

---

# PROTECTING OLDER CLIENTS from FINANCIAL ABUSE: The ROLE of the POLICE

Estate Planning Council of  
**Toronto**

M. 2011.01.10



# ELDER ABUSE

- **harm caused to a person over the age of 65 years by someone in a position of trust or authority (TPS)**



---

# WHO is the ABUSER?

- **spouse/partner, children, other relative, friend, neighbour**
- **someone acting in a professional capacity**
  - financial advisor, legal advisor, healthcare provider, realtor, religious advisor, substitute decision-maker...
- **i.e.- person in position of trust or authority**

# TYPES of ABUSE

- **financial\***
- **psychological/emotional\***
- **physical**
- **neglect**
  
- **or, any combination thereof...**



# PROFILE of 'TYPICAL' VICTIMS

## Victims *may*:

- be widowed or living alone
- be socially isolated
- be lonely, grieving, depressed
- be an 'older' elder
- be under the control or influence of the **abuser** (overestimate dependence)
- be physically frail, but mentally capable
- have some degree of physical impairment or mental incapacity
- have special care needs



# PROFILE of 'TYPICAL' ABUSERS

## Abusers *may*:

- have substance abuse problems or addiction issues
- have a history of mental illness or emotional problems
- be under/un-employed
- be dependent on the older person for assistance
- be resentful of caregiver role
- have (visible) dysfunctional traits
- have a sense of entitlement/greed



---

# Possible INDICATORS of FINANCIAL ABUSE

- **finances in someone else's control**
- **controlling money matters against an older person's will**
- **unexplained or sudden inability to pay bills**
- **senior's standard of living not in keeping with income or assets**
- **despite adequate financial resources, substandard care being provided or care bills left unpaid**
- **absence of required aides (walker, wheelchair, etc.)**
- **refusal by caregiver to consider a move to a care facility or, to provide care when needed**
- **provision of services that are not necessary**

---

# Possible INDICATORS of FINANCIAL ABUSE cont'd

- **unexplained or sudden changes in bank account or banking practice**
  - **withdrawal of money from accounts by older person**
  - **unexplained withdrawals of large sums of money by a person accompanying older adult**
- **unexplained disappearance of funds or valuable possessions**
- **inclusion of additional names on bank signature card**
- **unauthorized withdrawal of funds with ATM card**
- **discovery of a forged signature for financial transactions or, for the titles of older adult's possessions**

---

# Possible INDICATORS of FINANCIAL ABUSE cont'd

- **selling property without permission**
- **abrupt changes in the will or other financial documents**
- **unexplained sudden transfer of assets to a family member or someone outside the family**
- **appearance of previously uninvolved relatives claiming rights to older adult's affairs or assets**

---

# Possible INDICATORS of FINANCIAL ABUSE cont'd

- **stranger taking on greater role of importance (undue influence)**
- **isolation: family & friends cut off (gradual- sudden)**
- **refusal to spend money without agreement of care provider or other family member**
- **no money/food/clothes**
- **opening mail without older adult's permission**
- **sharing an older person's home without paying fairly for expenses**
- **personal report of financial exploitation**

# CRIMINAL CODE of CANADA

## Financial:

- theft
- theft by power of attorney
- destroying documents of title
- credit card offences
- fraud/false pretences/forgery
- false statement in writing



---

# Possible INDICATORS of PSYCHOLOGICAL ABUSE

- **isolation, no outside involvement, estrangement, lives with abuser**
- **depression, withdrawal, anger, fear, reluctance to speak openly, emotionally upset or inexplicably agitated, tearfulness**
- **feelings of hopelessness, helplessness, low self-esteem**
- **avoidance of (eye) contact with/ deference to caregiver or abuser**

---

# Possible INDICATORS of PSYCHOLOGICAL ABUSE cont'd

- **extremely withdrawn or non-communicative or non responsive**
- **behaviour that suggests dementia**  
(e.g., sucking, biting, rocking)
- **difficulty sleeping or excessive sleeping**
- **personal report of being verbally or emotionally mistreated**

