



# Join forces with PADCA

# #GOBLUE:



## ABUSE AND THE LAW

Most of us have a fairly clear image of Elder Abuse: Little old ladies being pushed around, possibly physically or sexually abused.

If we give it a bit of thought we would acknowledge that abuse would probably include shouting and screaming at a person (verbal abuse); taking an older person's money – some children feel they have the right to their parents' money (financial abuse); locking a person in a room or using drugs to keep them sedated (denial of freedom); and even making a person feel like they are a burden and have no use to the family (emotional abuse). Then we realise it is also possible for men to be abused.

Most abuse occurs when a person is vulnerable, becoming mentally or physically frail and in need of extra care – it is when an older person becomes increasingly dependent on family or carers that don't appear to care that abuse takes place.

But abuse can be more complex than that. Some families don't know how to adequately care for a family member who now has special needs and even though they mean well, this appears to be "neglect". If resources to spend on care are limited, the burden on the family can be enormous – incontinence products are expensive, getting a person to clinic or a hospital if one does not have access to a car can be near impossible; if the family are trying to work or go to school, there may be no option but to leave an elderly person at home with no carer, and locked in a room if the family are afraid that the older person is likely to wander and trouble the neighbours.

SO WHAT DO YOU DO if you suspect someone is being abused? You can report the matter to a social worker or a police officer. But on what grounds would the law enforcement agencies act on cases of reported abuse?

The Older Person's Act, Act 13 of 2006, both defines abuse of an older person and provides channels for law enforcement to follow to protect an older person. BUT to the best of our knowledge, no case of abuse has been brought to court using the Older Person's Act.

In the 11 years of its existence, this act has not been tested and used in court to protect the people for whom it was written.

Does this mean that cases of Elder Abuse have never been brought to court?

To the contrary: they have frequently been brought to court, but under the banner of the Domestic Violence Act. This is a tried and tested route to protect vulnerable people and may well work in most cases of elder abuse, but it certainly does not provide for all cases of abuse. Of particular concern are the most vulnerable of older persons – those no longer able to speak for themselves: those living with Alzheimers or dementia. Police and law enforcement agencies are reluctant to take on these cases because they are difficult to bring to trial. These cases would have to be brought to court by a 3rd party on behalf of a person living with and dementia and this is apparently not provided for in terms of the Domestic Violence Act.

Curatorships are one avenue the law provides to care for a person who is no longer able to be responsible for their own wellbeing. But Curatorships take time and money to effect – and most abused persons have neither. The matter is urgent and there often is no money as the person usually has only the Old Age Pension of R1600 as their sole income.

Add to all of this the complexity that most elder persons experiencing abuse are being abused by someone they know well, usually a family member, or someone who is helping to care for them. These older people are most reluctant to acknowledge the abuse, much less report the abuser to the police and bring the matter to trial.

This brings us back to: What can you do if you suspect elder abuse?

Firstly report it to the police; the more pressure applied to deal with this issue, the greater the chance that they will begin to find a way to follow up these issues.

Secondly, report it to a social worker at PADCA. While, as described above, such issues are not always

satisfactorily resolved, we have had a great deal of success approaching families to discuss the problem, to educate families on appropriate ways to care for a person, to resolve conflict and find solutions to the care of a vulnerable older person. In extreme cases we are able to offer the person alternative safe accommodation in a facility for older persons. Long waiting lists and limited beds can make this last option a very slow albeit long term solution, but it only works if the person themselves are willing to move.

Finally as they say: “it takes a village to raise a child”; well it takes a community to ensure the respect of our seniors.

Teach your children well! They are going to be the ones caring for you in your senior years and they are going to be the community responding to these issues when you and I need it.

Jo-Anne Stevens-O’Connor  
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