



Domestic Violence in Later Life

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Although nuances exist in literature, domestic violence generally is a well-defined concept. Domestic violence in later life, in contrast, is a developing concept. Not until recently was domestic violence in later life distinguished from elder abuse. Generally, Ohio law defines elder abuse to trigger adult protective services when harm is inflicted upon a person who is 60 years or older and is handicapped due to infirmities of aging or has a physical or mental impairment.¹

Yet, in the context of domestic violence, elder abuse is distilled to encompass abuse only when a family or household relationship between the victim and offender is established, as defined by R.C. 3113.31(A)(3). It also may encompass those instances when the caregiver is a non-family or household member, yet the relationship between the victim and offender is characterized by great closeness and intimacy resembling a familial relationship.

At least three characteristics differentiate domestic violence in later life from other types of elder abuse. First, the criminal and civil domestic violence statutes do not impose an age indicator to identify the abuse as domestic violence. In fact, domestic violence can occur to anyone of any age. Second, domestic violence is uniquely characterized by a family or household member relationship between the offender and the victim.² Lastly, the criminal and civil domestic violence statutes identify certain behaviors that comprise the crime of domestic violence.³

Because a particular age is not determinative, there is no consistent definition for domestic violence in later life. However, researchers appear to conceptualize domestic violence in later life as acts of abuse toward a person 60 years old or older by another in a trusted relationship, including a family or household member or caregiver.⁴

Acts of Abuse and Violence

The hallmark of domestic violence is coercive behavior displayed through a combination of actions, with the unique intent to exercise power and control over the victim. Similarly, domestic violence in later life is framed by power and control with the distinct feature that the acts of

abuse and violence are more acute given the victim's age, physical or mental health. Abuse or domestic violence in later life typically is manifested through one or more of the following types.⁵ Examples of abuse associated with each of these types are suggested below.⁶

Physical

- Unexplained bruises, broken bones and fractures due to hitting, pushing, cutting and shoving
- Unexplained injuries

Sexual

- Unexplained injuries to intimate body parts due to inappropriate or rough touch
- Unexplained sexually transmitted diseases or infections
- Sexual assault
- Use of sexually charged language
- Derogatory references of intimate body parts

Neglect

- Beyond maltreatment or mistreatment
- Broken or damaged walkers, glasses or dentures
- Over- or under-medicating
- Untreated and unattended injuries
- Unattended medical concerns, (i.e., failing to get or give medication, missed doctor appointment)
- Abnormal or unexplained weight loss
- Malnutrition and dehydration
- Unkempt appearance
- Lack of or poor personal hygiene

Psychological or Emotional

- Intimidation
- Humiliation
- Ridiculing

- Threatening
- Infantilizing
- Hiding or moving assistive medical devices

Economic Exploitation

- Financial dependency
- Extortion
- Unusual bank activity
- Changing of property title
- Failure to receive services
- Inability to pay for services, utilities
- Inappropriate use of power of attorney

Offenders

Domestic violence in later life is framed by the offender's abuse of a trusted relationship and the offender's exercise of power and control over the victim. Offenders may be spouses, persons living as spouses, adult children, grandchildren or other relatives. In almost 60% of elder abuse and neglect incidents, the perpetrator is a family member. Two thirds of perpetrators are adult children or spouses.⁷

Additionally, offenders may be neither family nor household members, but are persons who have a close or intimate relationship with the victim that is not necessarily physical or sexual in nature. Abuse may manifest differently and include any combination of the types identified previously, depending on nature of the relationship and the physical and mental competency of the elderly victim.

This type of abusive relationship sometimes is aggravated by the offender's own physical and mental health issues, including, substance abuse, high levels of stress and poor coping mechanisms, financial dependence, and cognitive impairment.⁸

Similar to other instances of domestic violence, the offender minimizes, denies and attempts to explain the injuries or neglect. However, offenders in cases involving domestic violence in later life are distinguished from other domestic violence offenders in that their abuse often targets the vulnerabilities of, exacerbates the dependency of, or neglects the elderly victim.

Abuse in this manner can be carried out in a covert fashion and may be difficult to uncover. For example, offenders may exert power and control by hiding or moving assistive devices, such as a wheelchair, dentures, cane, glasses, or walker, and making it impossible or difficult for the elderly victim to perform daily functions without fostering an unhealthy dependence on the offender. Such dependence furthers the isolation or neglect of the elderly victim.

Victims

Domestic violence in later life is complicated not only by the age but also by the health and/or mental competency of the victim. Generally, victims report the following reasons for staying in an abusive relationship. While some of these reasons cross age boundaries, others are uniquely associated with domestic violence in later life.

- Fear of abandonment
- Generational values
- Physical & mental health concerns
- Dependence on the offender for personal care, transportation and medication
- Spiritual, cultural & community ties
- Fear of retaliation
- Shame & isolation
- Honor & respect to family unity
- Inadequate economic support
- Access to social services
- No recognition of the abuse
- Sun-downing, a condition experienced by some elderly persons where they become confused, restless or insecure as the day goes by, especially after dark

Court's Role

Domestic violence in later life is particularly challenging to identify, because it requires an understanding of complex issues, such as domestic violence, aging process, mental impact of repeat abuse and the decline of mental and physical faculties. Not only must the court determine the type of abuse, if any, but it also must determine whether the victim is competent to participate in the legal proceedings.