---

# CRIMINAL CODE of CANADA

## Psychological:

- invasion of privacy
- criminal harassment
- indecent/harassing telephone calls
- uttering threats
- intimidation



---

# UNDUE INFLUENCE

**“As prosecutors, our argument is that in the case of real undue influence the consent of the victim has been stripped away. Because of the insidious nature of the undue influence, the victim is no longer able to give a balanced, free will consent to the transactions. Whereas the defense will always say, "This was a gift. They wanted my client to have the money."**

D.A. Paul Greenwood  
“Elder-abuse prosecution guru sheds light on crimes”  
April 11, 2005

# CAPACITY (SDA, 1992)

- **the ability to understand relevant information & appreciate the reasonably foreseeable consequences of making or not making a decision**
  - **Property, s. 6**
  - **Personal care, s. 45**



# POWER of ATTORNEY – PROPERTY (SDA, s.7(1))

- **authority given to manage a person's finances** (transactional vs. ownership)
- **may operate even when capable**
- **does not stop capable seniors from managing their own finances**



# POWER of ATTORNEY – PERSONAL CARE (SDA, s.46(1))

- gives authority to make personal care decisions only when person is incapable
- e.g.) accommodation, nutrition, hygiene, medical needs, clothing



---

# SUBSTITUTE DECISION ACT (1992)

- **Duties of guardian**

**32. (1) A guardian of property is a fiduciary whose powers and duties shall be exercised and performed diligently, with honesty and integrity and in good faith, for the incapable person's benefit. 1992, c. 30, s. 32 (1).**

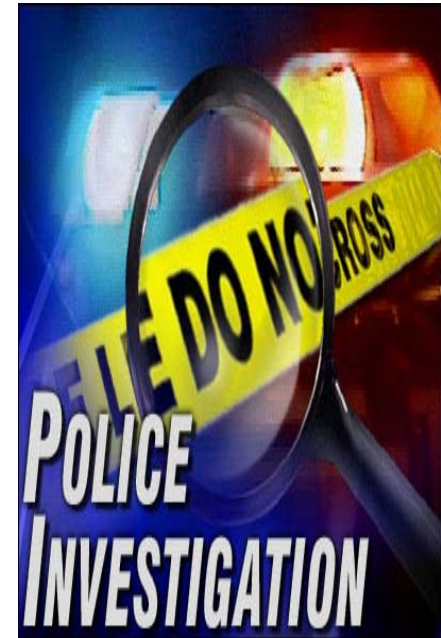
- **Liability of guardian**

**33. (1) A guardian of property is liable for damages resulting from a breach of the guardian's duty. 1992, c. 30, s. 33 (1).**

# CALLS for POLICE SERVICE

## General Information

- exact location & address history
- caller identity & status
- nature of incident
- need for EMS (ambulance)
- suspect information
- weapons
- children present
- court orders



# VA/EA CALLS for SERVICE

- all calls attended in person by officer
- consideration/accommodation for special needs
- report submitted
- TPS procedure: *Abuse of Elderly or Vulnerable Persons, etc.*
- criminal or civil matter?  
(appropriate follow-up)



# WHO, WHEN, WHY & HOW to CALL POLICE

- **Who: Communications Centre, Specialized unit, local division or individual officer**
- **When: to report (suspected) criminal matter or suspicious/unusual occurrence or, need answer to question or, discuss concern or pressing issue**
- **Why: to advise, for information or clarification**
- **How: emergency 911, non-emergency (416) 808-2222 or direct #**



# WHAT HAPPENS NEXT?

- **911 call – EMS, police investigation/report**
- **non-emergency call – investigation/report or provide information/referral**
- **TPS procedures – CCC arrest, MHA apprehension, report, referral, follow-up ...**



# WHAT HAPPENS NEXT?

- **CIB: investigative follow-up**
- **CRO or CPO visit/follow-up/meeting**
- **CMU: resource/referral, staff presentation, committee, initiative or meeting**



