seniors**

**At**

**World Elder Abuse Awareness Day**

**The Faculty Club  
University of Toronto  
41 Willcocks Street  
Toronto, Ontario**

**June 15, 2010**

Thank you, Elizabeth. (*Elizabeth Podnieks [pod-nee-eks], Chair & Founder of World Elder Abuse Awareness Day*). It's great to join you and Jane (*Jane Barrett, Secretary General of International Federation of Ageing*) to kick-off today's conference.

Good morning, ladies and gentlemen. I appreciate the opportunity to speak to you on World Elder Abuse Awareness Day. As you are probably aware, we are in the midst of Seniors' Month. This year's theme — Coming of Age — captures the progress in addressing the challenges and opportunities of a booming senior's population. Some of these challenges and opportunities will be addressed in the presentations you have in store today.

### **ONTARIO COMBATTING ELDER ABUSE**

The theme for today's event is World Elder Abuse Awareness Day: Five Years Later. Safety and security is always a top concern when it comes to seniors. This was true five years ago, as it will be five years from now, as the portion of the population over 65 begins to exceed, for the first time, the number of children 14 years of age and under.

The Ontario government helps protect seniors against elder abuse in a number of ways. Our new Retirement Homes Act, which received Royal Assent last week, includes several measures to protect residents against abuse and neglect.

For the first time in Ontario, retirement home residents will have stronger legislative protections than they have ever had before. Under the act, every

home would be required to develop a written policy promoting zero tolerance of abuse and neglect. All staff would be required to receive training on the retirement home's zero tolerance policy before they begin working in the home, and any staff who care directly for residents would be required to receive additional training on abuse prevention and recognition.

The act includes several other protections against abuse and neglect, including requirements to report suspected abuse, neglect or mismanagement of resident's funds to the Registrar and extensive powers of inspectors to issue financial penalties or revoke licenses if necessary.

In addition to the protections in the Retirement Homes Act, we provide \$900,000 in annual operating funding to the Ontario Network for the Prevention of Elder Abuse, known to many of you as ONPEA. This money helps ONPEA to do three important things:

- coordinate resources that improve access to services by abused or at-risk seniors
- Train front-line staff; and
- Raise awareness of elder abuse and prevention.

We are pleased to support the Seniors' Safety Line, a hotline run by ONPEA, which helps seniors suffering from or at risk of any kind of abuse. The line - 1-866-299-1011 – is available 24 hours a day, seven days a week, in 154 different languages. It is a tremendous resource for seniors in any community.

On June 1<sup>st</sup>, I spoke at Pennywi\$e, a seniors' conference on financial abuse and fraud awareness, that was cosponsored by the Ontario Seniors' Secretariat and the Bank of Canada.

As you know, financial abuse against seniors is the most commonly reported form of elder abuse. At that conference, we released a new resource — a series of 8 fact sheets to help educate seniors and the general public about financial planning, fraud awareness and financial abuse.

Developed through the co-operation of federal, provincial and territorial governments, these fact sheets include valuable suggestions and tips to help seniors plan for their financial future and protect themselves against frauds and financial abuse. Copies of the fact sheets are available at today's event and you can download them from our website at [ontarioseniors.ca](http://ontarioseniors.ca).

## **CONCLUSION**

The abuse and neglect of anyone in a vulnerable position is reprehensible and unacceptable. We will continue to work to help seniors and eliminate elder abuse from our society.

It is very encouraging to see young people involved in today's event. The more that we are all united in this cause, the greater the difference we can make. Enjoy the day and thank you.

**The Honourable Diane Ablonczy**

**Minister of State (Seniors)**

**on the occasion of the**

**Fifth Annual World Elder Abuse Awareness Day Conference**

**The Faculty Club – University of Toronto**

**Toronto, Ontario**

**June 15, 2010**

Good morning, it's a pleasure to be here. On behalf of the Government of Canada, thank you to the members of the International Network for the Prevention of Elder Abuse for the invitation to speak today and thank you Jane for your warm introduction.

I would also like to acknowledge and thank my colleague, the Honourable Gerry Phillips, Minister Responsible for Seniors, as well as the Ontario Seniors' Secretariat and the Province of Ontario, for hosting us today. June 15, 2010 marks the fifth annual World Elder Abuse Awareness Day. More and more countries around the world are joining together to fight against elder abuse. We therefore view progress on this issue with hope and optimism.

We are unified by our common goal of creating societies where all citizens can be safe and secure. You here who have worked tirelessly in the International Network and the International Federation of Aging are to be applauded for your passion and your continued commitment to combating this detriment to society. Change is never easy, but with each step we take, we are making a difference.

We've come a long way, but there is still much work to be done. As we know, the mistreatment of older citizens can take many forms. And it can be at the hands of a spouse, an adult child or other family member. It can be inflicted by a caregiver, a service provider, or other persons in a position of power or trust. Abuse can happen when a senior is living in an institution or in a private residence.

Sadly, we know that many seniors do not report incidents of mistreatment because they feel isolated and are afraid to speak out. In fact, 96 per cent of Canadians think most abuse experienced by older adults is hidden or goes undetected. It is estimated that between four to ten percent of the older demographic will experience one or more forms of unacceptable treatment at some point during their later years.

No one should be mistreated or exploited, at any age. We want to equip seniors and other Canadians with the tools they need to raise awareness, to stand up and take action. Older adults themselves are undoubtedly the most effective line of defence against elder abuse, and we need to help empower them to individually and collectively speak up!

Ladies and gentlemen, today is about awareness. Today is about sharing our knowledge and our best practices with Canadians and the world so that together we can bring attention to the issue and work towards the eradication of elder abuse.

In 2009, the Government of Canada, through the Federal Elder Abuse Initiative, launched a national awareness campaign, entitled *Elder Abuse – It's Time to Face the Reality*. Through this ongoing campaign, we aim to break down the wall of denial about the issue. We aim to change attitudes. We aim to equip Canadians — especially seniors, their family members and care providers— with the information needed to recognize abuse for what it is.

After a very successful run during the months of June and October last year, the campaign is scheduled to be repeated in October of 2010, to coincide with the International Day of Older Persons. But we're doing more. Today, we are pleased to announce funding for six projects from the Federal Elder Abuse Initiative. Through this funding, we will enable six national professional associations to help frontline service providers recognize the signs and symptoms of elder abuse and take action. Recipient organizations such as the Canadian Nurses' Association and the Canadian Association of Occupational Therapists are working hard as partners to make a real difference in communities across Canada.

More information on these initiatives is available on the Government of Canada website: [seniors.gc.ca](http://seniors.gc.ca).

As many of us here know, the Canadian demographic is changing dramatically. In two short decades, seniors will represent a full one quarter of our country's population. As a result, there will be increased pressure on the economy, on our labour force, on our social supports, and on our intergenerational relationships. That is why I am pleased to see that intergenerational activities are on your forum agenda. The participation of younger Canadians here today affirms the importance of working together to strengthen bonds and build bridges across all age groups.

I'd like to take a moment now to talk about the Government of Canada's other commitments to seniors. Through the creation of the National Seniors Council in 2007, the government has given seniors a stronger voice. Since its inception, the Council has worked diligently to advise the government on matters related to the well-being of seniors, including elder abuse.

The government's commitment to supporting seniors also includes the establishment of a Minister of State for Seniors – someone who can bring the concerns of older Canadians to the Cabinet table and stand up on their behalf. Additionally, each year the Government of Canada provides \$35 million to the New Horizons for Seniors Program to enable seniors to engage with one another and to mentor younger Canadians.

Our government has also committed to support the creation of a National Seniors Day. This day will be a chance for all Canadians to honour and acknowledge seniors and the important contribution they make to our country, our society and our economy. The Government of Canada is working hard to help improve the lives of seniors on many other fronts, from providing new tax relief of close to \$2 billion annually, to building on the major success of Canada's retirement system, which has dramatically improved the economic well-being of seniors. Each year, older Canadians receive almost \$70 billion through income support programs and Canada's public pension system.

We're also contributing to health care, long-term care and seniors' housing, among other important programs, through transfer payments to the provinces and territories and direct funding of programs and services. Finally, there is the role the department of Human Resources and Skills Development is playing to lead the Federal Elder Abuse Initiative. Our major federal partners in this work are the Royal Canadian Mounted Police, the Department of Justice and the Public Health Agency of Canada. Through this initiative we're also collaborating with the provinces and territories, professional associations and non-governmental organizations to take active measures to detect and prevent elder abuse.

To sum up, the Government of Canada recognizes the importance of supporting seniors and the issues that matter to them. We are working hard to ensure that our policies, programs and services are meeting—and will continue to meet—their needs.

Thank you again for the work you are doing to combat elder abuse. The future is looking ever brighter for seniors and soon-to-be seniors worldwide. In a day and age where Betty White, age 88, is the 'it' girl in Hollywood, the definition of what it means to be 'old' is being re-written. Seniors are increasingly active, contributing and empowered members of our society. Together let us all continue to contribute to their quality of life. Thank you.





## *A walk Away*

*6 stories of  
Abuse, neglect,  
Love and how to  
deal with it.*

*By: Coral Gurak*

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## **Did You Know?**

### **A Survey On Elder Abuse**



By: Jordann Godfrey  
Ecole Phoenix Middle School

[www.adawebsite.net/.../images/ElderlyWoman.jpg](http://www.adawebsite.net/.../images/ElderlyWoman.jpg)

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## **Questions**

1. Can I interview you?
2. Do you know what an older adult is?
3. How many older adults do you know?
4. How many hours do you spend a month with an older adult?
5. What would you say elder abuse is?
6. What percentage of older adults are abused?
7. Who do you think does this abuse? (Who's responsible)
8. Who do you think is most at risk?
9. How would you advertise elder abuse?
10. How do you think elder abuse can be prevented?
11. Why do you think I am asking you these questions?

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## **YOUTH PROJECT IN INDIA: HIGHLIGHTS OF WORKSHOP ‘INTERGENERATIONAL BONDING’ for WEAAD Teen Kit**

Dr. Mala Kapur Shankardass  
INPEA Representative for India & Asia  
Managing Trustee: Development, Welfare & Research  
Foundation (DWRF)  
Associate Professor in Sociology  
Maitreyi College, (South Campus)  
University of Delhi, India.  
<malakapurshankardass@hotmail.com>

## **About INPEA, IFA & DWRF Youth Project in India**

- DWRF took forward project of IFA INPEA by making it culture specific.
- Involved engagement with school/college students (14 yrs to 22 yrs).
- Focus on elder abuse awareness and elder abuse mitigation/reduction action plans.
- Thrust of project similar - ‘Intergenerational Trust Building: An Untapped Resource for Preventing Elder Abuse’.

## **Specificities of India Project**

- Pilot Initiation in 3 institutions – Modern School, Faridabad, Haryana; Maitreyi College, Univ. of Delhi; Springdales School, New Delhi. Presence in 2 States of India.
- Involvement of selected students (voluntary), interested/concerned teachers, Principal.
- 1<sup>st</sup> opportunity/pilot project for youth to learn, be peer educators, leaders on adult issues.
- Guidelines from Elizabeth, Sharon; IFA- Greg
- Future: Extension in other schools/colleges.
- National Agenda

## **Scope in India**

- Using WEAAD awareness and opportunity of international year of youth - dialogue and mutual understanding.
- Title ‘Intergenerational Bonding’, acceptable, encouraging, value based.
- Positive response: ‘Towards society for all ages’, Initiative by students.
- Appeal: action oriented, responsibility.

## **Modern School (7.5.2010)**

- Participation format: Workshop Coordinator: Dr Shankardass, INPEA –DWRF
- Teacher Coordinator: 1 - Vice Principal
- Support from Principal wholeheartedly.
- Initial dialogue, meetings, follow up, plans.
- Feedback forms: 43
- 40 students (15-17 years), 9<sup>th</sup> to 11<sup>th</sup> grade.
- 3 teachers, English, Social Science
- Premises: School Seminar Room
- Inclusion in school activities.

## **Feed Back Chart Modern School (43)**

- Did you understand pilot intent and plan of workshop? Not clear: 1; Satisfactory:10; Very satisfactory: 32.
- Was your involvement during the workshop satisfactory to you? No: 7; Yes: 36.
- Did the presenter make the topic interesting to the participants? Somewhat: 2; Interesting:11; Very interesting: 30.

### **Feed Back Chart Modern School (43) contd.....**

- Do you feel that the workshop authentically engaged the participants' empathy in the issues of elder abuse and prevention? No:1; Somewhat:1; Very much so:41.
- Are you comfortable with the expectations of you to complete the pilot activity? No, confused: 1; Satisfactory: 10; Yes, it is clear: 32;
- Comment briefly on the following: Relevance of this topic to your group Little:1; Somewhat: 3; A great deal: 39.

### **Feed Back Chart Modern School (43) contd.....**

- Anticipated lasting impact of these issues on the individual in your group Little:1; Somewhat: 9; A great deal: 33.
- Your own interest in participating again next year in this project Little: 0; Somewhat: 3; A great deal: 40.
- Future plans: Holiday Homework – essays, collection of pictures, community work, visit to old age homes; Special day events every term involvement of students and teachers, more workshops student to student.

### **Maitreyi College (10.5.2010)**

- Participation format: Workshop Coordinator: Dr Shankardass, INPEA -DWRF
- Teacher Coordinator: 1 – Students' Union Advisor, Social Science.
- Support: from Principal wholeheartedly.
- Initial dialogue, meetings, follow up, plans.
- Feedback forms: 27
- 27 students (17-23 years), undergraduates.
- Premises: College Seminar Room
- Inclusion in college student union activities.
- Organized by students, special positions.

### **Maitreyi College Outcome**

- Initiation of Prevention of Elder Abuse- Maitreyi Youth Club, put in prospectus.
- Objectives: to sensitize students on the issue, to create a workforce for spreading awareness on aging issues around Delhi University colleges & in other parts of the country, reduce ageist attitudes, enhance respect for elders, conduct programs for intergenerational bonding.

### **Feed Back Chart Maitreyi College (27)**

- Did you understand pilot intent and plan of workshop? Not clear: 1; Satisfactory:15; Very satisfactory: 11.
- Did the presenter make the topic interesting to the participants? Somewhat: 0; Interesting: 2; Very interesting: 25.
- Do you feel that the workshop authentically engaged the participants' empathy in the issues of elder abuse and prevention? No: 0; Somewhat: 5; Very much so: 22.

### **Feed Back Chart Maitreyi College (27) contd...**

- Are you comfortable with the expectations of you to complete the pilot activity? No confused:1; Satisfactory: 9; Yes, it is clear: 17.
- Comment briefly on the following: Relevance of this topic to your group
- Little: 0; Somewhat: 3; A great deal: 24.
- Anticipated lasting impact of these issues on the individual in your group
- Little:1; Somewhat: 8; A great deal: 18.

### Feed Back Chart Maitreyi College (27) contd...

- Your own interest in participating again next year in this project
- Little: 0; Somewhat: 4; A great deal: 23.
- Future Program Outlines: Celebration of Grandparents day; International day of Older Persons; Intra and Inter College Competition: Street plays, photo exhibitions; story writing; involvement in community out reach programs for seniors.

### Springdales School (12.5.2010)

- Participation format: Coordinator: Dr. Shankardass INPEA DWRP
- From School Coordinators: 1 - Teacher, 2 OSA Office bearer's: President & Secretary; 2 - OSA members.
- Support from School Chairperson & Principal
- Initial dialogue, meetings, follow up, plans.
- Facilitator: 2 – from UNFPA & NHRC
- Feedback forms: 38
- 36 students (14-18 years), 9<sup>th</sup> to 12<sup>th</sup> grade & 2 teachers from Social Sciences.
- Premises: School Auditorium, inauguration.
- Inclusion in school activities.

