

Guiding Questions: Neglect, violence and abuse

- 1) In your country, are there specific studies or surveys (from governmental, non-governmental or academic sources) on violence, abuse and neglect experienced by older persons?

See the footnotes to the Department of Justice Roadmap for a comprehensive list of research around elder abuse. <https://www.justice.gov/elderjustice/file/829266/download>.

There are multiple studies and surveys in the U.S. on elder financial abuse. As an example, the MetLife Mature Market Institute in collaboration with the National Committee for the Prevention of Elder Abuse and the Center for Gerontology at Virginia Polytechnic Institute and State University recently examined the impact of elder financial abuse on the lives of seniors nationwide and examined government data. See MetLife Mature Mkt. Inst. et al., *The MetLife Study of Elder Financial Abuse Crimes of Occasion, Desperation, and Predation Against America's Elders*, MetLife 2 (June 2011) (hereafter "MetLife"), <https://www.metlife.com/assets/cao/mmi/publications/studies/2011/mmi-elder-financial-abuse.pdf> The study estimates that the annual financial loss by victims of elder financial abuse is to be at least \$2.9 billion dollars, a 12% increase from the \$2.6 billion estimated in their 2008 study. *Id.*

The Office for Older Americans suggests "that financial exploitation is the most common form of elder abuse and that only a small fraction of incidents are reported." Financial abuse often occurs in tandem with neglect and other forms of abuse. Because elders often do not report their losses, quantifying the true magnitude of the problem and its monetary impact is challenging, if not impossible. Governmental estimates of losses from elder financial abuse range from \$2.9 billion to as high as \$36.5 billion each year." Off. for Older Am., *Report and Recommendations: Fighting Elder Financial Exploitation through Community Networks*, Consumer Fin. Protection Bureau (CFPB) 8-9 (Aug. 2016), https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/082016_cfpb_Networks_Study_Report.pdf/

- 2) (a) What forms of violence, abuse and neglect (e.g. physical, psychological, sexual, financial, or other) are registered? What is the setting in which they occurs (i.e. residential and non-residential)? Is there information about the type of perpetrators?

The US Department of Justice has published the Elder Justice Road Map that highlights many of these issues. The Road Map can be found at: <https://www.justice.gov/elderjustice/file/829266/download>. According to the Department of Justice and its researchers:

Elder abuse – including physical, sexual, and psychological abuse, as well as neglect, abandonment, and financial exploitation – affects about five million Americans each year, causing untold illness, injury and suffering for victims and those who care about and for them. Although we do not have a great deal of data quantifying the costs of

elder abuse to victims, their families, and society at large, early estimates suggest that such abuse costs many billions of dollars each year – a startling statistic, particularly since just one in 24 cases is reported to authorities. Given the aging population and the widespread human, social, and economic impact of elder abuse, a broad range of stakeholders and experts were consulted on how to enhance both public and private responses to elder abuse.

Abuse occurs in all settings but some people are more likely to be abused regardless of the setting. Many elder abuse victims have organic conditions, such as Alzheimer’s and other forms of dementia, brain injuries or developmental disabilities that lead to diminished or limited cognitive capacity. Older people with diminished capacity are more susceptible to abuse, neglect, and financial exploitation. Some older victims may experience mental health issues, such as depression and post-traumatic stress disorder – especially those who have experienced ongoing, long-term trauma related to the elder abuse. We need additional research to understand how to evaluate cognitive capacity and mental health issues within the context of elder abuse and how to protect and provide a range of effective services to those with cognitive impairments and/or mental health issues.

(b) Does violence, abuse and neglect particularly affect specific groups of older persons? If so, which groups and how?

The MetLife study found that women were nearly twice as likely to be victims of elder financial abuse as men. Most victims were between the ages of 80 and 89, lived alone, and required some level of help with either health care or home maintenance. In almost all of the cases, there existed a combination of tenuous, valued independence and observable vulnerability that merged in the lives of victims to optimize opportunities for abuse by every type of perpetrator — from the closest family members to professional criminals. *MetLife* at 3. Additionally, cognitive impairment is a key factor in why older adults are targeted. Consumer Fin. Protection Bureau (CFPB), *Recommendations and report for financial institutions on preventing and responding to elder financial exploitation*, 9-10 (Mar. 2016), http://files.consumerfinance.gov/f/201603_cfpb_recommendations-and-report-for-financial-institutions-on-preventing-and-responding-to-elder-financial-exploitation.pdf (footnotes omitted).

- 3) Does your country’s legislation explicitly address issues of violence, abuse and neglect against older persons? If not, what legislation applies to such issues in the context of older persons? Does this legislation sufficiently address the full range of violence against older persons?

Every state has enacted legislation prohibiting the abuse of elderly or vulnerable victims. Some scholars believe that since the laws vary greatly between jurisdiction, efforts to protect the elderly are inconsistent. The appendix to the following article lists American statutes by states geared toward physical, emotional and financial abuse of elderly persons. Shelby A.D. Moore & Jeanette

Schaffer, *Remembering the Forgotten Ones: Protecting the Elderly from Financial Abuse*, 41 San Diego L. Rev. 505 (2004).

- 4) What legislation exists to protect older persons specifically against financial abuse, including inheritance abuse?

There are both state and federal laws governing the definitions of abuse and neglect; the role of Adult Protective Services and prosecutors in investigating and addressing abuse and neglect; the responsibilities of mandatory reporters; the responsibilities of surrogate decision-makers, guardians, conservators and representative payees; the responsibilities of fiduciaries who are supposed to provide financial and/or legal advice to older people; and due process systems that are intended to be used when these other systems breakdown. There are some state and federally funded networks of advocates who are intended to be available to advise and protect vulnerable older people from neglect but they are underfunded and over-tasked.