# FRAUD

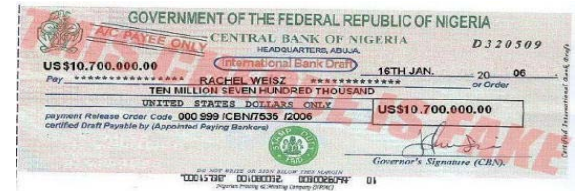
**“Everyone who by deceit, falsehood, or other fraudulent means, whether or not it is a false pretence, defrauds the public or any person, of any property, money or other valuable, or any service.”**

(TPS definition)



# FRAUD INVESTIGATION

- A police officer, when investigating a fraud complaint, shall seize:
- personal, company or government cheque
- travellers or payroll cheque
- money order, bank draft
- sales draft/invoice
- credit card
- ATM card
- other specified document (e.g.) letter, email



---

# RESPONSIBILITY to VICTIM

- **let the victim know what is going to happen next, particularly is the investigation involves a family member**
- **keep the victim updated, regarding case status, charges, arrests, court dates, release conditions...**
- **if required to testify, explain the criminal court process & offer court preparation by either police or VWAP**
- **ensure victim knows who you are & how to contact you**
- **if the victim is “at risk,” ensure community supports are in place**

# DUTIES of POLICE

- **investigation/enforcement**
- **education/empowerment**
- **increase awareness of resources**
- **provide access to network of social services & community agencies**
- **\*response: criminal or civil**



---

# PROTECTING ELDERLY CLIENTS

from FINANCIAL ABUSE:

The ROLE of the POLICE

**PC Patricia Fleischmann**  
**Vulnerable Persons Issues**  
**Community Mobilization Unit**  
**(416) 808-7040**

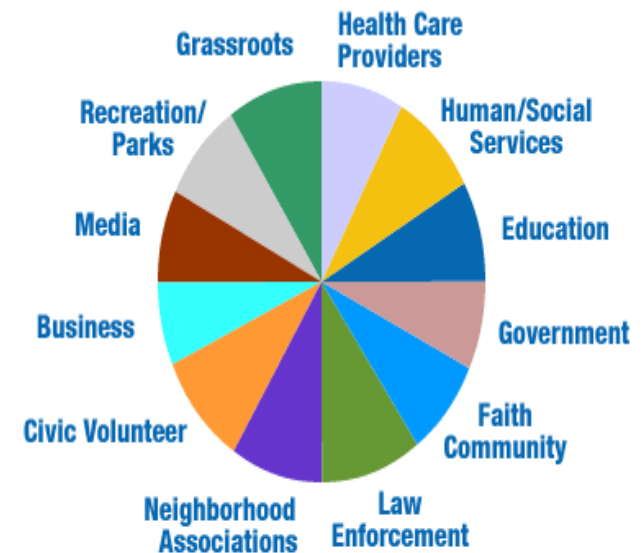
[patricia.fleischmann@torontopolice.on.ca](mailto:patricia.fleischmann@torontopolice.on.ca)

<http://www.torontopolice.on.ca/communitymobilization/elderabuse.php>



# COMMUNITY ROLE

- education/empowerment
- increase awareness & availability of resources
- ***Elder Abuse*** may NOT ALWAYS be a CRIME: nonetheless, it is *morally reprehensible* & has *devastating consequences*



**The Community Wheel**

[www.MarinInstitute.org](http://www.MarinInstitute.org)

# FIDUCIARY DUTIES to CLIENT

(CBA, FCAC, FSCO – what role?)

