

Detecting and Reporting Elder Mistreatment

Elder mistreatment usually occurs without witnesses, making the detection of the abuse or neglect more difficult. To demonstrate the complexity of detecting and reporting elder mistreatment, let's return to Selma's situation.

One of Selma's sisters observed that Selma wasn't being well provided for after her son became Selma's primary caretaker. The sister sounded the alarm by contacting a niece who was close to Selma. Initially, the niece tried to improve Selma's situation without involving a third party, which would have spooked the son and scared Selma.

When the niece's informal attempts to improve Selma's situation didn't work, the niece contacted her attorney. She advised the niece to report the son's neglect of Selma to Adult Protective Services (APS). However, Selma's sister advised against doing this. She claimed that APS could remove Selma from her home, put her in a shelter, and then place her in a nursing home, which Selma would never want. While Selma's sister's advice considered Selma's wishes, it was nonetheless poor, given the extent of the neglect. Instead of calling APS, then, the niece contacted a nephew to help persuade the son to retain outside help for both him *and* Selma. The son agreed to this several times but never followed through. Other relatives also tried to convince the son to arrange for home health care and appropriate medical care for Selma. Again, he agreed but later reneged.

In frustration, Selma's sister and the niece wrote Selma's doctor to tell him that Selma's son was neglecting Selma's basic needs. The niece said, "I never heard back from the doctor. So I called him. He refused to address the neglect issue. He treated me like a meddler instead of a concerned family member."

With the continuation of the son's and now his wife's pattern of neglecting, isolating, and allegedly exploiting Selma, it was the nephew who filed a complaint against Selma's son and his wife with APS. "The agency investigated the complaint but

did not do an intervention," said the nephew. As a result, the neglect and exploitation continued unabated. Later on, APS was called again. Since whistleblowers remain anonymous, no one knew who contacted APS the second time. The agency investigated the new complaint and again did not perform an intervention, with no available explanation.

In Selma's situation, both Selma's doctor and APS received reports of Selma's suspected neglect and exploitation but somehow did not detect it and thus did nothing to prevent it.

One of the stumbling blocks in Selma's case and elder abuse cases like hers is that Selma denied that the abuse was taking place. According to the literature on elder mistreatment, abused elders rarely report or confirm suspected abuse or neglect. The reasons for elder's failure to report include fear of retaliation or abandonment; fear of being moved into an institutional setting; belief that the abuse was deserved; a feeling that nothing can be done to stop the abuse; or a sense of shame that a loved one committed the abuse. Oftentimes the elderly victim prefers to remain within the home in an abusive situation rather than to be moved into a nursing home.

In the book *Elder Abuse: Conflict in the Family*, the authors explain why elders, loved ones, friends, and neighbors often fail to report neglect or abuse:

"The older adult may be unable to recognize or report neglect or abuse because of severe illness, depression, immobility, or dementia. Further, the myth of 'senility' may cause older adults to hesitate to report abuse and risk having their credibility questioned when they do try to report it. In either instance, elders' fear of retaliation may be reinforced. The privacy and intimacy norms of the family result in members' reticence to share information about abuse, and strangers hesitate to violate these norms in pursuit of evidence. Relatives, neighbors, and

friends are also reluctant to report suspected abuse out of fear, anxiety about how to handle the problem, or ambivalence about becoming involved."

To illustrate this point, let's go back to Selma's circumstances. Selma was a dementia sufferer who was very attached to her son, and he was financially dependent on her. He converted the home into a guarded fortress. He blocked Selma from seeing relatives or convinced relatives to stay away. Selma's closest living relatives, her siblings, recognized that Selma needed help and that Zachary was overwhelmed. However, they did not get directly involved in remedying Selma's situation.

First Responders to Reports of Elder Mistreatment

Should you suspect that a family member or a relative is being neglected, abused, or exploited, your first call should be made to Adult Protective Services (APS). Under Elder and Dependent Adult Abuse Reporting laws, county APS agencies investigate reports of suspected elder abuse, neglect, or exploitation. State Adult Protective Services laws determine what types of abuse APS must investigate and whether APS must "cross-report" with law enforcement.