### Feed Back Chart Springdales School (38) ...

- Did you understand pilot intent and plan of workshop? Not clear: 0; Satisfactory: 14; Very satisfactory: 24
- Was your involvement during the workshop satisfactory to you? No: 2; Yes: 36.
- Did the presenter make the topic interesting to the participants? Somewhat: 0; Interesting: 21; Very interesting: 17.

### Feed Back Chart Springdales School (38) contd...

- Do you feel that the workshop authentically engaged the participants' empathy in the issues of elder abuse and prevention? No: 0; Somewhat:10; Very much so: 28;
- Are you comfortable with the expectations of you to complete the pilot activity? No,confused:1; Satisfactory: 11; Yes, it is clear: 26.

### Feed Back Chart Springdales School (38) contd...

- Comment briefly on the following: Relevance of this topic to your group Little:1; Somewhat: 3; A great deal: 34.
- Anticipated lasting impact of these issues on the individual in your group: Little: 0; Somewhat: 19; A great deal: 19.
- Your own interest in participating again next year in this project: Little: 1; Somewhat: 3; A great deal: 34.

### Overall Impact of Project in 3 institutions: Overwhelming

- Generated age friendly awareness and later life care concerns.
  - Intergenerational bonding need and consciousness to work on it.
  - Volunteers for taking lead in a much needed national level initiative.
  - Keen to develop collaborative models for Youth awareness, inter school, inter ministry.
  - Face book interactions, website contribution.
- THANK YOU

## Elder Abuse Awareness Community Tool Kit



Presented by Susan Susskind

## Overview

- Sue Susskind Background
- History of WEAAD/Tool Kit
- Objectives of the original Tool Kit
- Goals for the new Tool Kit/Process of establishing new kit
- Revised Components of Tool Kit
- New Additions to the Tool Kit

## Sue Susskind

- Been in the Elder Care field for 8 years.
- Certified Senior Advisor.
- BA in Psychology, Masters in Education.
- Instrumental in establishing Funding for WEAAD Around the World - Global Events 2009 video.
- Worked with INPEA for the past year and a half. Now volunteer with NAPSA, assisting with fundraising.
- Author on boomer-living.com -write monthly articles on topic of caregiving

## History of WEAAD

- 1<sup>st</sup> WEAAD was in 2006.
- Founded by Dr. Elizabeth Podnieks.
- Objective is to raise awareness of elder abuse around the world.
- To educate people to perceive older people more favourably as positive contributors to society. To educate and train people, including professionals involved in the care of older people, to recognise and act on abuse or suspicions of abuse.

## History of WEAAD and the Tool Kit

- It is the 5<sup>th</sup> anniversary since the launch of the WEAAD and the initial tool kit.
- Revision of the tool kit was funded through the Public Health Agency of Canada (PHAC).
- The original authors of the guide; Charmaine Spencer, Elizabeth Podnieks.
- Thanks to International Federation on Ageing (IFA) for joining this exciting venture.

## History of WEAAD and the Tool Kit

- The tool kit is a resource that was created to help individuals, organizations and communities throughout the world plan for World Elder Abuse Awareness Day (WEAAD).
- Useful to plan for further awareness-raising activities, and also supports ongoing projects and events

## Objectives of the Original Tool Kit

- Provide Sample ideas and tools.
- Provide materials, resources and information.
- Thought provoking.

## Goals for the new Tool Kit

- Professional Look
- Include “How To” materials: How to encourage participation from local businesses, how to get the media involved etc.
- Encourage Participation
- Provide tools to make it easy to participate
- Branding

## BRANDING

- Increase awareness and recognition of your group and of your work.
- Differentiate yourself from others
- Communicate and reinforce your organization’s mission and values
- Create a positive image in the minds of the targeted markets, that is relevant and emotionally connected with their daily lives
- Enhances participation and loyalty

## The Process

- Identify resources for inclusion in the kit.
- Develop a draft.
- Circulate draft materials to key experts for comments so adjustments could be made.
- Complete the final draft.
- Materials to be posted on INPEA and IFA sites for input.
- Incorporate additional changes to tool kit .

## Revisions/Updates

- Updated Proclamation and Declaration Documents.
- Updated WEAAD participation certificate.
- Added information to activities, such as forming a group, hosting a debate or lecture, collecting stories and articles and letter to the editor.





## What's New?-Event Fliers

## What's New?-Reporting Template

## What's New?-Involving the Media

## What's New?

### Walk to Raise Awareness



## What's New?-Public Service Announcement



## What's New?

- Tips for Successful Presentations
- Partnering with Community Businesses
- Addressing Cultural Diversity
- Elder Abuse in First Nations
- Raising Awareness Around the World

## Posters



## Brochure





## Brochure



## Power Point



## Power Point



## Power Point



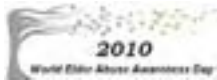
## Power Point



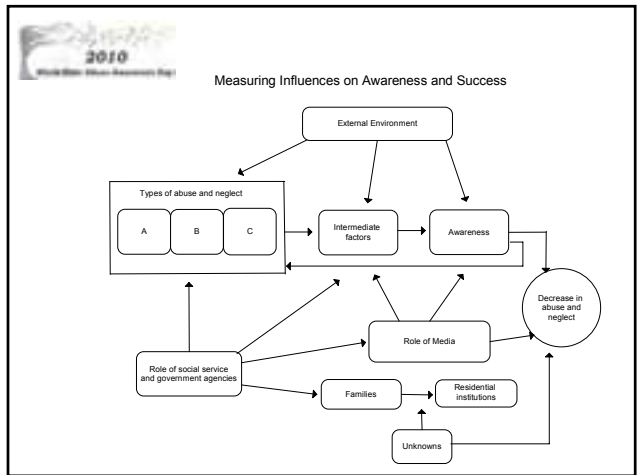
## THANK YOU



## Measuring Awareness Programs: How Do We Evaluate Success?



Cynthia Thomas, PhD  
Senior Study Director  
Westat  
June 15, 2010



### Child Abuse “Awareness” by Type of Abuse (Harm) (Measured by % Investigated)

All abuse  
(sexual, emotional)

NIS4: No change

Neglect

Emotional  
Educational

NIS4: No change from NIS2  
NIS4: No improvement

### Child Abuse “Awareness” by:

Level of harm

No change

Type of agency

Investigative agencies overall  
Juvenile probation  
Public health

Improvement

Social Services

Big Improvement



### State Websites on Elder Abuse

- Phone numbers for reporting abuse
- Definitions of abuse and neglect
- Laws and regulations
- Legal assistance
- Available services (general)



### Outreach Programs to Promote Awareness of Elder Abuse (State APS agencies)

Basic Only (web site information)	Guides for Professionals	Brochures, videos, posters for general public
32	4	15



Are social service agencies  
gateways to improving  
awareness?



- To know where we have to go we need to know where we are
- Awareness alone will not decrease abuse and neglect

## DEFINING AND MEASURING ELDER ABUSE AND NEGLECT – PREPARATORY WORK REQUIRED TO MEASURE THE PREVALENCE OF ABUSE AND NEGLECT OF OLDER ADULTS IN CANADA

Human Resources and Skills Development Canada and the  
National Initiative for the Care of the Elderly  
**World Elder Abuse Awareness Day June 15 2010**

HRSDC Solicitation Number  
9137-09-00100  
Project Officers: John Rietschlin, David Coish

## SOME HISTORY.....

- HRSDC held a round table that coincided with World Elder Abuse Awareness Day (2008) where a number of commissioned papers were presented (community, institution, theory, family, law, interventions)
- Following the roundtable HRSDC called for proposals that could lead to a national prevalence study of the mistreatment of older people in Canada both in the community and in institutions
- The definitions could also be used for other research projects in Canada using different designs and populations

## OBJECTIVES OF THE STUDY

The project seeks to address the following issues:

- Problems associated with the conceptual definitions and measurement of mistreatment of older adults
- Theoretical difficulties
- Current challenges associated with identifying risk factors for abuse and neglect
- Issues surrounding the collection of reliable and valid data related to the prevalence of abuse and neglect

There are five related mini research projects contained in the proposal that progressively build on each other

## FIVE PROJECTS

- Project 1: Review and evaluate conceptual definitions, think about inclusion factors (age and ethnicity), develop consensus
- Project 2: Develop measurement instruments
- Project 3: Validate measurement instruments
- Project 4: Ethical considerations
- Project 5: Knowledge transfer and stakeholder definition consensus

## RATIONALE FOR THE STUDY

How abuse is defined matters because:

- It determines who is counted as mistreated and who isn't;
- Who is at risk and who is not;
- The definition determines what the legislation covers and what it doesn't cover;
- It determines who is eligible for service and who is not eligible for service;
- The definition will determine the type of treatment offered and ultimately, the effectiveness of the treatment in halting the mistreatment;
- Allows for the measure of change over time.

## DEFINITIONAL DISARRAY

Problems with definitions are based on the following:

- Multiple perspectives with different needs (connotative, denotative and structural).
- Lack of uniformity in the categories (what do you include? e.g. spiritual, abandonment, etc.)
- Lack of clarity within the categories: e.g. is the focus causes, behaviours or outcomes or a combination of same?

## TEAM MEETING APRIL 12TH

Team meeting produced four outcomes:

1. A broad definition of the mistreatment of older adults (first draft only)
2. A basic identification of the types of abuse (first draft only)
3. Suggested a time period for when the mistreatment occurred (prevalence)
4. Suggested age of inclusion for the study
5. Suggested ethnic groups that might be covered

## CONSENSUS MEETING JUNE 2 AND 3

- A consensus meeting of practitioners, researchers and policy makers reviewed the team work and developed the definitions further

## CRITERIA ADDED BY TEAM

- Cross national comparability should be possible
- National comparability to earlier studies in Canada should be possible
- Future oriented to newer mistreatment issues
- Adaptability for longitudinal surveys
- Ability to expand and contract definitions
- Plan for a half hour module at best (as part of another survey)

## PURPOSE OF OUR DEFINITION

- A summary communication about the project
- A roadmap for the research project
- A political tool to further the end of mistreatment

## REVIEW OF SOCIAL SCIENCE LITERATURE

- 13 Community Dwelling Prevalence Studies reviewed:
- All 13 included at least physical, psychological, and financial abuse
- 5 added sexual abuse
- One referred to violation of rights
- 8 studies included neglect
- 5 studies used general definitions to guide their study like the WHO definition
- 6 used only operational definitions

## REVIEW OF INSTITUTIONAL ABUSE LITERATURE

- 9 prevalence studies were located that were rigorous
- The majority of the studies included physical and psychological abuse
- 3 studies also included financial abuse
- 5 studies included sexual abuse
- 7 studies included neglect
- All studies used operational definitions of abuse and no general conceptual definition.

## LAW RESEARCH (LEGISLATION, GOVERNMENT STATEMENTS & CASE LAW)

- Found following concepts associated with the abuse of older adults:

- In care or in need of protection, support or assistance
- Decision making; finances and health
- Domestic violence
- Human rights

The research also suggested five clear categories of abuse: physical, sexual, emotional, financial and neglect

Where legislation addresses abuse, it is usually in regard to special programs that limit the definitions.

## MISTREATMENT

- In light of the foregoing, the team chose to use the word mistreatment
- Mistreatment refers to both abuse and neglect
- When speaking only of abuse this term is used
- When speaking only of neglect this term is used
- The French translation ‘maltraitment’ was chosen
- The term self-neglect was not included in the definitions

## FURTHER TERMINOLOGY

- The word elder is to be avoided since it is extensively used in the Aboriginal community and
- It connotes frailty about older people
- The term elderly is acceptable
- However, the team agreed to use the term older adult

## GENERAL DEFINITIONS

- The most frequently used general definitions in the research were collected and there were five that repeatedly showed up:
- the WHO,
- the National Research Council (NRC),
- an original from Hudson (US),
- Pottie Bunge from Canada based on family violence
- Iborra from Spain.

## PROCESS

- The team discussion revolved around different aspects of the definitions, comparing and contrasting them
- Definition eliminations were made as to whether a definition shared components with other definitions and if they didn't they were eliminated because they would not be comparable.
- One important principal used was to remove any semblance of subjectivity because this is almost impossible to measure.

## COMMONALITIES

- The team put together commonalities and suggested as a starting point the following conceptual definition:
- Before:
- “Mistreatment of older adults refers to actions (and behaviours) and or lack of actions (and behaviours) that cause harm, (risk of harm/increased likelihood of harm), by a person in a trust relationship (or with an expectation of trust) with an older adult.”
- After Consensus:
- “Mistreatment of older adults refers to actions/behaviours or lack of actions/behaviours that cause harm or risk of harm within a trusting relationship.”

## CATEGORIES OF ABUSE

- Physical Abuse – Actions or behaviours that result in bodily injury, pain, impairment or psychological distress.
- Emotional/Psychological abuse – Severe or persistent verbal/non-verbal behaviour that results in emotional or psychological harm.
- Financial/Material Abuse – An action or lack of action with respect to material possessions, funds, assets, property, or legal documents, that is unauthorized, or coerced, or a misuse of legal authority
- Sexual Abuse Direct or indirect sexual activity without consent
- Neglect – Repeated deprivation of assistance needed by an older person for activities of daily living
- Spiritual/Cultural Abuse – Measures that prevent an older adult from continuing to maintain their culture/language
- Rights Abuse – Violation/deprivation/obscuring of an older adult's basic rights and freedoms
- Other/New Category – technology-related abuse

## AGE AS AN INCLUSION FACTOR

- Age suggestions included age 55, 60 and over age 65
- Age 55 may be more appropriate for certain groups such as Aboriginals who have lower life expectancy in Canada
- Online comment was that age 65 worked with government policy
- Online comments were 'the lower the better' because this allows for comparability with more studies.

## PREVALENCE PERIOD

- Questions needed to be consistent with theory, ability of participants to remember.
- lifetime prevalence prior to age – 55, 60, 65 etc.
- 5 prevalence at 55/60/65 and over,
- 1 year prevalence from the last year - 55, 60, 65 and over,
- lifetime prevalence - can be captured by categorizing according to life transitions (questions can identify abuse that has taken place during certain transitions like childhood, marriage, etc.)

## INCLUSION OF ETHNICITY

- South Asians
- Chinese
- Blacks (African and Caribbean)

THE END!

Thank You

## MEASURING AWARENESS PROGRAMS:



### HOW DO WE EVALUATE SUCCESS?

*Raeann Rideout, Regional Consultant  
Ontario Network for the Prevention of Elder Abuse*

## ONPEA's VISION AND MISSION

**WE ENVISION AN ONTARIO WHERE SENIORS ARE SAFE AND RESPECTED.**

Our **mission** is to create an Ontario that is free from abuse for all seniors, through awareness, education, training, collaboration, service coordination and advocacy.

ONPEA oversees the implementation of **Ontario's Strategy to Combat Elder Abuse** in addition to a number of other initiatives.

## ONTARIO'S STRATEGY TO COMBAT ELDER ABUSE

### KEY ELEMENTS OF THE STRATEGY:

- 1. Co-ordination of Community Services**  
To strengthen communities across the province by building partnerships, promoting information sharing and supporting their efforts to combat elder abuse.
- 2. Multi-Sectoral Training for Front-Line Staff**  
Specialized training initiative for front-line staff from various sectors, who work directly with seniors, to prepare and guide them in recognizing and responding to elder abuse.
- 3. Public Education and Awareness**  
A Province-wide, multi-media public education campaign to promote awareness about elder abuse and provide information on how to access services.