- case law
- civil liability
- joint efforts with local law enforcement:
  - proactive
    - interagency, cross-jurisdictional...
  - reactive
  - LEAPS



# POLICE/COMMUNITY COLLABORATION

- **government, support agencies, service providers, other interested organizations, business sector & police**
- **communication/common goals**
- **understanding of roles/mandates**
- **advocacy: to government**

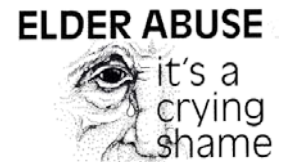


# WHY are OLDER ADULTS TARGETED?

- **accessible** (retired or house bound)
- **believed to have a ready supply of \$\$\$**  
(savings & property)
- **often reside alone** (widowed, socially isolated, vulnerable & lonely)
- **usually trusting individuals** (substitute relationship?)
- **embarrassed if conned** (fixed income > quick rich scheme > future financial security or, naive?)
- **often reluctant or, may be unable to report**  
(issues of incapacity & gullibility)
- **desire independence** (need to make own decisions & fear/threat of reprisal or institutionalization)
- **easy victim**
- **entitlement or, pay back...**

# WHY do EA VICTIMS FAIL to REPORT?

- **many older adults:**
  - **minimize the abuse...**
  - **rationalize the abuse...**
  - **deny the abuse...**

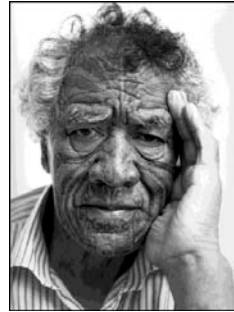


---

# WHAT do VICTIMS of ELDER ABUSE NEED?

- **the abuser to stop the violence, exploitation, or neglect**
- **safety, shelter & access to financial resources**
- **home support services so they are not dependent on the abuser or, housing options to meet their needs**
- **emotional support, counselling & greater links to the community**
- **advised of all options, including:**
  - **information about the law & the criminal justice system, especially about what is likely to happen to their abuser if it is a family member**

# TRUST & AUTHORITY: POWER & CONTROL



- **abuse/violence is used to intimidate, humiliate, coerce, frighten or simply, make the victim feel powerless**





