



Diminishing Returns

**An Examination of Financial Abuse of
Older Adults in British Columbia**

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BACKGROUND INFORMATION

This study involved personal interviews with 200 seniors, aged 60 and over, from across British Columbia. The purpose of the study was to explore

1. the extent of financial abuse of older adults in B.C.;
2. the nature and dynamics of the abuse;
3. older adults' experience with various financial and legal documents (e.g. mortgages, wills, powers of attorney, banking powers of attorney); and
4. the extent to which older adults financially assist their grown children, or visa versa;

This study was developed at the Gerontology Research Centre, Simon Fraser University, Vancouver and was funded by the B.C. Notary Foundation.

The study began in 1992-3. The final stages of analysis were completed in the fall of 1995. Preliminary findings of the study have been presented at the 1993 annual conference of the Canadian Association on Gerontology in Montreal and the 1994 Gerontological Society of America annual conference in Atlanta. In both locales, the study generated considerable interest, as well as invitations to submit the papers to academic journals, most notably the Journal On Elder Abuse and Neglect.

DEFINITIONS

The term "financial abuse" has not been well defined.¹ Typically, the term refers to some misuse or unauthorized use of an older person's property, assets, or funds.² However, there is a difference between what the law defines as financial abusive circumstances, and what society more broadly includes in the term as unacceptable behaviour.

Legal definitions of financial abuse are often narrow. They also tend to focus primarily on people whose mental competence is in question.³ On the other hand, in common parlance, the term "financial abuse" is often used very loosely to include a wide range of events that

- a) have a potential or realized negative financial impact on seniors or
- b) do not meet social expectations of appropriate (i.e. low risk) behaviour by seniors.

In many community programs and initiatives developed by financial institutions, the term "financial abuse" is lumped in with fraud, and with any crime by strangers that has a financial impact on a senior.

The lack of consensus over the term "financial abuse" has a detrimental effect. Often it has meant that people who might be in a position to detect financial abuse are unclear as to when, where or even if they should intervene in suspected abuse cases.⁴

The findings from the Notary Study indicate that the problem of financial abuse is far more common than the Ryerson Study suggested.

financial

¹ Wilber, 1990.

² Thornton & McDougall, 1990.

³ See Blunt, 1993; & Tewksbury, 1991.

⁴ Canadian Bankers Association, 1993

WHY STUDY THIS ISSUE?

In 1989, a national study was conducted by the Ryerson College on abuse and neglect of older adults in Canada.⁵ The study surveyed 2008 seniors from across the country. According to the Ryerson Study, 40 out of every 1000 older Canadians experience some form of abuse or neglect. Financial abuse was the most prevalent form of harm reported by the respondents. It made up approximately 60% of the cases. As will be noted later, the findings from the Notary Study indicate that the problem is far more common than the Ryerson Study suggested.

The Dilemma: "Financial abuse" is one kind of harm that seems to be used almost exclusively with respect to older adults. It is not a category of abuse considered in child abuse. Nor do we usually identify adults other than seniors as people who are potentially open to financial abuse.⁶

Is this a double standard? The answer is both yes and no. There are two main reasons why people are concerned: 1) the potentially greater harm to seniors or society; and 2) our perceptions of seniors' vulnerability.

Effects

Level of harm: When suffered by older adults, financial harm often has a differential impact on them, compared to the same harm suffered by younger adults.

Financial setbacks in our 30s and 40s can be overcome. By way of contrast, after retirement, the senior has little or no opportunity to recoup the financial loss. Because on average women live longer than men, women who have been financially abused run the likelihood of enduring the negative consequences of it for much longer.

⁵ Podnieks et al, (1990)

⁶ One exception, of course, is that it has been recognized younger adults with mental handicaps can be financially abused. Research on spousal abuse among younger adults has also begun to recognize that control of finances can be another one of the weapons in an abuser's arsenal to maintain power and control over the other partner.

Physical Effects: Financial exploitation can threaten a senior's physical well-being. In extreme cases of financial abuse, the senior may end up physically harmed by being deprived basic needs such as medical care, food, or shelter, endangering his or her health and well-being.

Psychological Effects: Psychologically speaking, financial abuse involves the senior losing trust in a person. Often that person is a family member, or someone else who is important to him or her. We also recognize that financial strain is harmful to people. Financial strain tends to erode a person's feelings of control and self worth. As personal resources weaken, the person tends to show more psychological signs of the stress such as signs of depression.⁷

The Effect on Senior's Independence: Money is an important means to independence for seniors. The existence of adequate financial resources means having choices over how a person will live his or her life. Financial abuse takes away that choice. Ancillary to this, financial abuse in later life seems patently unfair or unjust, particularly where the senior has made considerable personal sacrifices over the years to get to a point of economic security.