## EVALUATION

### Measuring the Impact:

- Data Collection - Statistics
- Regional Consultant Reports – Quarterly
- Tracking of Calls – Elder Abuse Reports
- Provincial Elder Abuse Networks
- Surveys - i.e. Sustainability Survey
- Needs Assessments

## CO-ORDINATION OF COMMUNITY SERVICES

- **Elder Abuse Networks in Ontario**  
2002, 10 Networks ⇄ 2010, total 54 Networks
- **Capacity Building**  
Consultants assist Networks and community groups with *grant writing*.  
Reached out to the *Francophone, Aboriginal, Multicultural Communities* in Ontario  
*Protocols* with Service Providers, Police and Hospitals throughout the province.  
Development of *screening tools, Consultation Teams*  
*National and Provincial Partners* – CNPEA, OGA, NICE  
*Fireside Chats*

## MULTI-SECTORAL TRAINING FOR FRONT-LINE STAFF

Training provided to community partners and front line staff totalled **5,233 sessions** since 2002

- **Conferences**  
National Elder Abuse Conference, 2009
- **Training tools** – Policy Lens, Free From Harm
- **New Sectors/Partnerships**  
Seniors Health Research Transfer Network (SHRTN)  
LHIN  
Ontario Police College – 2009 & 2010 conferences  
Ontario Probations and Parol Association  
Crown Attorney's  
Service Canada





## PUBLIC EDUCATION AND AWARENESS



- Over the past eight years, ONPEA has handled in excess of **7,000 referrals**.
- The numbers have steadily increased since 2002, proving that through public education awareness is working, provoking the public to come forward with cases of suspected abuse.
- Networks produce and distribute their own local resource materials in their communities such as Senior Safety Calendars, banners, bookmarks, brochures (translated into cultural languages) and display boards.



## ELDER ABUSE AWARENESS DAYS

- An ONPEA consultant attended the INPEA one day conference that was held in Paris France in 2009
- In June, WEAAD, and Provincial EAAD held in October both focus on Public Awareness.
- Elder Abuse Awareness Day is celebrated across Ontario in June and October. Approximately 60 events a year take place attracting over 7,000 people.
- Seniors are invited to attend events focused on safety, fraud, dignity, financial abuse etc.



### Public Service Announcements

PSAs have been developed highlighting physical, emotional and financial abuse in both English and French.

### Vibrancy Project

### Media Requests

### Website

Accessible in both English and French visitors was revamped in September of 2008. ONPEA has received an increase of visits, which are being tracked.

Since its re-launch, ONPEA received approximately 1,500 visits per week. The webmaster has notified ONPEA that it is now 5<sup>th</sup> in the world for Elder Abuse enquiries.



## SENIOR SAFETY LINE

- Launched on April 17, 2009
- Calls in 2009 are in excess of 4500.
- **Apr-09 225 calls ↑ Dec -09 725 calls**
- The hotline is already at capacity on 2 of its 3 shifts and at over 80% during the third shift.



## FUTURE DIRECTIONS



- **Provincial Survey** – Key Stakeholders
- **BLOG** - This summer, 2010, ONPEA will be launching its own blog for Seniors.
- **Evaluation of Elder Abuse Network:** Models of Best Practice
- **List Serve,**
- **E-Blast Newsletters** (social media technology)
- **Statistical Data Collection Template**
- **Regional Conferences 2010**



## "BOUNDARIES MELTED AWAY, AND IDEAS BECAME REALITIES"



Elizabeth Podneiks, 2010



The Ontario Network  
for the Prevention of Elder Abuse

**Ontario Network for the Prevention of Elder  
Abuse (ONPEA)**

(416) 916-6728

<http://www.onpea.org/>

**Raeann Rideout**

**Regional Elder Abuse Consultant**

Ontario Network for the Prevention of Elder Abuse  
411 Water Street, Suite 102  
Peterborough, ON K9H 3L9

Tel: 705-745-4100  
centraleast@onpea.org

2010 World Elder Abuse Awareness Day  
**Powers of Attorney and Substitute  
Decision Making: Friends or Foes for  
Preventing Elder Abuse?**

Graham Webb, Advocacy Centre for the Elderly (ACE)  
Kimberly Whaley and Amy Cull, Whaley Estate Litigation

June 15, 2010

**WHALEY**  
ESTATE LITIGATION

**Powers of Attorney and Substitute Decision Making:  
Friends or Foes for Preventing Elder Abuse?**



**A. Introduction**

- Changing demographics render the law as it affects older individuals increasingly important.
- Older individuals can be and are particularly prone to legal abuses.
- Legal abuse of older adults can take many forms where the abuse of trust involves a **legal instrument and construct**.

**WHALEY**  
ESTATE LITIGATION

Page 2

**Powers of Attorney and Substitute Decision Making:  
Friends or Foes for Preventing Elder Abuse?**



**THE POA: A Friend?**

- There is a widely held view that the Power of Attorney document (the "**POA**") is a good thing in that:
  - It protects a grantor's health and/or financial interests by enabling them to plan for when they become ill, infirm, or incapable of making decisions;
  - It minimizes family conflict during the grantor's lifetime;
  - It prevents unnecessary, expensive and avoidable litigation;
  - It provides a means for attorneys to provide the physical, emotional and financial care that their vulnerable loved ones need;
  - It provides a means for attorneys to protect the grantor against predators, of which there is a **very real risk**.

**WHALEY**  
ESTATE LITIGATION

Page 3

**Powers of Attorney and Substitute Decision Making:  
Friends or Foes for Preventing Elder Abuse?**



**THE POA: A Foe?**

- There is a dark side to the POA document.
  - Grantors are often unaware of the extent of the powers bestowed;
  - Attorneys do not always do the job or fulfill their legal duties;
  - Attorneys cannot always be trusted to act in an honest and trustworthy manner.
- As a result of the foregoing, there is an extremely high risk that a vulnerable older adult or incapable person may fall victim to abuse **because of** the POA.
- It is in this way that a POA can in fact prove to be a **'foe'** to the very grantor of such power.

**WHALEY**  
ESTATE LITIGATION

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**Powers of Attorney and Substitute Decision Making:  
Friends or Foes for Preventing Elder Abuse?**



**B. What is a Power of Attorney?**

- A POA is an instrument that facilitates the maintenance or control over one's affairs by enabling the grantor of the power to plan for an extended absence, infirmity, and even incapacity.
- In Ontario, there are three (3) types of POAs:
  1. the **general form of a POA** which is made in accordance with the *Powers of Attorney Act*, R.S.O. 1990, c. P. 20;
  2. the **Continuing POA for Property** (or "**CPOAP**"), pursuant to the provisions of the *SDA*; and
  3. the **POA for Personal Care** (or "**POAPC**") pursuant to the provisions of the *SDA*.

**WHALEY**  
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**Powers of Attorney and Substitute Decision Making:  
Friends or Foes for Preventing Elder Abuse?**



- A POA for **Property** can be used to grant:
  - a specific/limited authority;
  - a general authority granting the power to do all that is permissible under the governing principles and legislation; and
  - a continuing authority which survives subsequent incapacity.
- A POA for **Personal Care** can be used to grant powers exercised during incapacity only.

**WHALEY**  
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**C. Selecting the Right Attorney**

- Probably the most important advice that we, as practitioners, could give to a grantor of a CPOAP or a POAPC is to **carefully choose** their attorney(s).
- The most important characteristics that should be attributed to a chosen attorney(s) should be **honesty, integrity, and accountability**.

WHALEY  
ATTORNEYS AT LAW

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**D. The Continuing Power of Attorney for Property**

- A Continuing Power of Attorney for Property (or “**CPOAP**”) is commonly used to ensure that the **financial affairs** of a person are looked after in circumstances where that person is unable to look after them on their own.
- Pursuant to the *SDA*, a POA for Property is a CPOAP if:
  1. the document states that it is a continuing power for attorney; or
  2. the document expresses the intention that the authority given may be exercised during the grantor's subsequent incapacity to manage property.

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ATTORNEYS AT LAW

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**E. The Power of Attorney for Personal Care**

- A Power of Attorney for Personal Care (or “**POAPC**”) enables the (capable) grantor to appoint a person(s) to make personal care decisions on their behalf in the event that they are found to be incapable of being able to do so on their own.
- A grantor is considered incapable of their personal care if they are unable to understand information relevant to:
  - health care, nutrition, shelter, clothing, hygiene or safety; or
  - they are unable to appreciate the reasonably foreseeable consequences of a decision or lack of a decision respecting **any**

WHALEY  
ATTORNEYS AT LAW

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**E. The Power of Attorney for Personal Care**

- There are limitations on who a grantor may appoint to act as their attorney pursuant to a POAPC.
- The Substitute Decisions Act (the “**SDA**”) prohibits a person who provides health care, or residential, social, training or support services to the grantor **for compensation** from acting as an Attorney for Personal Care, **unless the Attorney is the spouse, partner or relative of the grantor**, in which case they are permitted to act.

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**E. The Power of Attorney for Personal Care: Making Decisions**

- When making decisions on an incapable person's behalf, the Attorney for Personal Care is required to make those decisions
  - in accordance with the *SDA*;
  - in accordance with the *Health Care Consent Act, 1996*, where decisions involve consent to treatment;
  - in accordance with the last capable wishes or instructions of the incapable person; and/or
  - If there is no last capable wish that would apply in the circumstances, to act in the incapable person's **best interests**.

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**E. The Power of Attorney for Personal Care: Best Interests**

- To act in the incapable person's **best interests**, the attorney must consider:
  - the values and beliefs of the grantor in question;
  - their current wishes, if ascertainable;
  - whether the decision will improve the grantor's standard and quality of life; and
  - whether the benefit of a particular decision outweighs the risk of harm to the grantor from alternate decisions.

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**F. Duties of Attorneys - General**

- An Attorney is a **fiduciary** who is in a **special relationship** of trust with the grantor.
- As a result of this special relationship, the common law imposes obligations on what an attorney acting as a fiduciary may do.

**WHALEY**  
ATTORNEYS AT LAW

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**F. Duties of Attorneys - The Specific Duties of an Attorney for Property**

- One of the more important duties of an Attorney for Property is manage the grantor's property in a manner that is consistent with decisions for the person's personal care.
- See checklist.

**WHALEY**  
ATTORNEYS AT LAW

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**F. Duties of Attorneys - The Specific Duties of an Attorney for Personal Care**

- Some of the more important duties of an Attorney for Personal care are:
  - Exercise powers diligently and in good faith; and
  - Keep thorough and detailed records of any and all decisions taken, including a comprehensive list of health care, safety, shelter decisions, medical reports or documents, names of persons consulted, dates, reasons for decisions being taken, record of the incapable person's wishes, and so on.
- See checklist.

**WHALEY**  
ATTORNEYS AT LAW

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**G. Attorney Disasters: What Can Go Wrong?**

- Issues that frequently arise with respect to Attorneys for Personal Care and for Property:
  - Disputes and accounting discrepancies concerning: the specific dates upon which the POA document became effective; the date of incapacity of the grantor; and the extent of the Attorney's involvement;
  - Disputes regarding whether it was the grantor, or the Attorney, who was acting at any given stage;
  - Whether the Attorney has made unauthorized, questionable or even speculative investment decisions, or decisions lacking in diversity;

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**G. Attorney Disasters: What Can Go Wrong? (cont'd)**

- Whether the Attorney has taken into consideration the tax effects of the Attorney's action or inaction;
- Whether the Attorney has acted in a timely fashion in attending to financial matters which may have contributed to unnecessary expenses, or damages from inaction;
- Whether the Attorney has sought professional advice where deemed necessary or appropriate;
- The Attorney's treatment of and dealings under jointly held assets or accounts;
- Attorney disputes between siblings regarding the capacity, action/inaction, of a parent/grantor;

**WHALEY**  
ATTORNEYS AT LAW

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**G. Attorney Disasters: What Can Go Wrong? (cont'd)**

- Attorney disputes among step-children, children of prior relationships, subsequent spouse/partner;
- Attorney misappropriation of grantor's assets;
- Incapacity of a grantor to grant a POA and/or POA secured by a predator with mal-intent;
- POA obtained from a vulnerable or physically dependent grantor by an individual with improper motives, seeking personal gain, as a result of the exerting of undue influences, or suspicious circumstances;
- Disputes where one or several Attorneys have acted without the knowledge or approval of the others either under a Joint, or Joint and Several, POA.

**WHALEY**  
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**H. Attorney Abuse: When Friends Become Foes**

- Three common scenarios in which a POA can be used to the detriment of an older adult who is vulnerable or dependent are:
- 1. Where the POA is fraudulently-procured, for the sole purpose of abuse;
- 2. Where the POA is fraudulently-used, for the sole purpose of self-interest of the Attorney; and
- 3. Where the POA is imprudently used and/or used in a way that constitutes a breach of fiduciary duty.



**I. Real-life Examples Extracted from Our Growing Collection of Case Law**

**(1) POAs fraudulently-procured, for the sole purpose of abuse:**

***Re Koch***

- Ms. Koch suffered from multiple sclerosis
- Ms. Koch and husband engaged in divorce proceedings
- The terms of the separation agreement were not acceptable to husband, who complained to authorities that his wife was demonstrating an "inability to manage her finances"
- Ms. Koch's cry was: "My husband had me committed"
- CCB decision appealed, and the Court agreed with Ms. Koch
- The Court warned that an assessor/evaluator must be alive to an informant harbouring improper motives



**(1) POAs fraudulently-procured, for the sole purpose of abuse (cont'd)**

***Bishop v. Bishop***

- Elderly woman granted a CPOAP to her son
- Allegations of fraud and abuse
- Medical evidence showed that she did not have capacity to grant
- Court found CPOAP invalid; but allegation were unfounded

***Dhillon v. Dhillon***

- Wife and son who a forged POA to sell husband/father's property and withdraw funds from the husband/father's RRSP and bank account while husband/father living in India
- Wife and son were found jointly and severally liable
- Husband was awarded considerable damages



**(2) POAs fraudulently-used, for the sole purpose of self-interest**

***Elford v. Elford***

- Husband put property into his wife's name, with her knowledge, for the purpose of defeating creditors
- Disagreement between the spouses developed
- The husband had a general POA over his wife's property
- Using the POA, the husband transferred property into his name
- The wife sued to have the property re-transferred to her
- Court found that the transfer by the husband to himself "transgresses one of the most elementary principles of the law of agency"
- It was *ex facie* void and should not have been registered



**(2) POAs fraudulently-used, for the sole purpose of self-interest**

***Burke Estate v. Burke Estate***

- Husband used the POA granted to him by his wife to transfer Canadian savings bonds registered in the wife's name to their joint names
- Court held husband had acted in breach of fiduciary duty to wife
- Bonds were deemed part of the deceased wife's estate

***Westfall v. Kovacec***

- An attorney sought authorization to use certain monies of the incapable person for himself
- He argued that it was a relatively small amount, that he really needed the money, that the incapable person did not need it and that he was likely to eventually inherit it anyway
- Court refused to allow it



**(3) POAs imprudently used and/or used in a way that constitutes a breach of fiduciary duty**

***Chu v. Chang***

- Mrs. Chang was 98
- The Court appointed two joint guardians for personal care and property: Kin Kwok Chang (one of Mrs. Chang's sons) and Dr. Stephen Chu (the son of Mrs. Chang's sister, Lily)
- The family could not get along and was constantly back before the Court
- In one court appearance, the Court voiced concerns about the two guardians not getting along or executing their duties appropriately and told the family to have regard to her wishes
- Dr. Stephen Chu kidnaps Mrs. Chang out of fear family was not feeding her
- Court orders Dr. Chu to return Mrs. Chang to her home
- In another court appearance, the Court terminated both guardianships - the two sides could not work together. Court appointed a trust company instead
- Mrs. Chang's youngest daughter, Peggy Wu, was appointed the guardian for Mrs. Chang's personal care and severe limitations were placed on access by Lily and her son.