# TPS RESOURCES

<http://www.torontopolice.on.ca/>

## Fraud Unit

### ■ Project Senior

(416) 808-7300

## Community Mobilization Unit:

### ■ Vulnerable Persons Issues (older/vulnerable abuse & neglect; mental health)

(416) 808-7040

<http://www.torontopolice.on.ca/communitymobilization/>

-elder abuse

-mental health



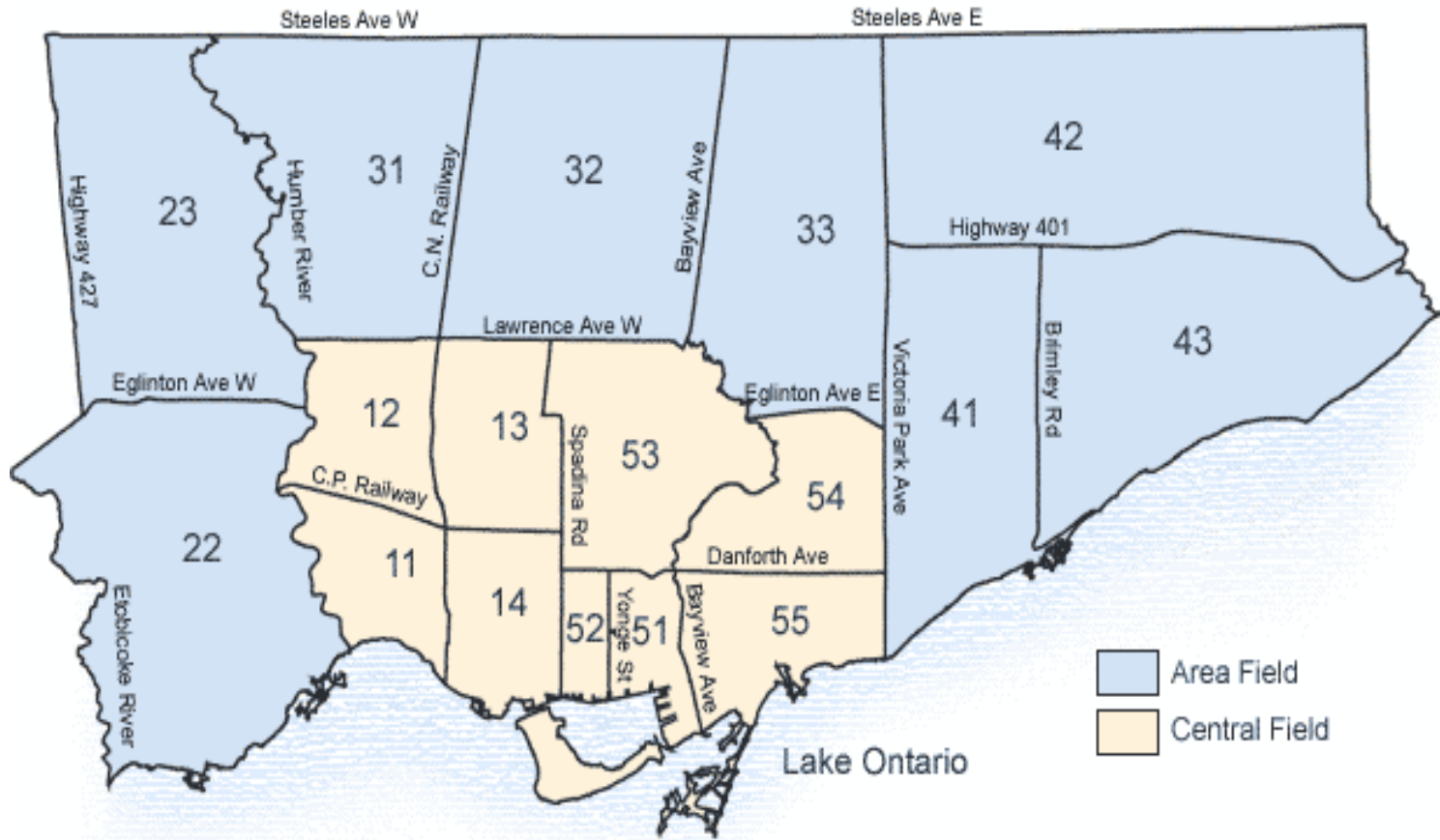
# TPS RESOURCES

<http://www.torontopolice.on.ca/>

## Divisional Resources:

- **divisional fraud investigators**
- **divisional Family Violence Units (DV & YB)**
- **divisional Community Relations Officers (CRO's) & Crime Prevention Officers (CPO's)**
- **Mobile Crisis Intervention Teams (St. Joseph's, St. Michael's, Scarborough General, Grace & Centenary Hospitals, Humber River Regional)**





---

# VICTIM SERVICES

- **immediate on-site support & crisis intervention**
- **assessment of victim's needs**
- **links to agencies & resources in the victim's local community**
- **counselling**
- **advocacy**
- **violence prevention**
- **safety services**
- **outreach**
- **operates 24/7 # (416) 808-7066**



**victim services toronto**

---

# PLEASE, NO POLICE!

- **community agencies (often, even if immigration status is a concern) will assist with:**
  - ❑ **safety planning**
  - ❑ **building a history, with pictures**
  - ❑ **medical assistance**
  - ❑ **legal assistance**
  - ❑ **shelter**
  - ❑ **financial assistance**
  - ❑ **counselling**

---

# POSSIBLE INTERVENTIONS

- **education**
- **safety plans**
- **home visits**
- **in-depth assessment/interview**
- **co-ordination with other services**
- **contact with other family & friends**
- **arrest & charge**

# ELDER/VULNERABLE ABUSE ISSUES to CONSIDER

- **capacity, consent, guardianship?**
- **any undue control or dependency issues?**
- **does substitute decision maker have a conflict of interest?**
- **can barriers to reporting be overcome?**
- **criminal or non-criminal matter?**
- **other resources?**
- **follow-up?**