Harm to the Economy: In the commercial world of banking, stability of bank's deposits, and other financial industries are premised on the certainty in financial transactions and free, uncoerced choice. If people are permitted to be financially abused by misrepresentation or coercion, the underpinnings of that economy are left at risk.⁸

Vulnerability

Ageism: Many people assume that adults are more vulnerable to coercion, undue influence, deception, or manipulation as they grow older. Also people often assume that the older a person is, the greater the likelihood that his or her mental capability has deteriorated. As a result, the seniors are perceived as more vulnerable to or at high risk of exploitation than younger adults.

⁷ Krause, Jay, & Liang, 1991

⁸ Gordon, 1983 suggests that the state's interest in protecting seniors from financial abuse is related less to concern for seniors and more to self interest of the state in not having seniors' dependent on the state.

Ageism affects financial abuse cases in other ways too. Seniors' credibility or the reliability of their memory is often thrown into question. Much of financial abuse occurs "behind closed doors" in the privacy of family life.⁹ Often there are no witnesses other than the two individuals and it becomes a matter of a younger person's word against an older person's. These assumptions about older adults increase their vulnerability as well.

Education: People also recognize the education that large majority of seniors received may not have adequately prepared them for the financial types of decisions being required of them today. As a result, it may be easier to deceive or exploit an older adult.

Although there has been a gradual improvement in the educational status of seniors; in 1991, 25.9% of B.C. seniors (or about 140,000 seniors) had less than grade 9 education.¹⁰ In comparison, 6.4% of B.C. adults aged 25-64 did. Many seniors may also lack literacy and reading comprehension skills. The problem becomes compounded if the seniors' first language is not English or French.¹¹

Financial and Legal Inexperience: A popular explanation for why some older adults encounter financial abuse is that they are financially inexperienced or financially naive. In particular, it has been suggested that older women are inexperienced in financial matters or that they are in a position where they must rely on the knowledge and skills of someone else. Either situation may leave

⁹ At least one writer has noted that this case be difficult if there is insufficient proof of fraud, duress, or undue influence:

The abuser may plead that the senior has made several gifts to them or the handling of the victim's funds was, by mutual agreement, in the total discretion of the offender. Outright theft is seldom seen in elder abuse situations; there is more likely to be breach of trust. Despite the victim's assertions to the contrary and the very real fears that they had of the consequences of arguing with their abuser, courts may not find misconduct. Corroborative evidence, as well as a pattern of detrimental reliance on the victim's part, is often needed for successful litigation. It helps greatly if the abuser was in extreme financial difficulty, or had enriched his or her property or lifestyle at the expense of the elderly victim's savings.

¹⁰ Gutman, 1995 et al at 54.

¹¹ As Vezina & Ducharme (1985, 60) state "The same information which may appear simple and comprehensive to those of us who work within administrative systems, may be intimidating to those seniors whose first language is not English or French or to those who are seeking access to the system for the first time."

them more vulnerable to abuse. However, there has been little research on whether this characterization is accurate, so this may simply be a stereotype.

RATIONALE BEHIND THE STUDY

The terms "abuse" or "abusive" suggest behaviour that is outside the acceptable norms of a society. However, there has been very little formal analysis of what seniors consider as acceptable financial relationships. There has been little analysis of the positive or negative financial experiences of adults as they age or "typical" financial relationships between seniors and others. This crucial information may provide a better understanding of our social norms, as well as how, when or why financial abuse might occur.

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Financial abuse can only be understood within a social and normative context. If we understand

those norms, as well as the things that seniors value, we may be better able to offer choices and options that meet the needs of older adults who are financially abused- ones in which the desire for continued contact with the abuser and cessation of the abuse are both possible.

Current State of Knowledge About the Subject

Much of the available information on financial abuse of older adults comes from the United States, or has been drawn from situations that public or private agencies see in their practice. These are primarily social workers, public trustees, lawyers, and adult protection workers. Their mandate or jurisdiction usually involves seniors whose mental capability is in question. The question arises, do the cases which these professionals see represent the nature or extent of typical financial abuse situations facing older adults?

Portrayal of the Victim: The focus on financial abuse, to date, has primarily been on characteristics of the victim. A review of the literature portrays the financially abused person as

- ◆ exploited by opportunist and/or at late stage in life;
- ◆ naive, over trusting;
- ◆ passive and compliant;
- ◆ isolated or lonely
- ◆ mentally incompetent.

Older women are considered to be the predominant victims and they are often seen as being "co-dependent on" or "excessively loyal" to the abuser. These are all negative and judgmental images of seniors who have been abused.