**(3) POAs imprudently used and/or used in a way that constitutes a breach of fiduciary duty**

***Abrams v. Abrams***

- Parties: Ida and Philip Abrams and two of their three children, Stephen and Judith
- Ida was about 87 and signed a number of POAs
- Stephen brought a guardianship application seeking appointment as her guardian
- More than two years later, the proceedings had not been resolved
- Court set out a timetable for proceedings and warned that a failure to abide by the timetable therein would lead to costs consequences not only for the parties but as against counsel, personally.
- Court found that "the parties have lost sight of the key issue" which is always the best interests of the incapable person

WHALEY  
ESTATE LITIGATION

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**(3) POAs imprudently used and/or used in a way that constitutes a breach of fiduciary duty**

***Teffer v. Schaefer***

- Mrs. Schaefer was 87 years old
- Assessed by a professional medical assessor and found to be incapable of managing her property as well as making decisions regarding her personal care
- Attorney, Mr. Verbeek (a lawyer) acted pursuant to two POAs, one dated April 27, 2006
- Court found that Mrs. Schaefer did not have the capacity to grant the April 2007 POA, so the document was not valid
- The Court also found that Mrs. Schaefer's best interests were not being met
- Mr. Verbeek removed as attorney

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**(3) POAs imprudently used and/or used in a way that constitutes a breach of fiduciary duty**

***Fiacco v. Lombardi***

- Maria Lombardi was an elderly woman who suffered from dementia and lived in a nursing home
- In 2003 she executed a POAPC and CPOAP appointing her four children, Carmela, Antonio, Giovanni and Guiseppina as her attorneys. They were required to act jointly and to make decisions on her behalf, if the need arose
- Children did not act jointly and, instead, engaged in contested guardianship litigation
- Court declared Ms. Lombardi incapable of managing property and incapable of personal care, and appointed Carmela and Antonio as her joint guardians of property and of the person.
- Order contained several additional provisions which required, among other things, that Giovanni and Guiseppina account for their dealings with their mother's property and deliver the keys to her home to the applicants
- However, they did not follow through and, consequently, they were ordered to comply with the previous Order and had costs awarded against them

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**(3) POAs imprudently used and/or used in a way that constitutes a breach of fiduciary duty**

***Woolner v. D'Abreu***

- Norah D'Abreu executed a Continuing Power of Attorney for Property in favour of Robert Woolner, a lawyer
- Mr. Woolner began to manage Ms. D'Abreu's property and financial affairs
- Ms. D'Abreu subsequently retained another lawyer, Mr. Marcovitch, who began to ask Mr. Woolner questions about how he was handling Ms. D'Abreu's financial affairs and an assessment was requested, but declined
- An assessment did take place and found her to be capable of managing her own affairs
- Counsel then debated the issue of costs, causing further costs to be incurred
- Court did not agree with the battle over costs on the basis that it had no value to Ms. D'Abreu and, consequently, lawyers denied recovery of costs

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**J. Conclusion: Awareness & Prevention**  
**J. Awareness & Prevention**

- Solicitors, planners, legislators, health care practitioners and the public at large, must be alert to the possibility of fraudulently obtained and fraudulently used POA documents and the risks to the older adult and to the cognitively impaired, the vulnerable, the dependent, and incapable.
- To that end, we advise the following tips:
  1. Exercise Caution
  2. Be vigilant
  3. Make inquiries
  4. Be aware

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**K. Resources**

- The Advocacy Centre for the Elderly
- Whaley Estate Litigation (*see Elder Law and Elder Abuse Links*)
- The Toronto Police Community Mobilization Unit, Vulnerable Persons Issues
- The Public Guardian and Trustee
- The Ontario Network for the Prevention of Elder Abuse (Senior Safety Line)
- Checklists

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## 2010 World Elder Abuse Awareness Day

### Powers of Attorney and Substitute Decision Making: Friends or Foes for Preventing Elder Abuse

Kimberly Whaley and Amy Cull, Whaley Estate Litigation  
&  
Graham Webb, Advocacy Centre for the Elderly ("ACE")

#### A. Introduction

An aging population combined with an increased life expectancy means that cognitive disorders, reduced functional abilities/decisional capacity and the consequent vulnerability associated therewith are, more than ever, a part of our world. These changing demographics render the law as it affects older individuals increasingly important. Older individuals can be and are particularly prone to legal abuses. Elder abuse, or the abuse of older adults, is often defined as any act or omission that harms a senior or jeopardizes his or her health or welfare. The World Health Organization defines abuse of older adults as "a single or repeated act, or lack of appropriate action, occurring in any relationship where there is an expectation of trust that causes harm or distress to an older person." Legal abuse of older adults can take many forms where the abuse of trust involves a legal instrument and construct.

The Power of Attorney document (the "**POA**") has long been viewed as one way in which a person can legally protect their various health and/or financial interests by planning for when they become ill, infirm or incapable of making decisions. The POA is also seen as a means to minimize family conflict during one's lifetime and prevent unnecessary, expensive and avoidable litigation. In our experience, we have seen attorneys use the powers bestowed upon them pursuant to POA documents as a means to provide the physical, emotional and financial care that their vulnerable loved ones need. We have also seen it used as a means of protection against predators, of which there is a very real risk. It is in these respects that a POA can be considered a '**friend**,' as opposed to a '**foe**.'

That POAs are generally a good thing is a widely shared view. This is evident from the fact that, since 1994 and to this day, the Ontario Ministry of the Attorney General has distributed free POA kits to the public and solicitors have routinely recommended them as part of an estate plan. Unfortunately, however, if any study has been conducted with respect to the outcomes or

success of the use of such kits, it is not publicly available. Nor is there a known comprehensive study determining the extent to which attorneys appointed pursuant to such documents are actually aware of the statutory principles which guide them (such as the *Substitute Decisions Act*, 1992, S.O. 1992, c. 30 (the "**SDA**") or the *Health Care Consent Act*, 1996, S.O. 1996, c. 2, Sched. A (the "**HCCA**") or, if they are aware of such principles, whether they adhere to them.

While a POA document can be used for the good of a vulnerable adult or an incapable person, there can be a dark side to what is in fact a very powerful and far-reaching document. More often than not it becomes apparent that the grantor of such a document never put their mind to just what the powers are that are being bestowed, nor the ability of the chosen attorney to do the job and fulfill their duties or whether that attorney can truly be trusted to act in an honest and trustworthy manner. As a result of the foregoing, there is an extremely high risk that a vulnerable older adult or incapable person may fall victim to abuse as a result of having a POA. Although a somewhat bleak assumption, given the many cases of abuse that come in and out of our offices, in our estimation there is a very likely a high number of attorney-inflicted abuse cases that simply go unmonitored or unnoticed by our legal system. And, it is in this respect that POA documents can in fact prove to be a '**foe**' to the very grantors of such powers.

#### B. What is a Power of Attorney?

Put summarily, a POA is an instrument that facilitates the maintenance or control over one's affairs by enabling the grantor of the power to plan for an extended absence, infirmity, and even incapacity. Proper, thoughtful preparation allows the grantor of a POA to require an Attorney to take legal steps to protect the grantor's interests and wishes, within the confines of the governing legislation.

In Ontario, there are three types of POAs:

- (1) the general form of a POA for property which is made in accordance with the *Powers of Attorney Act*, R.S.O. 1990, c. P. 20;
- (2) the Continuing POA for Property (or "**CPOAP**"), pursuant to the provisions of the *SDA*; and
- (3) the POA for Personal Care (or "**POAPC**") pursuant to the provisions of the *SDA*.



A POA for Property can be used to grant:

- a specific/limited authority;
- a general authority granting the power to do all that is permissible under the governing principles and legislation; and
- a continuing authority which survives subsequent incapacity.

A POA for Personal Care can be used to grant powers exercised during incapacity only.

### **C. Selecting the Right Attorney**

In advance of devising a POA, grantors must be made aware of the fact that there is a very real risk of fraud and abuse with respect to these documents, which we will explain later in this presentation. However, it is important to note from the outset that probably the most important advice that we, as practitioners, could give to a potential grantor of a CPOAP or a POAPC is **to carefully choose your attorney(s)**. In addition, we cannot but emphasize the fact that the most important characteristics that should be attributed to your chosen attorney(s) should be **honesty, integrity and accountability**.

### **D. The Continuing Power of Attorney for Property**

A Continuing Power of Attorney for Property (or "**CPOAP**") is commonly used to ensure that the financial affairs of a person are looked after in circumstances where that person is unable to look after them on their own.

Pursuant to the *SDA*, a POA for Property is a CPOAP if:

- (a) the document states that it is a continuing power for attorney; or
- (b) the document expresses the intention that the authority given may be exercised during the grantor's subsequent incapacity to manage property.

A person is considered incapable of managing their property if they are unable to understand information that is relevant to making a decision in the management of their own property or unable to appreciate the reasonably foreseeable consequences of a decision or lack of a decision. A CPOAP document can be limited to specific dates or contingencies and/or it can

continue during the incapacity of the grantor, hence the name "*Continuing Power of Attorney for Property*."

To have a valid CPOAP, the Attorney needs to be appointed before the grantor becomes incapable of giving it. The legal test of capacity to give or revoke a CPOAP is different from that of capacity to manage property, to the extent that the *SDA* specifically states that a person can be capable of giving or revoking a CPOAP even if he or she is incapable of managing property.

Much to the surprise of many older adults, the CPOAP is effective immediately upon signing *unless* there is a provision or "triggering" mechanism in the document which directs that it will come into effect in accordance with a specified date or event, such as incapacity of the grantor. If the POA document specifies that the power does not become effective until incapacity, there should be a determining mechanism, failing which the *SDA* offers guidance.

The powers granted to an Attorney acting on behalf of an incapable person are extensive. An Attorney operating under a CPOAP has the power to do anything on behalf of the grantor that the grantor could do if capable, except make a Will. These powers are subject to the *SDA* and any court-imposed conditions.

Guidelines for the execution, resignation, revocation, and termination of a CPOAP can be found in the *SDA*.

### **E. Power of Attorney for Personal Care**

A POAPC enables the (capable) grantor to appoint a person or persons to make personal care decisions on their behalf in the event that they are found to be incapable of being able to do so on their own. A person/grantor is considered incapable of their personal care if they are unable to understand information relevant to health care, nutrition, shelter, clothing, hygiene, or safety, or if they are unable to appreciate the reasonably foreseeable consequences of a decision or lack of a decision respecting same. As with the differential tests of capacity for managing property and giving or revoking a CPOAP, the *SDA* also provides a differential test of capacity to make personal-care decisions and give or revoke a POAPC. Again, the *SDA* specifically provides that a person may be capable of giving or revoking a POAPC even if he or she is mentally incapable of making personal-care decisions.

There are limitations on who a grantor may appoint to act as their attorney pursuant to a POAPC. The *SDA* prohibits a person who provides health care, or residential, social, training or support services to the grantor *for compensation* from acting as an Attorney for Personal Care, unless the Attorney is the spouse, partner or relative of the grantor, in which case they are permitted to act.

When making decisions on an incapable person's behalf, the Attorney for Personal Care is required to make those decisions in accordance with the *SDA*. Further guidance respecting consent to treatment decisions is also found in the *Health Care Consent Act, 1996*. In addition, an Attorney must use reasonable efforts to act in accordance with the wishes or instructions of the incapable person (ascertained at the period before incapacity) or otherwise act in the incapable person's best interests. To act in the incapable person's best interests, the attorney must consider the values and beliefs of the grantor in question, their current incapable wishes, if ascertainable, whether the decision will improve the grantor's standard and quality of life or otherwise either prevent it from deteriorating or reduce the extent or rate at which the quality of the grantor's life is likely to deteriorate, and whether the benefit of a particular decision outweighs the risk of harm to the grantor from alternate decisions.

A POAPC is generally considered a flexible vehicle for assisting the grantor with personal care decisions when and if it becomes necessary to do so. Indeed, it is increasingly viewed as a planning tool for the end of a person's life.

The downside of the POAPC is that all too often the document does not contain detailed-enough instructions or, alternatively, the instructions provided are far too detailed, such to cause confusion. Attorneys for personal care should be informed that written wishes and oral wishes have equal weight, and that later capable wishes take precedence over earlier wishes. It is at this juncture that discussion with family members can be beneficial, noting of course, that the attorney must ensure that they facilitate the incapable person's independence and assist in choosing the least restrictive or intrusive courses of treatment or action. It is important to understand that an Attorney for Personal Care is not a care provider; they are decision makers.

Guidance regarding the execution, revocation, resignation, and termination POAPCs can be found in the *SDA*.

#### **F. Duties of Attorneys**

An Attorney is a fiduciary who is in a special relationship of trust with the grantor. A fiduciary has the power to alter the principal's legal position. As a result of this special relationship, the common law imposes obligations on what an attorney acting as a fiduciary may do. Thus, in addition to any specific duties that may have been set out by the grantor in the POA document itself, the common law has also imposed the following duties upon an attorney:

- The attorney must stay within the scope of the authority delegated;
- The attorney must exercise reasonable care and skill in the performance of acts done on behalf of the donor (if acting gratuitously, the attorney may be held to the standard of a typically prudent person managing his or her own affairs; if being paid the attorney may be held to the standard applicable to a professional property or money manager);
- The attorney must not make secret profits;
- The attorney must cease to exercise authority, if the POA is revoked;
- The attorney must not act contrary to the interest of the grantor or in a conflict with those interests;
- The attorney must account for dealings with the financial affairs of the grantor, when lawfully called upon to do so;
- The attorney must not exercise the POA for personal benefit unless authorized to do so by the POA, or unless the attorney acts with the full knowledge and consent of the grantor;
- The attorney cannot make, change or revoke a Will on behalf of the donor; and
- The attorney cannot assign or delegate his or her authority to another person, unless the instrument provides otherwise. Certain responsibilities cannot be delegated.

Notably, in situations where a *capable* grantor appoints an Attorney to deal with their property, the Attorney is considered to be an *agent* of that person, carrying out the instructions of the grantor (in this case the grantor is considered the principal). Though the fiduciary standard or expectation is lower in such a relationship, an Attorney in this position is still a fiduciary with a duty only to the grantor and should, therefore, keep written documentation of instructions and act diligently and in good faith.

### **The Specific Duties of an Attorney for Property**

All of the duties of the CPOAP are set out in the *SDA*. In the case of *Banton v. Banton*, Justice Cullity discussed many of the principles regarding an Attorney's performance of responsibilities before and after the grantor loses capacity as well as the differences between an Attorney and a trustee. According to the Court, Some of the specific duties and obligations of an Attorney for Property include the following:

- (1) Manage a person's property in a manner consistent with decisions for the person's personal care;
- (2) Explain to the incapable person the Attorney's powers and duties;
- (3) Encourage the incapable person's participation in decisions;
- (4) Consult with the incapable person from time to time as well as family members, friends and other Attorneys;
- (5) Determine whether the incapable person has a Will and preserve to the best of the Attorney's ability the property bequeathed in the Will;
- (6) Make expenditures as reasonably required for the incapable person or the incapable person's dependants, support, education and care while taking into account the value of the property of the incapable person, including considerations as to the standard of living and other legal obligations.