Let's say you call APS to report the suspected abuse of a relative. If the situation is an emergency, APS will pass along the information to the police or emergency medical staff. If your report doesn't meet APS's parameters, you might be given further information on appropriate community-based services. If APS investigates your report, it will be assigned a priority response time, such as 24 hours, 48 hours, and so on, based on the victim's risk. Your report will then be assigned to an APS caseworker. The caseworker will conduct an investigation to substantiate your claims. He or she will also evaluate your relative's capacity to understand the situation and to consent to services provided through APS, such as counseling, money management, out-of-home placement, and so on. If your relative consents to these services, the caseworker will

create a service plan, with the participation of the client (your relative), family members, and caregivers. Finally, APS will implement the plan and monitor the case until it's closed.

If your relative retains the capacity to understand his or her circumstances, he or she can refuse services, no matter what his or her risk level is. In Selma's situation, it was clear to several family members that Selma lacked mental capacity, and several third parties believed this as well. Had the APS caseworkers who investigated the complaints agreed with these observations, Selma would not have been able to deny consent to APS services.

Community-Based Efforts to Address and Prevent Elder Mistreatment

While Adult Protective Services is the real locus of community-based efforts to respond to elder mistreatment, other community services are available to victims and their families. The nature of the abuse will determine the type of services that are appropriate in any given situation. The book *Abuse, Neglect, and Exploitation of Older Persons: Strategies for Assessment and Intervention* provides a list of community resources where you can go for help if you or a family member finds him- or herself in an abusive situation or is an overburdened caregiver.

- *Long-Term Care Ombudsman*—This federal program was established to investigate complaints reported by residents of nursing homes and residential care facilities. In states with mandatory abuse reporting laws, the long-term care ombudsman investigates allegations of abuse and neglect occurring in institutional settings and adult day health centers.
- *Law Enforcement*—In an abuse situation where a crime was committed, such as battery, domestic violence, theft, and fraud, the abusive act must be reported to

the police. Some states have passed laws that enhance penalties for physical and financial crimes against the elderly.

- *Medicaid Fraud Control Units*— A Medicaid Fraud Control Unit is a state program that investigates and prosecutes health care providers that defraud the Medicaid program, as well as probes complaints of abuse or neglect of residents in an institutional setting.
- *Area Agencies on Aging*— Under the federal Older Americans Act (OAA), each state has instituted a state unit on aging known as *Area Agencies on Aging (AAAs)*. AAAs serve small geographical regions, such as cities, counties, or clusters of counties. In addition to delivering aging services and referral sources, AAAs serve as hubs for health and human services that can be deployed to decrease the risk of elder mistreatment or treat its effects.
- *Legal Services*— The OAA has created a network of free legal services for older adults, which handles abuse cases; assists in issuing restraining orders; files lawsuits to recover stolen money or property; and provides other services.
- *Victim Services*— Victim services' units are usually housed within prosecutors' offices. These units provide information about the court process to crime victims and their families, as well as notify victims and their families on the status of their cases.
- *Domestic Violence Programs*— According to the National Center on Elder Abuse (NCEA), late life domestic violence "occurs when a person uses power and control to inflict physical, sexual, emotional, or financial injury or harm upon an older adult with whom they have an ongoing relationship." Domestic violence prevention programs, including shelters, 24-hour help/crisis hotlines, support groups, and legal advocacy groups, offer assistance to elderly victims. Some communities have established special shelters, emergency housing, and "safe houses" in private homes with foster families for elderly victims.

- *Financial Management*—If a family member loses his or her capacity to make financial decisions, he or she might unintentionally hand over financial decision making to an untrustworthy individual. Or the family member might become susceptible to being coerced, manipulated, or duped into signing away property or other assets. In the last chapter, we discussed ways that a family member can get help with his or her finances through a representative payee, a bill paying service, a financial power of attorney, and so on.
- *Mental Health Services*—These services provide crisis intervention and counseling for victims of elder abuse, their abusers, and their families.
- *Family and Caregiver Support Services and Groups and Respite Care*—A family caregiver who becomes abusive or neglectful toward an elderly parent or a relative can seek relief through support services aimed at lessening the elder's dependency on the family caregiver. These support services include home-delivered meals and dependent care. Also, support groups for caregivers provide tips and information to help manage caregiver stress and to avoid burnout. Finally, respite care programs, which lessen the risk of abuse or neglect by alleviating caregiver stress, provide family caregivers with a breather from their caregiving responsibilities.
- *Dependency Reduction*—When an abuser is financially dependent on an elderly victim, minimizing the abuser's dependency on the victim can ease the situation. For example, providing the abuser with job training or placement can lessen his or her financial dependence on the elder.