Further, the crime of violence against a family or household member is not dependent on age. R.C. 2919.25 and R.C. 3113.31 provide clear guidance on domestic violence cases to hold offenders accountable and increase victim safety.

Still, the greater challenge for the court is to ensure the victim's and offender's participation in the domestic violence case is not hampered by his or her mental or physical health. Recognizing power and control is critical to all domestic violence cases. Thus, courts often consider the following issues in cases involving domestic violence later in life.

Guardianship vs. Services

Many documented instances of domestic violence in later life are masked by the natural aging process. For example, older people may be forgetful, move slowly or suffer from a number of conditions (i.e., osteoporosis,

high blood pressure or diabetes). Acts of domestic violence also explain many injuries sustained by an older person, which otherwise may be attributed to a natural cause.

Thus, the court may want to explore how the injuries were sustained before determining the need for or appointment of a guardian. As part of its consideration, the court may want to consider whether the person is better served by being wrapped in services that link domestic violence programming and services for the aging, rather than a guardianship. Because domestic violence is characterized by power and control, it could be detrimental to the well-being of a victim of domestic violence to have yet another person, a guardian, directing his or her life.

Get Involved with the Coordinated Community Response Council

The court can benefit from learning about programs in its community and how those programs function and relate to other programs in the community. Such information may help craft effective orders.

Protection Order

Protection orders remain one of the most powerful and versatile tools available to courts. By definition, a protection order is a court order intended to restrain the offender from committing further acts of violence or abuse against the victim. This tool may be particularly meaningful when it is advisable for the victim and offender to maintain a relationship (e.g., adult child and parent relationship), yet the court has a concern for the victim's safety. The court may use this order to craft certain provisions, such as ordering supervised visitation, referring the offender to appropriate community services, (e.g., batterer intervention programs) or protecting another party.

Approaches to Legal Matters

Lastly, domestic violence cases in later life may need different approaches than other legal matters. Often, offenders instill in their victims a belief that no one will believe the abuse. Compounded with this belief is the physical and mental progression of aging, such as a weak bladder or slow processing of thoughts. Thus, the following strategies are presented for consideration to safeguard the integrity of the legal proceeding and ensure the meaningful participation of victims of domestic violence in later life.

- Avoid continuances
- Set hearings mindful of the victim's needs
- Check in with victims
- Take frequent breaks
- Preserve testimony

- Encourage impact statements
- Escalate sanction.

The Domestic Violence Program at The Supreme Court of Ohio

Recognizing the importance of effective and sound domestic violence practices from the judiciary, the Supreme Court of Ohio established the Domestic Violence Program within its Judicial & Court Services Division in 2007.

The Supreme Court Domestic Violence Program:

- Promotes coordination and communication among courts that issue domestic violence protection orders and other relevant orders
- Supports standard domestic violence and stalking protection order forms and practices
- Disseminates cutting-edge domestic violence practices, policies and procedures
- Tracks trends in domestic violence and stalking cases
- Develops trainings and other educational opportunities to highlight current trends in the domestic violence field.

The Domestic Violence Program is supported by the Supreme Court Advisory Committee on Domestic Violence. For more information, contact the Supreme Court of Ohio Domestic Violence Program at:

614.387.9408 or dvprogram@sc.ohio.gov.

Endnotes

- 1 R.C. 5101.60(A) and (B).
- 2 R.C. 2919.25(F) and R.C. 3113.31(A)(3).
- 3 R.C. 2919.25(A)–(C) and 3113.31(A)(1).
- 4 Brandl, B. and Cook-Daniels, L.).. Harrisburg, PA: VAWnet, a project of the National Resource Center on Domestic Violence, Domestic Violence in Later Life, (December 2002) <https://vawnet.org/material/domestic-abuse-later-life> (accessed March 7, 2023); Center for Disease Control, Fast Facts: *Preventing Elder Abuse*, <https://www.cdc.gov/violenceprevention/elderabuse/fastfact.html> (accessed March 7, 2023).
- 5 Abuse types generally identified by the National Center on Elder Abuse, 2004.
- 6 National Clearinghouse on Abuse in Later Life, 2004.
- 7 National Council on Aging, *Get the Facts on Elder Abuse*, (February 23, 2021) <https://www.ncoa.org/article/get-the-facts-on-elder-abuse> (accessed March 7, 2023)
- 8 National Center on Elder Abuse, *Research Statistics and Data*, <https://ncea.acl.gov/What-We-Do/Research/Statistics-and-Data.aspx>, citing Jennifer E. Storey, *Risk factors for elder abuse and neglect: A review of the literature*, 50 *Aggression and Violent Behavior* 101339 (2020).