The Attorney for Property must consider whether a given transaction is in the best interests of the individual for whom he is acting, and also has discretion to make optional expenditures, including gifts, loans and so on, in accordance with the guidelines in the *SDA*. They are required to keep detailed records of all transactions as well as ongoing list of assets, details of investments, securities, liabilities, compensation and all actions taken on behalf of the incapable person, including details of amounts, dates, interest rates, the wishes of the incapable person and so on. An Attorney for Property must be prepared to keep accounts for the passing of such accounts, in the event it is required.

### **The Specific Duties of an Attorney for Personal Care**

The Attorney for Personal Care must exercise powers diligently and in good faith. As with an attorneyship for property, attorneys for personal care are required by law to foster the incapable person's independence, to encourage the incapable person to participate in personal-care

decisions to the best of his or her ability and to consult with the incapable person's supportive family and friends and with the persons who provide personal care to the incapable person. They are required to keep thorough and detailed records of any and all decisions taken, including a comprehensive list of health care, safety, shelter decisions, medical reports or documents, names of persons consulted, dates, reasons for decisions being taken, record of the incapable person's wishes, and so on.

### **G. Attorney Disasters: What Can Go Wrong**

POA documents often create suspicion, which frequently and inevitably brings the Attorney's actions, motives and conduct into question, whether warranted or not. In our practice, we are seeing ever-increasing numbers of POA disputes, complaints and attendant to this, guardianship disputes.

Issues that frequently arise with respect to Attorneys for Personal Care and for Property:

- (1) Disputes and accounting discrepancies concerning the specific dates upon which the POA document became effective; the date of incapacity of the grantor; and the extent of the Attorney's involvement;
- (2) Disputes regarding whether it was the grantor, or the Attorney, who was acting at any given stage;
- (3) Whether the Attorney has made unauthorized, questionable or even speculative investment decisions, or decisions or decisions lacking in diversity;
- (4) Whether the Attorney has taken into consideration the tax effects of the Attorney's action or inaction;
- (5) Whether the Attorney has acted in a timely fashion in attending to financial matters which may have contributed to unnecessary expenses, or damages from inaction;
- (6) Whether the Attorney has sought professional advice where deemed necessary or appropriate;
- (7) The Attorney's treatment of and dealings under jointly held assets or accounts;
- (8) Attorney disputes between siblings regarding the capacity, action/inaction, of a parent\grantor;
- (9) Attorney disputes among step-children, children of prior relationships, subsequent spouse/partner;

- (10) Attorney misappropriation of grantor's assets;
- (11) Incapacity of a grantor to grant a POA and/or POA secured by a predator with mal-intent;
- (12) POA obtained from a vulnerable or physically dependent grantor by an individual with improper motives, seeking personal gain, as a result of the exerting of undue influences, or suspicious circumstances;
- (13) Disputes where one or several Attorneys have acted without the knowledge or approval of the others either under a Joint, or Joint and Several, POA.

Some of these issues arise as a result of the Attorney giving such issues secondary attention, since in all likelihood the focus of their attention has been directed to the care and interests of the grantor. However, an Attorney's inattention to the sorts of duties and responsibilities expected can cause a multitude of problems later on, particularly in an area where family emotions run high.

#### **H. Attorney Abuse: When Friends Become Foes**

As mentioned, a POA is a powerful document which enables an attorney to do virtually anything on the grantor's behalf in respect of property that the grantor could do if capable, except make a Will. Consequently, there are a number of ways in which a POA document can be used to the detriment of a grantor. Three common scenarios in which a POA can be used to the detriment of an older adult who is vulnerable or dependent are:

- 1. POAs fraudulently procured, for the sole purpose of abuse;
- 2. POAs fraudulently used, for the sole purpose of self-interest; and
- 3. POAs imprudently used and/or used in a way that constitutes a breach of fiduciary duty.

The use of fraudulently obtained POAs is an increasing concern and vulnerable elderly individuals are highly susceptible to such fraud. The most common forms of "title fraud" or "mortgage fraud" involve fraudsters using stolen identities or forged documents to transfer a registered owner's title, legally, without the registered owner's knowledge. The fraudster then obtains a mortgage on this property and once the funds are advanced on the mortgage, he or she disappears. In the POA context, an Attorney appointed pursuant to a fraudulently-obtained

CPOAP could mortgage or sell a grantor's home without the grantor's knowledge or consent, notwithstanding any fiduciary duty attached to the Power granted.

Fraud can also be the product of validly executed powers of attorney. Many older adults are predisposed to vulnerability if they are dependent on another for certain necessities of life. Such dependence may be attributable to physical or mental disability, or simply to the overwhelming task of suddenly managing all of their own affairs. The issue of incapacity necessarily raises the question of exploitation of vulnerable persons.

#### **I. Real-life Examples Extracted from Our Growing Collection of Case Law**

##### **(1) POAs fraudulently-procured, for the sole purpose of abuse**

###### **(a) *Re Koch***

Although not a POA case *per se*, the case of ***Re Koch*** provides an example of a situation where one person may have an ulterior motive when seeking an assessment that a vulnerable person be assessed as incapable. In this case, Ms. Koch has suffered from multiple sclerosis for fifteen years. She was confined to a wheelchair, although able to walk short distances with a walker. Ms. Koch and her husband separated in January 1996. Each retained lawyers and negotiations commenced with a view to resolving the usual property and support issues. On April 23rd, 1996, her lawyer forwarded a draft separation agreement to the husband's lawyer. Apparently, the terms of the separation agreement were not acceptable to the husband. In or about May, 1996, the husband complained to the necessary authorities that his wife was demonstrating an inability to manage her finances. This complaint triggered the formidable mechanisms of both the *Substitute Decisions Act*, 1992, S. O. 1992, C. 30 ("SDA") and the *Health Care Consent Act*, 1996, S. O. 1996, C. 2 ("HCCA"). A hearing was held before the Consent and Capacity Board (the "CCB") and Ms. Koch was adjudged by the Board to be:

- 1. incapable of managing her financial affairs and property; and
- 2. incapable of consenting to placement in a care facility.

Ms. Koch sought a reversal of the CCB's decision. And, as stated by the Court, her cry was essentially thus: "My husband had me committed." The Court agreed with Ms. Koch and found the Board was found to have erred in law. Justice Quinn stated:

The assessor/evaluator must be alive **to an informant harbouring improper motives**. [The Assessor] should have done more than merely accept the complaint of the husband, coupled with the medical reports [...], before charging ahead with his interview of the appellant. Since the parties were separated and represented by lawyers, Higgins must have realized that matrimonial issues were in the process of being litigated or negotiated and that a finding of incapacity could have significant impact on those procedures. He should have ensured that the husband's lawyer was aware of the complaint of incapacity. More importantly, Higgins should not have proceeded to interview the appellant without securing her waiver of notice to her lawyer.

**(b) *Bishop v. Bishop***

In ***Bishop v. Bishop***, 2006 WL 2583842, Justice O'Neill of the Superior Court found a POA granted to an elderly woman's son void ab initio based on medical evidence that she did not have capacity to grant a CPOAP to her son at the time that she did. Alma Bishop gave her son a CPOAP in 2005. The medical evidence included a score of 22/30 on the mini-mental health status test administered by her family physician and a diagnosis of mild Alzheimer disease. Allegations of fraud and abuse however were held to be unfounded.

**(c) *Dhillon v. Dhillon***

The case of ***Dhillon v. Dhillon*** involved a wife and son who, while the husband/father was living in India, used a forged POA to sell residential property that the husband owned, and used another forged POA to withdraw funds from the husband's RRSP and bank account. The wife used the proceeds from the sale of the first house to purchase two subsequent houses. At trial, the wife and son were found jointly and severally liable for the sale of the first house, and the wife was found liable for withdrawals from the husband's accounts. The husband was awarded a considerable amount in damages, including \$5,000 in punitive damages and special costs at 80 percent of solicitor-client costs. The B.C. Court of Appeal affirmed the trial judge's finding of fraud on the part of a wife and son and substantially upheld the decision of the trial judge with respect to damages.

**(2) POAs fraudulently-used, for the sole purpose of self-interest**

**(a) *Elford v. Elford***

In ***Elford v. Elford***, the husband put certain property into his wife's name, with her knowledge and for the purpose of defeating his creditors. He had a general POA over his wife's property. A disagreement developed between them and the husband, using the POA, transferred the property into his own name. The wife sued to have the property re-transferred to her. The trial judge dismissed the action; the Court of Appeal reversed it and maintained the wife's action. The Supreme Court of Canada affirmed, finding that the transfer by the husband to himself "transgresses one of the most elementary principles of the law of agency." It was *ex facie* void and should not have been registered.

**(b) *Burke Estate v. Burke Estate***

In ***Burke Estate v. Burke Estate***, the husband used the POA granted to him by his wife to transfer Canadian savings bonds registered in the wife's name to their joint names. The Court held that the husband had acted in breach of the fiduciary duty to the wife. The bonds were deemed to be held on constructive trust and formed part of the deceased wife's estate.

**(c) *Westfall v. Kovacec***

In the case of ***Westfall v. Kovacec***, an attorney or guardian of property sought authorization to use certain monies of the incapable person for himself. He argued that it was a relatively small amount, that he really needed the money, that the incapable person didn't need it and that he was likely to eventually inherit it anyway. The Court refused to allow it. The only gifts or loans which are allowed are those to friends or relatives where there is reason to believe, based on intentions the incapable person expressed before becoming incapable, that he or she would make if capable.

**(3) POAs imprudently used and/or used in a way that constitutes a breach of fiduciary duty**

**(a) *Chu v. Chang***

The case of ***Chu v. Chang*** involved an interesting, and somewhat unusual set of facts. The case revolved around Mrs. Chang, a then 98 year old woman, and the way in which her children and one of her grandchildren were involved in her care. The matter first came before the Court in December 2008 when her daughter, Lily Chu, applied for an order appointing her as sole attorney for personal care and property. The Court appointed two joint guardians for personal

care and property: Kin Kwok Chang (one of Mrs. Chang's sons) and Lily's son, Dr. Stephen Chu.

Any family peace dissipated shortly thereafter and the parties went back and forth before the Court on countless occasions and in one endorsement the Court voiced concerns about Mr. Chang and Dr. Chu getting along and executing their duties appropriately. The Court warned all of Mrs. Chang's children that they should be guided by Mrs. Chang's wishes (found, in this case, in her affidavit) which were that she was happy when her children spent time with her and got along. The Court told the parties to "act like adults to enable [Mrs. Chang] to enjoy the twilight years of her life."

Unfortunately, further proceedings ensued and Dr. Chu requested an urgent motion on the ground that he had been compelled to remove Mrs. Chang from her home on the basis of information he had received from Mrs. Chang's caregiver that she had been told "not to feed" Mrs. Chang. Notwithstanding the concerns about feeding (of which there was considerable debate), Justice Brown ordered Dr. Chu to return Mrs. Chang to her home the following day.

Two competing motions were then heard within which each guardian sought to have the other removed. In light of all the evidence, Justice Brown terminated *both* guardianships on the basis that the two sides could not work together. As for Dr. Chu, Justice Brown wrote: "*It is difficult to find words to describe adequately his misconduct. Suffice it to say, by, in effect, kidnapping his grandmother Dr. Chu demonstrated that he was not prepared to work within the legal framework of a guardianship.*" Although Mr. Chang's misconduct was not found to be as serious as Dr. Chu's, he too had showed he was obstructive in the process and not a suitable candidate to act as a guardian of property (he had refused to sign a court-imposed management plan). The Court refused to appoint any of the remaining family members as guardians of property and, instead, appointed a trust company.

Mrs. Chang's youngest daughter, Peggy Wu, was appointed the guardian for Mrs. Chang's personal care. However, Peggy was reminded of her duty to consult family members regarding her personal care decision-making, pursuant to the *SDA*, as well as her statutory obligation to foster contact between Mrs. Chang and those family members considered "supportive family members"—of which Lily was not considered one. The court held that given the history of high conflict in the family, restrictions on access by Lily and her son would be in Mrs. Chang's best

interests, and stipulated both by the times and the conditions under which visits would occur. Peggy was, however, required to provide fresh information about Mrs. Chang's medical condition in the event of significant developments.

#### **(b) *Abrams v. Abrams***

The case of ***Abrams v. Abrams***, concerned a contested guardianship application. The parties were Ida and Philip Abrams (respondents) and two of their three children — the applicant, Stephen, and the respondent, Judith Abrams. At the date of the endorsement, Ida was about 87 years old and Philip 92 years old. Philip had "accumulated a tidy fortune". Although the family had got along reasonably well, in the fall of 2005, a major dispute arose about what the parents should leave to their children. In January 2007, Ida executed a Continuing Power of Attorney for Property and Power of Attorney for Personal Care naming her husband, Philip, as her attorney, with her daughter, Judith, as an alternate attorney. Ida subsequently signed a number of other POAs. In January 2008, Stephen brought a guardianship application seeking his appointment as guardian for Ida and more than two years later, the proceedings had not been resolved. That failure led to this endorsement, which warned that a failure to abide by the timetable therein would lead to costs consequences not only for the parties but as against counsel, personally. The context of the endorsement is the fact situation of the Abrams guardianship application and also contested guardianship applications, in general, where as Justice Brown put it, "the parties have lost sight of the key issue", which is always the best interests of the incapable person. The case shows that although the *Substitute Decisions Act* sets out a mechanism for addressing incapable person's needs, it is clear that it is imperfect, and still allows for matters to be dragged out while family disputes continue.

#### **(c) *Teffer v. Schaefers***

The case of ***Teffer v. Schaefers***, 2008 CarswellOnt 5447, is one that concerned the use of an invalid power of attorney. The victim in that case was Mrs. Schaefers, who was 87 years old at the time the case was heard. She had been diagnosed with Alzheimer's disease and relied on the assistance of 24 hour nursing care in her home. She had been assessed by a professional medical assessor and found to be incapable of managing her property and making decisions regarding her personal care — a fact the Court confirmed.

There was considerable evidence which supported the view that she did not have capacity to assign a POA at the end of April 2006, despite the fact that Mr. Verbeek, a lawyer and the

attorney named in Mrs. Schaefer's Powers of Attorney for Property and Personal Care dated December 4, 1998 and April 27, 2006. While the Court found that there were no capacity issues with respect to the 1998 Power of Attorney for Property, it found that Mrs. Schaefer's did not have the capacity to give a Power of Attorney for Property on or about April 27, 2006 and, therefore, the document was not valid and could not stand. The Court concluded that Mr. Verbeek ought to be removed as attorney.

There was strong and compelling evidence of neglect on the part of Mr. Verbeek such that the wishes of Mrs. Schaefer's as set out in the 1998 Power of Attorney for Property should be terminated. The Court found that Mrs. Schaefer's best interests were not being met and that Mr. Verbeek's conduct clearly demonstrated an inability to understand and perform his duties diligently (such as comply with disclosure requests or proceed with a passing of accounts), even in the face of two Court Orders requiring him to do so. The Court concluded that an attorney for property is a fiduciary and the duties and responsibilities of an attorney are significant. Thus, if Mr. Verbeek was too busy as a sole practitioner to discharge his duties as an attorney for the property of Schaefer's then he should be relieved of those responsibilities.

**(d) *Fiacco v. Lombardi***

***Fiacco v. Lombardi*** was a case involving an elderly woman named Maria Lombardi who suffered from dementia and lived in a nursing home. In 2003 Mrs. Lombardi executed a POAPC and CPOAP appointing her four children, Carmela Fiacco and Antonio Lombardi, and the respondents, Giovanni Lombardi and Guiseppina Lombardi, as her attorneys. They were required to act jointly and to make decisions on her behalf, if the need arose.