Mandatory Reporting Laws for Elder Abuse

Let's discuss mandatory reporting laws that have been passed by most states. First, reports of suspected elder abuse, neglect, or exploitation are usually referred to the agency responsible for investigating the complaints. For example, in Georgia, the

Division of Aging Services (DAS) investigates reports of the abuse or neglect of adults 65 years and older. If a crime has been committed, the agency will turn the matter over to a criminal justice agency. In the attorney general's office, some states have special units that investigate crimes against the elderly. For example, in Pennsylvania, the Attorney General's Elder Abuse Unit investigates elder abuse complaints and prosecutes the offenders.

Second, the people and professionals who must report elder abuse vary by jurisdiction. For example, everyone must report suspected elder abuse in some jurisdictions, whereas only specific professionals are required to report in other areas. In a number of states, some professionals are exempt from reporting abuse or neglect because they're bound by confidentiality, such as clergy, lawyers, therapists, and physicians. Finally, some states have no statutory provisions for reporting elder abuse, including Colorado, North Dakota, and New Jersey.

Third, mandated reporters generally include the following professionals:

- Health care professionals
- Registered nurses, nurse's aides, certified nursing assistants, caregivers, home health aides, and employees of a home health service
- Psychologists, licensed clinical social workers, licensed professional counselors, licensed marriage and family therapists
- Law enforcement, firefighters, and emergency medical technicians
- Physical therapists, speech therapists, and occupational therapists
- Senior center employees
- Any public official who comes in contact with older adults in the course of performing his or her official duties
- An administrator, employee, or person who furnishes services in or through an unlicensed community-based facility

Fourth, the types of abuse or neglect that must be reported and about whom differs from state to state. Take Connecticut's mandated reporter laws. Mandated reporters include licensed physicians and surgeons, registered and licensed practical nurses, medical examiners, dentists, and others. The law requires that when a mandated reporter has "reasonable cause to suspect or believes that someone age 60 or over (1) has been abused, neglected, exploited, or abandoned, or is in a condition caused by one of these or (2) is in need of protective services (services designed to protect elderly individuals from such harm), he/she must report this to the Connecticut Department of Social Services (DSS), Protective Services for the Elderly (PSE) within five days." If a mandated reporter does not report, he or she will be fined not more than \$500. Also, nonmandated reporters are urged to report suspected elder mistreatment.

Fifth, states with mandatory reporting laws often punish those who fail to report elder abuse. The punishment can be in the form of a fine, incarceration, and/or license revocation. For example, under Alabama law, if a mandated reporter doesn't report suspected abuse or neglect, he or she may be charged with a misdemeanor, pay a criminal fine, or be jailed. In Massachusetts, a mandated reporter who fails to report elder abuse or neglect will be fined an amount that doesn't exceed \$1,000. Moreover, states differ on the time allowed between the detection of the abuse or neglect and reporting it. For example, under Illinois law, professionals and state employees must report suspected abuse or neglect within 24 hours.

Sixth, states usually offer "good faith immunity" for reporters and protect their confidentiality. For example, under Oregon law, "anyone reporting adult abuse with reasonable grounds is immune from civil liability."

Seventh, according to the book *Elder Mistreatment: Abuse, Neglect, and Exploitation in an Aging America*, third parties report elder abuse most often, as compared to self-reporting by the victim. Hospitals, physicians, nurses, and clinics were responsible for 25.7 percent of reports, 20 percent of reports came from family members, and 14.8

percent of reports came from home service providers, according to the National Elder Abuse Incidence Study (NEAIS). The study also found that most reports of financial abuse came from friends and neighbors (15 percent), followed by hospitals (14.2 percent), and finally, by family members (14 percent).

Lastly, given the number of different professions and persons who are required to report suspected elder abuse, it's surprising that elder mistreatment is underreported. According to the National Center on Elder Abuse (NCEA), in spite of the presence of APS in every state and the existence of mandatory reporting laws, "an overwhelming number of cases of abuse, neglect, and exploitation go undetected and untreated each year." In fact, only one in 14 instances of elder abuse gets reported to the authorities, according to the House Select Committee on Aging.