

An Overview of Elder Abuse

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Perhaps, as a member in good standing of the class of people referred to as the “baby boomer generation”, I have become more concerned about Elder Abuse. However, it is an issue about which all of society should be concerned.

In 2002 there were approximately 200,000 cases of Elder Abuse reported in the state of California, and in 2009, nearly 300,000 reported cases. That represents a 50% increase in reported cases in 7 years. Clearly, this is one of the fastest growing segments of family law related case filings. The problem threatens to grow much worse as the “graying” of the Baby Boomer generation results in unprecedented demographic shifts. The US Census bureau projects that California’s elderly population, already the largest in the country, will double in size in the next 20 years.

Simplistically, Elder Abuse consists of three separate, but related, categories: Physical and Emotional Abuse and Neglect; Financial Abuse and Institutional Abuse.

1. Physical and Emotional Abuse and Neglect

This category is similar to something with which we are very familiar-domestic violence. Physical abuse includes, physical assault; sexual assault; deprivation of food, water or medication; and use of physical or chemical restraint. Neglect includes failure to assist in personal hygiene; to provide clothing and shelter; to protect from safety hazards and to prevent malnutrition and dehydration. Emotional abuse includes verbal assaults, threats and intimidation; subjecting the victim to fear, isolation or emotional distress; withholding of emotional support; and confinement.

Recognizing the physical warning signs can be obvious:

- poor hygiene
- bruises and lacerations
- Scratches, blisters, bed sores, burns, and welts
- broken arms, legs, and fingers
- torn or bloody clothing

Recognizing the behavioral warning signs can be much less obvious:

- Withdrawn
- Confused
- Extremely forgetful
- Depressed
- Secretive and hesitant to talk freely
- Frightened
- Helpless

2. Financial Abuse

Financial abuse is the theft or embezzlement of money or property from an elder (over 65). It can be as blatant as the taking of cash or checks or personal property of the victim or as complex as coercing the victim into transferring real property, stock, businesses or other intangible assets to the perpetrator.

A victim of financial abuse may demonstrate some or all of the behavioral warning signs of the victim of physical abuse. Additional warning signs include:

- unusual bank activity such as ATM or cash withdrawals
- checks written to cash
- Existence of unpaid bills when the bills had been fully satisfied previously
- Unusual expenditures on unnecessary items such as cars, travel, jewelry, computers, televisions and gifts.
- The sudden appearance of someone new in the victim's life who creates a new close relationship with the victim.

3. Institutional Abuse

This category can encompass both of the above categories, but rather than the perpetrator being a friend, relative or care giver, the perpetrator is a long-term care facility, nursing home, hospital or other such facility. The same warning signs as identified above for physical, emotional and financial abuse exist for this abuse.

What to do in the case of Elder Abuse?/

Firstly, as with Child Abuse (CPS) each county in California maintains an office of Adult Protective Services (APS). APS investigates reports of abuse that occur in a private home, hospitals, day care facilities and day care centers. APS, can if appropriate, contact the District Attorney's office for further investigation to determine the existence of criminal activity.

Secondly, Elder Abuse is an actionable civil action. A private attorney, representing the victim, can initiate relief for a TRO, permanent injunction and, in the appropriate case, monetary damages, both compensatory and punitive, and attorney's fees. As you may know, Hughes and Sullivan, does accept Elder Abuse cases.