The children did not act jointly as their mother wished. Instead, in 2008 they engaged in contested guardianship litigation regarding their mother. By order dated January 23, 2009, Cameron J. declared Maria incapable of managing property and incapable of personal care, and he appointed Carmela Fiacco and Antonio Lombardi as her joint guardians of property and of the person. The Order contained several additional provisions which required, among other things, that Giovanni Lombardi and Guiseppina Lombardi account for their dealings with their mother's property and deliver the keys to her home to the applicants. Although the court noted that the Order should have been a simple one to implement, it found that the guardians encountered difficulties in obtaining information from their brother and sister about the assets of their mother they controlled.

The Court found the respondents' behavior unacceptable and in contravention of the Order and the SDA. As stated by the Court: "The Order could not have been clearer - the respondents were required to account for their dealings with Maria Lombardi's property. The SDA is equally clear- the property of an incapable person must be delivered to a guardian "when required by the guardian"." The respondents were ordered to comply with the previous Order and had costs awarded against them. The Court made the further comment that the respondents may think the result harsh, but added that to fix costs against them in a lesser amount would result in the incapable person having to pay for their misconduct and that would not be just. Paramount to the Court's decision was the view that the respondents could have avoided the motion had they cooperated with the guardians as required by law and by prior Order of the Court.

**(e) *Woolner v. D'Abreau***

In ***Woolner v. D'Abreau***, Norah D'Abreau executed a Continuing Power of Attorney for Property in favour of the applicant, Robert Woolner, a lawyer, as well as another person, under which Mr. Woolner began to manage Ms. D'Abreau's property and financial affairs. Ms. D'Abreau subsequently retained another lawyer, Mr. Marcovitch, who began to ask Mr. Woolner questions about how he was handling Ms. D'Abreau's financial affairs.

Mr. Woolner suggested that Ms. D'Abreau undergo a capacity assessment; Mr. Marcovitch communicated that Ms. D'Abreau saw no need to do so. Ms. D'Abreau then appointed Mr. Marcovitch as her attorney, whereupon Mr. Woolner brought this application to compel Ms. D'Abreau to submit to a capacity assessment. Mr. Marcovitch then retained Mr. Koven as litigation counsel for Ms. D'Abreau. Mr. Koven recommended that she undergo an assessment. Ms. D'Abreau did so, and the assessment found her to be capable of managing her own affairs. According to the Court, counsel then debated the issue of costs of the application for the better part of half a year, which led to no costs being ordered due to collective loss of proportionality.

A hearing under Rule 57.07(2) of *Rules of Civil Procedure* was held with respect to the possibility of disallowing any costs as between client and her counsel and costs were disallowed beyond what had already been paid for in the earlier portion of litigation. According to the Court, as the legal services provided up to the costs dispute had contained value for their clients, counsel were entitled to compensation for them. However, as the Court found that the parties could have settled costs simply by re-attending court with little expense and that the evidence adduced had not established, on balance of probabilities, that Mr. Marcovitch clearly informed

his client as to the risks and potential costs of the litigation strategy employed or that he received informed instructions to proceed with that strategy. The Court found that the strategy was unreasonable, disproportionate to what was at stake, and provided no value to the client. As such, Mr. Marcovitch was not entitled to compensation beyond the \$6,250, already paid. Mr. Koven's fiduciary obligation required that he ensure the client understood the nature and risk of litigation, and no documentation indicated that he had done so. Similarly, the Court found that the legal work provided by Mr. Koven referable to the costs dispute provided no value to the client and resulted in costs being incurred without reasonable cause. As such, Mr. Koven was not entitled to recover any costs incurred for the costs dispute stage of the litigation.

#### **J. Awareness & Prevention**

Solicitors, planners, legislators, health care practitioners and the public at large, must be alert to the possibility of fraudulently obtained and fraudulently used POA documents and the risks to the older adult and to the cognitively impaired, the vulnerable, the dependent, and incapable. Fraudulently obtained or fraudulently used documents can wreak havoc for grantors and third parties alike. To that end, we advise everyone when dealing with powers of attorney to be cautious, vigilant, to make enquiries and to be constantly aware of both the risks and benefits that attach the preparation and use of a power of attorney document.

#### **K. Checklists**

It is our view that checklists can be of assistance to grantors and attorneys throughout the attorneyship. For this reason, we have provided to you both a checklist for legal duties and obligations associated with a Continuing Power of Attorney for Property as well as a checklist for the legal duties and obligations associated with a Power of Attorney for Personal Care.

#### **L. Resources**

- The Advocacy Centre for the Elderly
- Whaley Estate Litigation (*see Elder Law and Elder Abuse Links*)
- The Toronto Police Community Mobilization Unit, Vulnerable Persons Issues
- The Public Guardian and Trustee
- The Ontario Network for the Prevention of Elder Abuse (Senior Safety Line)
- **Checklists**





## 5<sup>th</sup> World Elder Abuse Awareness Day Innovative International Approaches to Elder Abuse Prevention

Betty F. Malks, LMSW  
North American Regional Representative, INPEA  
University of Toronto Faculty Club  
Toronto, Ontario  
June 15, 2010



## Thank You

This presentation will consist of several up to the minute  
**Innovative International Approaches to Elder Abuse  
Prevention.**

Much of the information for this presentation has been  
contributed by Greg Shaw, Director of International and  
Corporate Relations of IFA.

The power point slides were presented at the 10<sup>th</sup> conference  
of IFA in May 2010.

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## Introduction

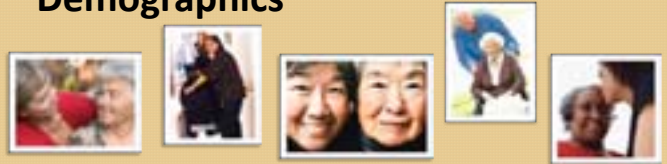
The first project presented is a very innovative  
one:

**To bring awareness/education on elder abuse  
and neglect to both clergy and lay leaders in  
faith communities.**

This project is funded, in part by the  
Archstone Foundation and the Santa Clara  
County Mental Health Department.

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## Demographics

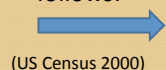


- Santa Clara County is one of eleven counties in California predicted to experience the greatest population growth among its seniors (Community for a Lifetime 2005).
- There were 323,838 persons 55 and older in 2000 (US Census 2000).
- By 2010, people age 55 and older are projected to make up 23% of the county's total population. This translates to almost double the population in 1990 (CA Dept. of Finance).

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## Demographics (cont.)

- Among Santa Clara County seniors ages 55 and over, their ethnicity is as follows:



(US Census 2000)

62.66%	White
20.31%	Asian
12.79%	Hispanic
1.92%	Black
1.86%	other/two or more races
.26%	Native American
.20%	Pacific Islander

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## Goals & Objectives

- Increased awareness of signs of elder abuse by clergy & congregants; and as a result, earlier intervention.
- Increased reports of elder abuse to APS by clergy & congregants.
- Reduction of elder abuse and neglect through faith-based, intergenerational education.
- Build partnership with minority communities to decrease and or eliminate fear and concern regarding working with governmental agencies; research & documentation on favorable approaches & receptivity.

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## Goals & Objectives (cont.)

- Development of curriculum, materials, and a support structure; create a train-the-trainers project including religiously, ethnically and linguistically appropriate education materials to facilitate replication in other communities.
- Early intervention by clergy and congregants in suspected situations of elder abuse or neglect.
- Enhance support for clergy in responding to elder abuse and neglect.

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## Activities and Outcomes

- Encourage Project Advisory Board members to promote faith community participation.
- Conduct focus groups among clergy, church leaders, and congregants.
- Create Lay Leader Network
- Create Social Action Research Project
- Convene Clergy & Lay Leader Summits
- Infuse Elder Abuse curriculum in seminaries
- Document all project activities, develop written protocols; compile project workbook for continuing project implementation as well as project replication for sustainability.

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## Lay Leader Summit

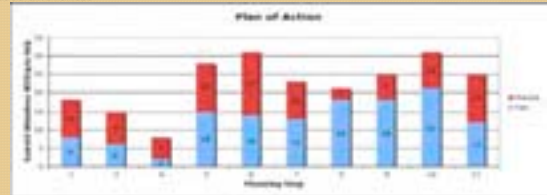
### DATA

- 150 Participants
- 57 Faith Communities Represented
- 127 responses to get involved in the project
- Plan of Action created



## Lay Leader Summit Outcomes: Plan of Action

1. Serve on county-wide taskforce
2. Develop website to unite and communicate with lay-leader and clergy taskforce
3. Compile information and referral materials
4. Prepare brief reports for website about lay leader activities
5. Serve as contact person within faith community for individuals who are being abused or suspected of abuse
6. Initiate and maintain weekly bulletin to increase awareness
7. Serve as a speaker (after training) to educate about elder abuse in various faith communities
8. Organize and/or participate in campaign to increase awareness on elder abuse
9. Organize or serve on pastoral care team
10. Help train pastoral care teams
11. Organize a caregiver group in your faith community



## Journal of Elder Abuse and Neglect

- JEAN Papers to be Published in July 2010

11

## Empowerment, Partnership & Collaboration to Prevent Elder Abuse

10<sup>th</sup> International Federation on Ageing Conference  
Wednesday 5<sup>th</sup> May 2010

Janine Campbell  
Seniors Rights Victoria  
srvman@cotavic.org.au

[www.seniorsrights.org.au](http://www.seniorsrights.org.au)

## Australia's Population



- ❖ By 2051, 6.4 million people will be over 65yo
- ❖ Seniors from different cultures are expected to increase rapidly during this time
- ❖ Australians over 65yo will be healthier, more active and continue to contribute significantly to the community

## Seniors Rights Victoria

- SRV works with people 60+ years at risk of or experiencing elder abuse:
  - o Telephone information and referral service, via our 1300 number
  - o Legal advice and casework
  - o Short term individual advocacy and support
  - o Community Education
  - o Systemic policy and law reform
- SRV is increasingly providing advice to service providers around issues of elder abuse

## Snapshot of recent call data

July-December 2009

- 753 elder abuse calls received via the SRV helpline 1<sup>st</sup> July -31<sup>st</sup> December 2009
- Of the 753 calls, 352 (47%) received information and referral at the initial point of contact
- 43% were referred onto SRV's legal and advocacy team for follow up

## Caller profile

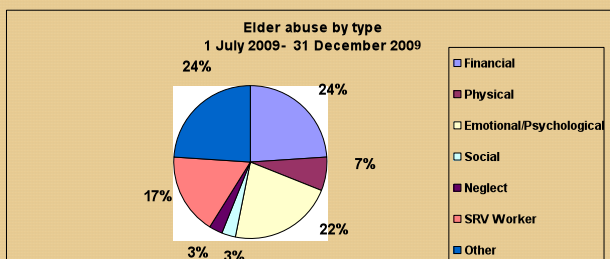
July – December 2009

- More than 30% of calls were from older people, with similar number of relatives and friends calling
- Females remain the highest call group (77%)
- Metro callers comprised 75% of all enquiries, and 18% were from rural Victoria, consistent with Victoria's population distribution

## Elder abuse by type

July – December 2009

- 1300 Helpline calls - Elder abuse by type



## Contact SRV

- **Telephone Help Line: 1300 368 821**
- **Email: [info@seniorsrights.org.au](mailto:info@seniorsrights.org.au)**
- **Postal: Level 4, 98 Elizabeth Street, Melbourne, 3000**
- **Website: [www.seniorsrights.org.au](http://www.seniorsrights.org.au)**

[www.seniorsrights.org.au](http://www.seniorsrights.org.au)


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Institut universitaire de gériatrie de Sherbrooke  
Health and Social Services Centre –  
University Institute of Geriatrics of Sherbrooke

## The Québec first plan of action to fight against elder abuse (2010): content and development process

Marie Beaulieu, Ph.D.

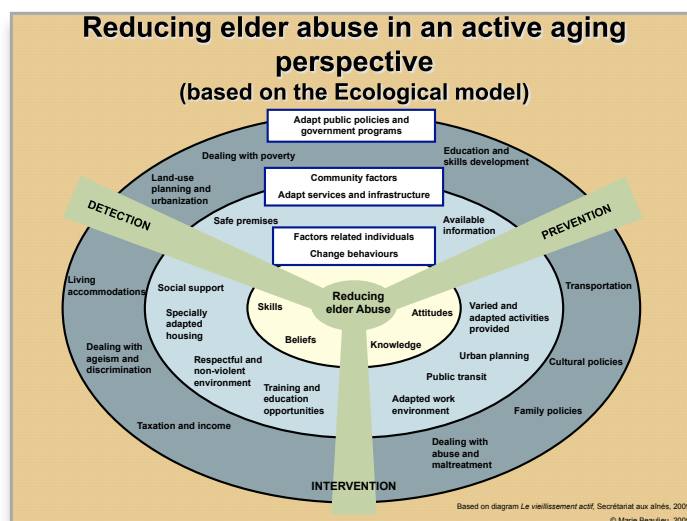


## 7 avenues of change

1. Shattering the silence on abuse and mistreatment
2. Changing mentalities will allow for better detection of potential abuse and mistreatment
3. Understanding situations of abuse and mistreatment more clearly
4. Ensure follow-ups after abuse detection
5. Stricter rules should be implemented for bank account power of attorney and significant cash withdrawals
6. Particular attention needs to be given to institutionalized seniors who are frequently more vulnerable and require better oversight to prevent abuse
7. Harsher penalties and greater support

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## Content

- A document divided in 2 parts
- Defining a social problem: elder mistreatment (definition, incidence and prevalence,, characteristics of mistreated seniors, characteristics of abusers, etc.)
- Government plan of action addressing mistreatment of seniors 2010-2015

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## Challenges

- Inter-ministerial approach
- Planning essential changes in a short time period
- To be aware of the limits of the plan but to be able to celebrate the introduction of considerable changes
- Mobilization of non-government actors in order to create a multiplicative effect of the impacts of the actions

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## My challenges

- Strong data and strong knowledge
- How to influence practice by research results
- Level of writing between a scientific report (or article) to a public policy document
- No control of the agenda



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## What I have learned

- Competencies of each Ministry
- Complexity of the structure in certain Ministries
- Shaping ideas in order to influence public policies



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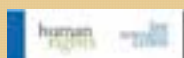
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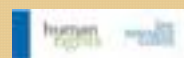
## Human Rights Law and Older Persons

Rachel Ball  
Human Rights Law Resource Centre Ltd  
[www.hrlrc.org.au](http://www.hrlrc.org.au)  
+ 61 3 8636 4433



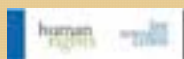
## Overview

1. Overview of the Victorian *Charter*
2. Human rights in action
3. Activity: case study I
4. Activity: case study II
5. Remedies for breaches of the *Charter*
6. Resources



## Overview of Victorian *Charter*

- Requires all arms of government to consider human rights as part of decision-making
- Requires courts to interpret and apply laws consistently with human rights
- Requires public authorities to act compatibly with human rights



## Some rights relevant to older people and elder abuse?

- Equality and non-discrimination
- Freedom from torture and other ill-treatment
- Privacy

### What can you do if someone's human rights are being breached?



- Complaints processes
  - ❑ Informal or formal (first port of call)
- Ombudsman
  - ❑ May enquire into or investigate whether any government action is incompatible with human rights
- Misconduct procedures against public officials
  - ❑ Public officials are required to make decisions compatibly with human rights
- Court proceedings
  - ❑ Only available where you can 'piggyback' on an existing case
  - ❑ No entitlement to damages

### Human Rights in Action

- Using the Victorian *Charter* to challenge an age-based policy that prevented a woman from accessing medical services.
- Using the UK *Human Rights Act* to challenge the separation of an older couple after 65 years of marriage.
- Using the UK *Human Rights Act* to challenge the blanket use of tilt-back chairs in a nursing home.



