

STATE OF OREGON 2021 FAMILY LAW CONFERENCE ABUSE IN LATER LIFE

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Introductions

- ❖ Faculty

 - ❖ *Judge Janice Martin, Retired, Louisville, KY*

 - ❖ *Amanda Kay, Senior Program Attorney, National Council of Juvenile and Family Court Judges*

- ❖ Why are we here?

Learning Objectives

As a result of this session, you will be better able to:

- Consider the pervasiveness of ageism in the system and how assumptions based on age can have harmful effects on older litigants in court;
- Identify how elder abuse may present in cases before you;
- Discuss what it means to create survivor-centered and trauma-informed determinations in your cases.

Poll

- Indicate the frequency with which you encounter elder abuse cases in your professional role:
 - *Very frequently*
 - *Frequently*
 - *Once in a while*
 - *Rarely*
 - *Almost never*

Using the Chat Box*

- If you see elder abuse cases, what are the most common forms of abuse that you have seen?
 - (i.e., physical abuse, financial abuse, etc.)

*Make sure your chat is directed to “Everyone”

Intro to Anne

We will watch a 5-minute clip of Anne

- Listen for types of abuse she suffered
- Listen for how he managed to control her/what else is controlling her
- Listen for how it made her feel

Video: Anne

Debrief: Anne

- Types of abuse she suffered
- How he managed to control her
- What else might be controlling her?
- How it made her feel

Mini-Lecture: Abuse Against Older Adults

- Elder abuse is when an older adult experiences: physical, sexual, verbal abuse, neglect, abandonment, seclusion, restraint, or financial exploitation (ORS 124.050).
- Who are the survivors? Who are the perpetrators?
 - *Victims are any older adult but disproportionately affected:*
 - Persons who are isolated, living in poverty, or who have cognitive impairments;
 - Women.
 - *Perpetrators are most often family, caregivers, or those with whom victim has an expectation of trust—makes these cases harder to report, prosecute, and provide assistance.*

Mini-Lecture: Abuse Against Older Adults (2)

- How are older people harmed?
 - *Accidents*
 - *Well-intended caregivers*
 - *Contact with persons with physical or mental health conditions that manifest in aggressive behavior*
 - *Elder abuse*

Mini-Lecture: Abuse Against Older Adults (3)

- Why does elder abuse occur and persist?
 - Greed
 - Power and control
 - Structural/ social issue
 - Social interactions
 - Resources and support
 - "Deterioration Model of Aging"—fatalistic perception of what it means to grow old in society

Ageism

- “Deterioration Model of Aging” posits that aging is a process of diminishment and decline leading only to death. It is a pervasive bias that leads to the marginalization, silencing, disregard and in some cases jeopardizing the safety of older adults.
- COVID-19 example—how many times did you hear the severity of the virus minimized because “only” older people were dying?

Using Chat:

- How old are you?
- Write one word that describes how you feel about your age.

Synonyms for “Aging”

senile

eld

age

aged

elderly

OAP

dotage

decrepit

infirm

senility

superannuate

infirmity

decrepitude

dodder

senescent

doting

olden

antiquity

dote

middle-aged

year

ancient

old

gerontology

anecdote

caducity

involution

geriatric

middle age

senile dementia

geriatrics

gerontic

gray

senior

senescence

senior citizen

old age pensioner

feeble-minded

ripe

gaga

get

second childhood

yearling

gnarled

WORDS CONTINUE AFTER ADVERTISEMENT

Using Chat:

- What are the unintended side effects that come from systems or people believing these assumptions about age?

Case Study

- You are presiding over a protection order case. Petitioner seeks a permanent civil protection order, including a provision to have Respondent removed from the home.
- Petitioner and Respondent have been married for 66 years, live in a home they purchased 40 years ago, and are retired high school teachers.

Case Study

- Petitioner reported being terrified of Respondent and thinks Respondent is lethally dangerous. P received medical attention one month ago for an infection that resulted from bite marks in the torso. No report was made to the police, and P alleges the wound was caused by R.
- Both parties drink alcohol. Neither party has criminal history or any record of mental health issues. R is physically disabled, has diabetes, and uses a wheelchair.
- Several weeks ago, P suffered a major head injury and was hospitalized. P alleges that R used the telephone and a pipe to hit P on the head. Police arrived at the scene and took P to the hospital but did not arrest R.
- P, after recovery, sought a permanent civil protection order, including a provision to have R removed from the home.

Chat: Group Discussion

- Assumptions?
- What is difficult about this case?
- What decision would you make?