### Older Women's Experiences of Domestic Abuse: Exploring the Impact on the Lives and Health of Older Women

Dr Julie McGarry and Christine Simpson. Division of Nursing, University of Nottingham, UK

### Background

- There is a paucity of research regarding the particular experiences of older women (Mears, 2002)
- Many surveys on domestic abuse have historically excluded women over the age of 59 years
- Older women's experiences of domestic abuse are markedly different
- These differences have not been adequately accounted for within health and social care discourse generally (Women's Aid, 2007)

### Impact for Older women

- The specific impact of domestic abuse for older women has been identified as encompassing a number of factors
- For example, the effects of long term trauma (depression, anxiety), increased morbidity and mortality (Blood, 2004).

### Service Provision

- The services that are available for example women's refuges may not be appropriate for older women and it has also been suggested that older women may remain in abusive relationships through lack of practical knowledge of how and where to seek help

## Background

- The UK has an ageing population
- Pivotal that the wider health community is able to identify domestic abuse
- To understand the particular experiences and needs of older women
- Health care professionals are currently ill equipped to meet the particular needs of older women
- Services that are responsive to these particular needs are developed effectively

## Aims

- To explore older women's experiences of domestic abuse
- To examine the impact of domestic abuse on health in later life
- To identify how health care professionals, can recognise and effectively support older women who have experienced domestic abuse

## The Study

- Qualitative approach involving interviews with older women aged 59 years and over who have experienced domestic abuse
- Potential participants identified through a designated counselling service and local media

## Methods

- Qualitative design
- Data collection
- 16 in-depth interviews with older women
- Aide memoir and participant led
- Age range 59 to 84 years
- Experiences and duration

## Emerging Themes

- *Stripped of identity*: the effect of domestic abuse on the lives and health of older women.
- *Giving permission*: potential barriers to reporting abuse.
- *The information vacuum*: service provision for older women.

## Conclusions

- There are little available data about older women and domestic abuse. This is increasingly being recognised as a significant deficit in awareness and understanding in society as a whole and more particularly for those responsible for support and care provision.
- Domestic abuse has a significant effect on the immediate and long-term physical and mental health of older women.
- Older women who have experienced domestic abuse have particular health and support needs. The services that exist may not be appropriate to meet their needs. Moreover, older women may not recognise how to access existing support services.
- Healthcare professionals often do not acknowledge domestic violence as a potential issue for older women. Nurses and the wider health community should be aware of domestic abuse among this age group and develop effective strategies for recognition and support.

### ***The information vacuum: service provision for older women.***

'I just think there should be more information. I was very grateful to pick up this leaflet [local counselling service for older women] there again it was in a mental health waiting room rather than a doctor's surgery. It was for older women and that was the only advert that I have ever seen. Most of it [domestic abuse services] applies to the young age groups because you just wouldn't go there as a person over 50. I still don't know whether it is just help and support for younger women with younger children [...] there should be more out there and people made aware of the needs of older women' (participant five, 64 years).

'I didn't talk about it [domestic abuse] to anyone and I was sitting on the bus [recently] and there was an advert for counselling [for domestic abuse] Have you this and that? And I thought that's me, and here we are' (participant ten, 64 years).

### ***Giving permission: potential barriers to reporting abuse.***

'There was nothing for you ....and my parents would say "you make your bed then lay there" really... so I got no support [...] so I think that is the problem and which made me accept that [the abuse] in a very funny kind of a way' (participant one, 63 years).

'No refuges or whatever, not in those days, that's what I'm saying. You couldn't say to someone "please take me", there just wasn't anywhere to go' (participant two, 71 years).

'I think it is the "hiddenness" of it that is the problem actually, a big part of it...I think that needs to stop... I think we've got to give permission or try to get older women to realise that it is very wrong that they have been abused' (participant one, 63 years).

### **• Contact details:**

- **Dr Julie McGarry and Christine Simpson:**  
Division of Nursing, University of Nottingham, UK.
- Email: [Julie.McGarry@nottingham.ac.uk](mailto:Julie.McGarry@nottingham.ac.uk)  
[Chris.Simpson@nottingham.ac.uk](mailto:Chris.Simpson@nottingham.ac.uk)
- MCGARRY, J., SIMPSON, C., MANSOUR, MANSOUR. (2010). Exploring the impact of domestic abuse on the lives and health of older women: implications for policy and practice development. *Nursing Older People* (In press: publication June 2010).

### **Opportunity for questions and discussion**





## Empowerment, partnership and collaboration to prevent elder abuse

**Barbara Mountjouris**

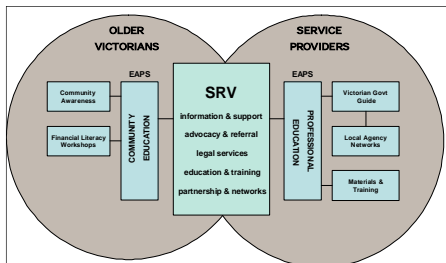
Director, Office of Senior Victorians  
Department of Planning and Community Development  
Victoria, Australia

Vision "to achieve a community where older Victorians are able to live in dignity and security and be free of exploitation, abuse or neglect."

- 2005 Elder Abuse Prevention Project Report - *Strengthening Victoria's Response to Elder Abuse*  
Recommendations: building capacity and increasing community awareness
- The Elder Abuse Prevention Strategy - *Supporting the Safety and Dignity of Senior Victorians* supports project report recommendations
- Strategy embodies principles of empowerment and self determination.
- 2006 Government's social policy action plan, *A Fairer Victoria*, allocates \$5.9 million to support strategy implementation.

## A framework for action to protect older Victorians

- Implementation plan developed. A whole of government approach with DPCD lead agency.
- Core components Seniors Rights Victoria, financial literacy, professional education, community education
- April 2007 Seniors Rights Victoria established



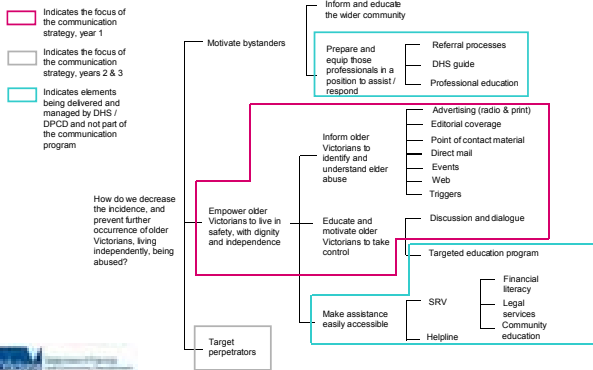
## What the community thinks about elder abuse

Qualitative research was undertaken to inform communications and stakeholder engagement strategy.

Key findings include:

- awareness of the term 'elder abuse' was 44%;
- the most likely immediate associations with the term 'elder abuse' were nursing home incidents and physical attacks and violence, usually involving robbery;
- the media was believed to sensationalise incidents of elder abuse;
- 35% believed that the greatest risk of elder abuse was posed by family and friends;
- 23% of respondents said they heard about elder abuse in the community either "a lot" (4%) or "to some extent" (19%).

## Communications strategy



## Next steps

The Government has allocated \$5.1m from 2010-2014 to continue the EAPS with the following priorities:

- Continued funding support for SRV;
- Continuation of the state-wide communications strategy, to support rollout of financial literacy and professional education workshops, PCP initiatives, and to continue radio, web and press promotion of SRV and EAPS;
- Specific initiatives targeted to Victoria's CALD and Indigenous communities

Barbara Mountjouris  
Director – Office of Senior Victorians  
Department of Planning and Community Development

Tel: 613 9208 3155  
Email: [barbara.mountjouris@dpcd.vic.gov.au](mailto:barbara.mountjouris@dpcd.vic.gov.au)  
Website: <http://www.seniors.vic.gov.au>



Sheridan Elder Awareness Centre



## ***Reflections on Trends in Aging: The Next Five Years***



Pat Spadafora M.S.W.  
Director, Sheridan Elder Research Centre (SERC)  
Sheridan Institute of Technology and Advanced Learning  
Oakville, Canada

World Elder Abuse Awareness Day  
June 15<sup>th</sup> 2010 – Toronto, Ontario



## Potential Risk Factors for Elder Abuse

1. Social isolation
2. Caregiver stress
3. Dependency or impairment of the older person
4. Ageism, lack of knowledge about the aging process
5. In nursing homes – often insufficient staffing, sometimes inadequately trained staff



## June 15<sup>th</sup>, 2015 Looking Back: My Wish List

- Developments that foster engagement, connectivity and social inclusion
- Supportive networks - virtual and face-to-face
- Greater emphasis on the rights of older persons
- Increased care partner support
- More positive images of aging in the media – reduction of stereotypes, ageism
- A world in which older adults are seen as resources, not burdens
- Empowerment of and self care by older persons
- Meaningful roles for older persons – opportunities to give back to the community
- Rethinking aging itself
- Innovative health promotion strategies that facilitate aging in a place of one's choice
- Enabling technologies that are possible, practical and affordable
- A range of mutually beneficial multigenerational opportunities
- Universal access to primary health care and adequate income levels
- Elder abuse eradicated
- Accessible, appropriate support for people aging in a foreign land
- Integrated services with a focus on the neighbourhood
- Older persons included in developing solutions to climate change.....



## A Snapshot of the Next Five Years What does the picture look like?



Longevity &  
Baby Boomers

Rights of Older  
Persons

Social Media &  
Connectivity

The Media

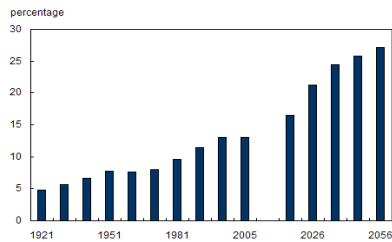
Technological  
Advancements

Aging in a Place of  
One's Choice



## Longevity

Percentage of Canadian population comprised of persons aged 65 or older, 1921 to 2005 and projections to 2056



**Sources:** Statistics Canada, Censuses of Canada; Population projections for Canada, provinces and territories.



## Baby Boomers - continued

- They will participate in online social networks, virtual retirement communities and community blogging
- They will manage their health differently with biometrics and online tools that allow them to share and benefit from new information from all over the globe
- There will be new banking/investment vehicles, peer-to-peer loans and new structures to manage new capitals

Source: The Institute for The Future, Palo Alto, California in collaboration with the MetLife Mature Market Institute



## Baby Boomers Impacting the Future Projections on Aspects of Their Lives

- Families will be 'chosen', not just inherited (emerging patterns of marriage, remarriage will change how we view family)
- Peer caretaking and social care matching services
- First generation to age in a truly global economy
- Boomers will find new ways to build community



## The Meaning of Home - 2015



- More options available on the continuum from independent community dwelling to LTC
- Moving care from institutions to home requires a paradigm shift in thinking
- More intentional communities, communities of interest
- House sharing & brokering services
- Multigenerational living

*What helps us to age "well and healthy" in place?  
What facilitates choice?*



## Aging in Place: Functional Mobility



- Fewer than 25% of older adults participate in the recommended amount of exercise (Ory et al., 2003)
- Individuals 65+ have the lowest exercise rate of all Canadians (Statistics Canada, 2003)



## Aging in Place: Cognitive Health

### Exercise Your Mind!

- Brain fitness trends
- Games – online and other

***\*By 2015 – Expect more emphasis on knowledge translation.***

How do you keep **your** mind active?



## Enabling Technologies



<http://www.ageinplacetech.com/>



## Enabling Technologies





## Social Media & Connectivity

### Emotional Networking for Caring & Well-Being

Emota is pioneering the new field of Emotional Networking, which complements existing telehealth solutions to address not just clinical health, but emotional and social aspects of elder care - Emota.net



"Bead" bracelet (Netherlands)

You Tube: Geriatric 1927

Empowerment of older persons themselves to use technology- connecting in new ways



## The Media and Aging: The view from down under\*

Cover in 1999



Most recent issue



\* Kaye Fallick  
Publisher **YOURLifeChoices** magazine  
**About Seniors** website

IFA Director



## Positive Images of Aging

- Expect to see more pictures of active elders working, achieving, mentoring, laughing and challenging themselves.
- Expect to see images of decline simply fade away





## Engagement: Opportunity to Contribute To One's Community The Elders

Chair, Desmond Tutu



*"It gives us such a strong sense of purpose and determination to sit with dear Madiba who brought us all together. We take his moral courage and his vision as our guide, to do what we can to address major causes of human suffering around the world."*



## Human Rights and Older Persons

### Towards a United Nations Convention on the Rights of Older Persons

*"If we are strategic about carving out some specific areas to concentrate our efforts, such as in the economic arena and, if we continue to demonstrate the worth and contributions of older persons, I believe there could be substantive progress towards a convention over the next five years".*



Helen Hamlin  
Consultant  
IFA Director &  
Main Representative at the  
United Nations



## Potential Risk Factors for Elder Abuse Closing the Loop

- ✓ Caregiver stress
- ✓ Dependency or impairment of the older person
- ✓ Ageism, lack of knowledge about the aging process
- ✓ Social isolation
- ✓ In nursing homes – often insufficient staffing, sometimes inadequately trained staff



Sheridan Elder Research Centre

### *Thank you!*

For additional information, please contact me at

**pat.spadafora@sheridaninstitute.ca**

**Tel: 905-845-9430, extension 8615**

Visit our web site for updates:

**<http://serc.sheridaninstitute.ca>**

Read our blog, ***Aging Matters***, at:

**<http://agingmatters.blogspot.com>**

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## Elizabeth Podnieks

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Dr. Elizabeth Podnieks is Professor Emeritus at Ryerson University and has recently completed the World View Environmental Scan on Elder Abuse with Dr. Georgia Anetzberger and Dr. Pamela Teaster, the first global study of elder abuse. She was the only Canadian consultant on the WHO/INPEA study on a global response to elder abuse "Missing Voices". She is a pioneer in elder abuse work in faith communities and in raising awareness of elder abuse among children and youth. Dr. Podnieks is the Founder and Chair of World Elder Abuse Awareness Day (WEAAD). A founding member of the International Network for the Prevention of Elder Abuse (INPEA) and its immediate past Vice President, she also the founder the Canadian Network for the Prevention of Elder Abuse (INPEA) and the Ontario Network for the Prevention of Elder Abuse (ONPEA). Dr. Podnieks was awarded the Order of Canada for her contribution in the field of elder abuse and neglect.

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## Honourable Gerry Phillips

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Gerry Phillips was appointed Chair of Cabinet and Minister Without Portfolio, Responsible for Seniors on January 18, 2010. Before becoming an MPP, Mr. Phillips was active in the private sector, heading three companies employing 300 people. He also served as a school trustee for 11 years and during this period was chair of the Metropolitan Toronto School Board and the Scarborough Board of Education. As well, he was chair of the board of governors for Scarborough General Hospital and is a past president of the Bridlewood Community Association. Mr. Phillips coached in the Agincourt Lions Club Minor Hockey League for more than 30 years.