Learning Points

- One side effect of ageism is the assumption that older adults are “frail,” “harmless,” and not capable of inflicting harm.
- Regardless of age you must assess dangerousness, including history of violence.
- J. Campbell, *et al.* (2007): Leading risk factors for intimate partner homicide: Prior DV plus:

Firearms access

Estrangement

Threats to kill

Forced sex

Stepchild in home

Non-fatal strangulation

Other: depression, substance abuse, stalking, hostage-taking, obsessive about partner, homicidal-suicidal ideation (Hart 1995)

Learning Points

- Do not fall into trap that at the age of 60 or 65 potential for violence disappears!
- For example: Seniors are almost as likely to be stalked as younger people (Jasinski & Dietz, 2003)

Mandatory Reporting for Attorneys

ORS 124.060

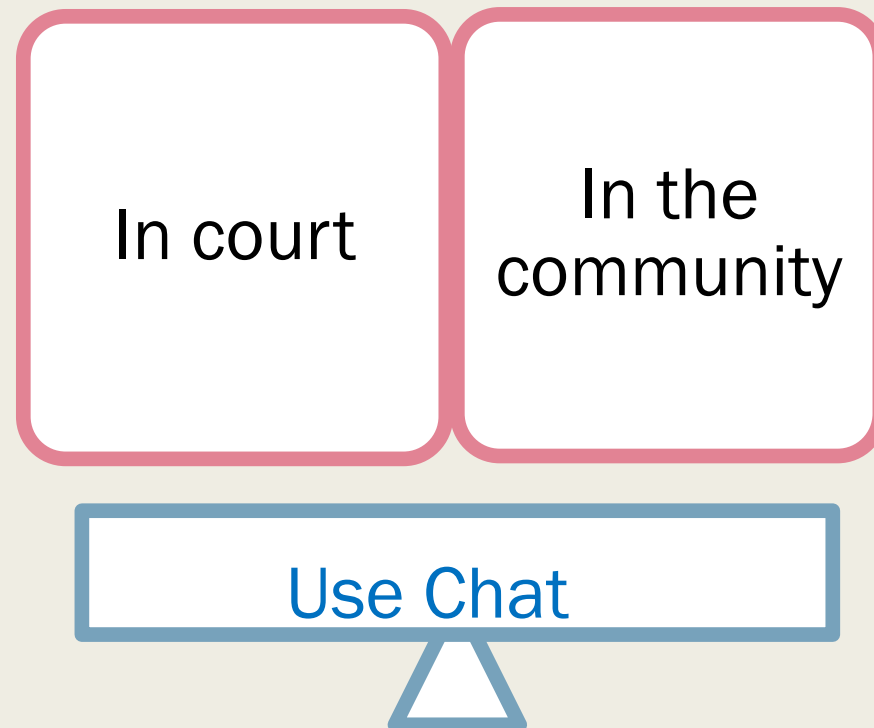
- If you have:
 - *Reasonable cause* to believe;
 - *Elder abuse* (person 65 or older) has occurred; and
 - *Contact* with the elder or abuser,
- You must report unless an exception applies.
- Handbook available:
http://www.osbar.org/cle/library/2016/EAR116_Handbook.pdf

Exceptions to mandatory reporting

ORS 40.225 and RPC 1.6

- Exception applies if:
 - *The information is protected by attorney-client privilege (ORS 40.225), and/or*
 - *The information was communicated during the representation and is detrimental to the client (RPC 1.6).*
- Excellent chart of test for exceptions on page 15 of the Handbook linked on last slide.

What Can the Court do for Older Survivors?



In court

- Ensure access to advocacy
- Ensure civil rights are respected
- Consider capacity, if indicated
- Respect wishes and autonomy
- Refer to services
- Use trauma-informed language and demeanor
- Recognize common trauma reactions, including possible self-medication, substance abuse, or challenges tracking information or following plans
- Address acute financial/housing crises

In court: Demeanor

- Allow extra time for older litigants.
- Minimize visual and auditory distractions.
- Sit face to face with the older adult, if possible (get off the bench).
- Don't underestimate the power of eye contact.
- Listen without interrupting.
- Direct your conversation to the older adult-not to caregivers, other third parties accompanying them.
- Speak slowly, clearly and loudly.
- Use short, simple words and sentences (avoid legalese and financial terms of art).
- Stick to one topic at a time.
- Simplify instructions.
- Give the older adult a chance to ask questions.
- Schedule older adults earlier in the day.
- Seat them in a quiet, comfortable area.
- Make signs, forms and brochures easy to read.

In the community

- Consider how accessible your court is and involve older adults in seeking recommendations for improvements
- Make sure outreach materials and referral info depicts older adults and includes services that help older adults
- If no orgs are serving older adults, reach out to the DV/SA groups and ask that they consider expanding and adapting their services

In the community (2)

- Find out the resources in your area:
 - Shelter options for older survivors with health or disability needs.
- Lead court/community cross-trainings
- Become involved in coordinated response or task forces
- Oversee actions of guardians

Questions



Use
Chat

Thank You!

- For more information:
 - jwhite@futureswithoutviolence.org
 - akay@ncjfcj.org
- <https://www.ncjfcj.org/family-violence-and-domestic-relations/elder-abuse/>
- <https://www.futureswithoutviolence.org/?s=elder+abuse>
- <https://www.ncall.us/>