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## Jane Barratt

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Jane is the Secretary General of the International Federation on Ageing and brings to this position over 30 years experience in the health, community and aged care, and disability sectors. She has a strong commitment to strengthen the roles and relationships between government, NGOs, academia and the private sector toward improving the quality of life of older people. This commitment has always been driven by her interest and passion in understanding the evolution of ageing issues and the corresponding public and private sector responses in different regions of the world. More recently Dr. Barratt has been a strong contributor to the international dialogue on how the social, cultural and physical environments can impact on the lives of older people. Adjunct research positions at Australian Universities serve to strengthen her interest in these areas, which include mature employment, the nexus between inclusion and marginalization, the impact of the environment on older people and the rights of older people.

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## Honourable Diane Ablonczy

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Diane Ablonczy was first elected to the House of Commons in 1993 and re-elected in 1997, 2000, 2004, 2006 and 2008. Ms. Ablonczy was appointed Secretary of State (Small Business and Tourism) in August 2007 and then Minister of State (Small Business and Tourism) in October 2008. She previously served as Parliamentary Secretary to the Minister of Finance. Ms. Ablonczy has been a member of several committees of the House of Commons, including the standing committees on Citizenship and Immigration, on Human Resources Development and the Status of Persons with Disabilities, and on Health. She has also served on the House of Commons Finance Committee.

Prior to entering political life, Ms. Ablonczy enjoyed a varied career, which included experiences ranging from teaching junior high school to managing a grain farm operation to building a successful law practice.

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## Sharon MacKenzie

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Sharon MacKenzie BA, MEd. (UBC), Executive Director of i2i Intergenerational Society of Canada, ([www.intergenerational.ca](http://www.intergenerational.ca)), has thirty years of teaching experience ranging from the Kindergarten classroom to the University lecture hall. She has worked tirelessly throughout her career to meaningfully connect school-aged youth to other generations within the community. Sharon has worked in the area of elder abuse prevention for almost a decade, and has been creating curriculum and workshops to bring awareness to the complexities and subtleties of ageism. Her work was the catalyst for the BC Ministry of Healthy Living and Sport Intergenerational Toolkit (2009). She is working with a national initiative to bring elder abuse awareness to children 9-13 years of age. In 2009, Sharon was presented the BC Premier's Award for Excellence in Teaching, nominated by parents, colleagues, students, administrators and community participants.

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## Greg Shaw

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Greg Shaw has a science and health administration background and until taking up the position of Director, International and Corporate Relations in June 2003, held senior management positions within the Australian Commonwealth Department Health and Ageing in Australia. Prior to joining the IFA he was the Manager for residential aged and community aged care programs in Western Australia. His long career with the Australian Government included management of the Compliance, Complaint and Accountability Section of the Department, having responsibility for the regulatory regime associated with quality of care and certification programs in both residential and community care services.

He held positions in the Department since 1986 with much of his earlier work focusing on policy development and program implementation supporting the aged care needs of rural and remote communities throughout northern Australia. This work, together with a placement with the Department's rural and remote policy unit in Darwin pioneered many of the programs in place today that support Australia's indigenous population and remote communities. An advocate of the aged care needs of marginalized community groups in the 1990s, he worked with many ethnic communities in Western Australia that resulted in the establishment of a number of aged care homes and community aged care services specifically designed and targeted for those communities.

Since joining the IFA Greg Shaw has had responsibility for the development of the Building Capacity in Health Care programs in Africa, worked closely with the South African Human Rights Commission to establish an older persons forum in that country.

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## Mala Kapur Shankardass

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Dr. Mala Kapur Shankardass is Associate Professor in Sociology at Maitreyi College, Delhi University. She consults for United Nations different agencies, for their Headquarters in New York, Asia and country offices. She is on the UN Technical Expert Group on Ageing and involved as Temporary Advisor with World Health Organization, South East Asia Region Office. She has completed some prestigious assignments with UN and international agencies on social, health, environment, development, ageing and gender issues.

She is India and Asia Representative of the International Network for Prevention of Elder Abuse. Dr. Shankardass is Life Member of Indian Sociological Society (ISS) and was Research Committee Convenor of Sociology of Crime and Deviance of ISS. Dr. Shankardass is an activist, advocating for social issues from a rights based approach, doing community outreach programs in the fields of her specialization.

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## Jn-Guy St. Gelais

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Jn-Guy is one of the coordinators (Quebec) for the Elder Abuse program under the National Initiative for the Care of the Elderly (NICE). He is the co-chair and Quebec representative of the Canadian Network for the Prevention of Elder Abuse (CNPEA) and he is interested in expanding the Canadian network and is committed to its importance to reduce abuse and neglect in later life. He is past president of the Quebec Conference of Regional Consultation Tables for Older Persons and past Board Member of the Quebec Network for the Prevention of Elder Abuse. He was affiliated with a research group in the Psychology Department at University of Sherbrooke focusing on the management of personal goals for retired people. He is a Board Member of the INPEA and the Steering Committee for the WEAAD. He is often invited as a speaker on elder abuse and neglect. He is a member of the Advisory Committee for the project defining and measuring Elder Abuse and Neglect in conjunction with HRSDC and NICE. Jn-Guy is involved in more than 20 different groups, most of them on elder abuse.

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## Gloria Gutman

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Dr. Gutman is well known in the field of gerontology as an educator, author, and consultant. She is the President of INPEA. Dr. Gutman developed the Gerontology Research Centre at Simon Fraser University (SFU) and was its director from 1982-2005. She also developed the Department of Gerontology at Simon Fraser University and served as its Director from 1983-2003. Dr. Gutman currently is a Co-leader of the BC Network for Aging Research, one of 8 population health networks established by the Michael Smith Health Research Foundation in 2005.

Dr. Gutman's research interests are wide-ranging; they include seniors' housing, long term care, health promotion, and seniors and emergency preparedness. Projects recently completed include "Towards More Age Friendly Hospitals", a series of studies undertaken for the Fraser Health Geriatric Clinical Services Planning and Delivery Team and one funded by CMHC exploring the urban planning concepts of smart growth, livable and sustainable communities and their relationship to aging in place.

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## Susan Crichton

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Susan Crichton is currently working with the Public Health Agency of Canada, Division of Aging and Seniors, as the Senior Policy Analyst for the public health component of the Federal Elder Abuse Initiative.

This work is part of a two and half year interchange agreement between the Public Health Agency and the Province of Manitoba where Susan led the provincial Elder Abuse Strategy since 2001.

Earlier in her career, Susan worked in victim services where she provided support to older people affected by crimes.

Susan holds a Bachelor of Human Ecology in Family Social Sciences and a Master of Science in Family Social Sciences, both from the University of Manitoba.

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## Susan Susskind

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Susan Susskind has devoted the past 8 years to working in numerous areas related to the field of eldercare. She is a Certified Senior Advisor, and devotes much of her time working to raise awareness of Elder Abuse. She has worked with the International Network for the Prevention of Elder Abuse on the production of the World-Global Events" Video.

Sue has led a number of webinar trainings on the topic of elder abuse. These training programs were directed toward helping the participants become more knowledgeable on the topic of elder abuse, for the purpose of enabling them to educate people within their own communities. She is also acting Director of Development for the National Adult Protective Services Association (NAPSA).

Sue also regularly authors articles relating to elder care on [www.boomer-living.com](http://www.boomer-living.com), and provides current and vital information to "boomers" so that they can make informed decisions regarding care of their loved ones.

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## Raeanne Rideout

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Raeann Rideout is currently the Central East, Regional Elder Abuse Consultant for the Ontario Network for the Prevention of Elder Abuse.

Raeann has worked in the field of elder abuse for 12 years. In her current position, she provides front-line training and public education, assists in the planning of community events/project, strengthening community partnerships and collaborates with local, provincial and national stakeholders enhance the response to elder abuse. Raeann consults with seniors, families and agencies on elder abuse cases.

Raeann has also worked for the Addictions Foundation of Manitoba as an Education Prevention Consultant and as a Consultant for the Manitoba Seniors Directorate.

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## Cynthia Thomas

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Cynthia Thomas, Ph.D., is a Senior Study Director at Westat, an internationally known employee-owned research company in Rockville Maryland, and a Senior Director at the Rockville Institute. Dr. Thomas has more than 30 years of experience directing large-scale survey research projects involving complex sample designs, large data collection and training efforts, quantitative and qualitative analyses, and the preparation of reports and issue papers. In partnership with the National Center on Elder Abuse, she conducted the first (and to date only) National Elder Abuse Incidence Study in the United States, using a unique sentinel reporting technique, successfully pioneered in the child abuse studies. She is a Co-PI on a preparatory study to measure the prevalence of abuse and neglect of older adults in Canada. She is a member of the International Network for the Prevention of Elder Abuse, and has served as communications coordinator on the planning committee for the World Elder Abuse Awareness Day for the last 3 years.

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## Lynn McDonald

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Dr. McDonald is a professor in the Faculty of Social Work and Director of the Institute for Life Course and Aging at the University of Toronto. In 2002 she was awarded the Governor General's Golden Jubilee medal for her contributions to Canadian gerontology. Her research interests include work and retirement, violence against women and older adults, poverty and homelessness among older adults. Dr. McDonald is conducting a multi-layered project on Defining and Measuring Elder Abuse and Neglect: Preparatory Work Required to Measure the Prevalence of Abuse and Neglect of Older Adults in Canada (2010-2012). She is the Scientific Director of a National Centre of Excellence dedicated to the inter-professional care of older adults called the National Initiative for the Care of the Elderly (NICE), and has been leading the NICE Elder Abuse Team: Knowledge to Action research grant (2008-2011). She has been a board director of the Canadian Association of Gerontology and served as Editor, Policy and Practice and Acting Editor, Social Sciences for the *Canadian Journal on Aging*. She also has been a board director of the Social Sciences and Humanities Research Council of Canada, a member of the Board of Accreditation for the Canadian Schools of Social Work and a member of the CIHR Institute of Aging, Social Dimensions of Aging Committee.

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## Kimberly Whaley

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Kimberly A. Whaley is the senior partner of the law firm, Whaley Estate Litigation. Her practice is restricted to the litigation and mediation of estate, trust and capacity proceedings. Kimberly was designated as a Certified Specialist in Estates and Trusts Law by the Law Society of Upper Canada in 2006. She has been peer rated and listed by The Best Lawyers in Canada in the speciality of Estates and Trusts (2009, 2010). Kimberly was chosen by Lawday Leading Lawyers as one of the top 60 leading lawyers in Estates and Trusts in the year 2009.

Kimberly is Past-Chair of the OBA Trusts & Estates Executive, and is currently a member of the CBA Elder Law Section Executive. Kimberly is a member of the OBA Sole, Small Firm and General Practice Executive. She is a registered member of the Society of Trusts and Estates Practitioners (STEP) (worldwide) and is on the STEP (Toronto) Executive. Kimberly is a committee member of The Professional Advisory Group of the Baycrest Foundation. Kimberly is a member of the Estate Planning Council of Toronto.

Kimberly co-mediates with her mediation partner, Brian Wilson at [estatemediators.ca](http://estatemediators.ca)

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## Graham Webb

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Graham Webb has been a Staff Litigation Lawyer with the Advocacy Centre for the Elderly since May 1995. He graduated from Osgoode Hall Law School in 1983, was called to the bar of Ontario in 1985, and obtained an LL.M. (Tax) from Osgoode Hall Law School in 2001. Before joining ACE, he was engaged in private practice for ten years at Barrie, Ontario, in a general practice with emphasis on civil and criminal litigation.

He has appeared in civil and criminal matters at all levels of courts and tribunals, including the Supreme Court of Canada, the Ontario Court of Appeal, the Superior Court of Justice, the Ontario Court, and a wide range of administrative tribunals on jury and non-jury trials, appeals and administrative hearings.

As a Staff Litigation Lawyer, he gives direct client representation to older adults on age-related legal issues including consent, capacity and substitute decision-making; power of attorney disputes; adult guardianships; long-term care; home care; health care; personal health information protection; income-security; title fraud; and elder abuse claims.

He gives frequent legal education presentations on elder law issues to older adults and service providers, including police, health-care professionals and other lawyers. He is a contributing author of *Long-Term Care Facilities in Ontario: The Advocate's Manual*, which is published by ACE, and is the author of journal and newsletter articles. He has been the editor-in-chief of the *Journal of Law and Social Policy*.

He is a part-time evening instructor in Gerontology at Ryerson University, and has won an award from the *Continuing Education Students' Association at Ryerson* for excellence in teaching. He is also a Distinguished Fellow of the *Canadian Centre on Elder Law Studies*.

In his private life he is a volunteer home-visitor with the *Society of St. Vincent de Paul*; a member of the board of directors of *Simcoe Community Services*, which is a multi-service agency giving supports and services to developmentally disabled adults and children, and their families; and a member of the *Simcoe County Concert Band*.

Graham is also a Distinguished Fellow of the Canadian Centre for Elder Law.

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## Betty F. Malks

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Betty F. Malks has over 30 years experience in the field of Aging. Since 1997, as department director, she has spearheaded the creation of the Santa Clara County Social Services Agency's Department of Aging and Adult Services (DAAS), bringing together all adult programs under one umbrella, including Adult Protective Services, Public Administrator/Guardian/Conservator, In-Home Supportive Services, and Senior Nutrition. Most recently, Ms. Malks has been appointed as the North American Regional Representative for the International Network for the Prevention of Elder Abuse (INPEA), has been a member of the World Elder Abuse Awareness Day (WEAAD) Steering Committee 2006-present and is a member of the Education Committee of the National Committee for the Prevention of Elder Abuse (NCPEA). She was elected into the Who's Who in America in 2006, 2007, 2008, 2009, and 2010 and Who's Who in the World in 2007, 2008, 2009, and 2010.

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## Pat Spadafora

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Pat Spadafora is the Director of the Sheridan Elder Research Centre (SERC), located on the Oakville, Ontario campus of the Sheridan College Institute of Technology and Advanced Learning. Ms. Spadafora has an M.S.W. from Wilfrid Laurier University and over thirty-five years of experience in the social work and education fields. Prior to moving full time into the research centre in 2003, Ms. Spadafora taught in and coordinated the Social Service Worker and Social Service Worker-Gerontology Programs at Sheridan.

Ms. Spadafora has a proven track record of bringing innovative projects to fruition. SERC, originally conceived of and developed by Ms. Spadafora, is an interdisciplinary applied research facility that focuses on quality of life factors associated with aging. SERC enables researchers to go from “lab to life”™ with its consumer driven focus and its emphasis on knowledge translation. Ms. Spadafora’s expertise and interests include, among others, global population aging, aging in place, accessible technology, civic engagement and retirement, learning through the creative and performing arts and building community capacity. In addition to her work at SERC, Ms. Spadafora is a member of a number of committees, including her role as a Director with the International Federation on Ageing.

Ms. Spadafora’s expertise and interests include, among others, global population aging, aging in place, accessible technology, civic engagement and retirement, learning through the creative and performing arts and building community capacity.

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## Lisa Mercure

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Lisa Mercure is the elders Coordinator for the BC Association of Aboriginal Friendship Centres' (BCAAFC). Lisa is proud of her Mikisew Cree and French heritage. In October 1999, she began working for the BCAAFC and has managed the Aboriginal Friendship Centre Program (AFCP) and the First Citizens Fund initiatives for seven years. Lisa’s role is to provide direct technical support with the guidance of a 9 person peer advisory committee to the 24 local Centres - in areas of organizational development, human resources and governance. She balances work and family with volunteering as a way to give back to the community. Lisa is one of the founders and current Vice-President of the Nihiyaw Language and Culture Society, to preserve her heritage and become a role model for her three daughters. She is very active in the Aboriginal community such as developing a First Nations and Metis Program curriculum for the Conseil Scolaire Francophone of BC. In addition, Lisa was recently nominated to the Board of Directors of Volunteer BC.