In the academic literature, people who had been financially abused had been described as falling into three categories (see Appendix A) : (1) the bereaved widow/er; (2) the financial prisoner; and (3) a person whose mental capabilities are slipping. A considerable amount of what has been written, talks about seniors "failure to protect their assets"¹² and the assumption that it is this "failure" that leaves them vulnerable to abuse.

Causes: Explanations for why financial abuse occurs thus far have been very rudimentary, focussing on psychopathology (drug or alcohol addiction, mental illness) or "need" and "greed". If financial abuse is tied to "need", that would suggest that we might expect it to occur more frequently among the people who are poor or during times of high unemployment. If financial need is tied to "greed", then we might expect it to be more prevalent during inflationary periods and among the upwardly mobile.

It is unclear whether financial abuse is one component in a larger pattern of abusive behaviour or a specific behaviour driven by the abuser's wants or needs. According to the first perspective, financial abuse (like psychological or physical abuse) is just another way in which power and control is exercised over the older adult.¹³ According to the second perspective, financial abuse is

¹² E.g. Quade, 1985

¹³ Gordon, 19....

simply a way in which the abuser meets takes money from the victim to meet personal financial objectives.

TWO RESEARCH QUESTIONS

- What are "typical" financial relationships in families? How do these differ from financial abuse?
- Do the cases which professionals see represent the nature or extent of typical financial abuse situations facing older adults?

METHOD

Two hundred seniors were randomly selected from different polling districts of a provincial enumeration poll. They were invited by letter and telephone call to participate in the study. Overall, two out of every three seniors agreed to participate. The most common reasons for declining were poor health, language difficulties, or lack of interest.

Gender: 42 % Male 58 % Female

Age Range: 60-92

Average Age: The average age of the male respondents was 75.2 years; the average age of the female respondents was 78.9 years. The average age overall was 77.5 years.

The study compared the situation of seniors in rural, small urban and large urban centres and different parts of the province. Sites selected were: Vancouver/ Victoria (55% of the seniors); Prince George/ Vernon (25%); and the remaining 20% came from smaller communities such as 100 Mile House, Williams Lake, and Abbotsford.

Each senior was interviewed in person. Seniors had a choice of where, and when, they would be interviewed. Almost all of the interviews (96%) were conducted in the senior's home. The rest took place in what was considered another familiar and neutral location, e.g. local health clinic. Interviews ranged in length from 1 1/2 to 4 hours.

The study primarily used open ended questions. Seniors provided information on their health, relationships, their legal and financial experiences, decision making throughout their life. They also provided considerable information on financial relationships within families. Their descriptions provided important context by which to understand financial abuse.

PART I**Financial and Legal Decision Making by Seniors****What Money Means to Seniors**

For seniors, having adequate financial resources means several things, including: a) a means to independence; b) being able to have control over their life; c) being able to live where they want; d) being able to share. In this study, seniors strongly emphasized that having money is an important avenue to exercising personal choices.

At the same time, seniors frequently emphasized that while enough money to meet daily needs was important, they considered other things as equally or even more important, such as health or family ties. While being able to leave something for children or grandchildren is important for a few, many more preferred to help now while they were still alive. In many families, children actively encouraged their parents to spend their money ("you deserve it") and enjoy their senior years.

Family Responsibility

On the whole seniors, see themselves as having a continued responsibility to help their family financially, *if the need arises and if the senior judges the situation as an appropriate one to help*. According to this study, 83% of the seniors help or have helped their grown children and grandchildren financially over the years.

This financial assistance varied from emergency loans, to a place to live when the grown offspring were without a job, to down payments for homes and paying off mortgages. Seniors have also cosigned for loans, paid divorce costs for their children, and helped pay for university. **So, helping family members financially is a very "normal" behaviour.**

In some cases, although apparently far less frequently, grown children have helped their parents out financially. This trend seems to be the direct result of (almost) universally available social resources (e.g. old age pension) to seniors.

Many seniors stated that they believed their children would help them out financially, if the senior asked it. However, over 96% of the seniors hoped that they would never be in that position. As a matter of fact, seniors typically (86%) viewed financial help from children to parents as threatening older adults' own independence. Over half the seniors stated their children probably would not be a position to help financially, as they were struggling to make ends meet as it was.

Ways in Which Seniors Have Helped Their Grown Offspring

- ◇ emergency loans
- ◇ place to live when they were without a job
- ◇ help pay for higher education (e.g. technical college or university)
- ◇ major purchase (e.g. car)
- ◇ down payments for home
- ◇ cosigning or guarantor for loans;
- ◇ house title as collateral
- ◇ money for fines; lawsuits
- ◇ helping the person during a transition period (e.g. divorce) or with divorce related matters
- ◇ help avoid bankruptcy (daughter at the point of losing business)

Even those seniors who had little money helped in other ways - e.g. baby-sitting. Among the small percentage of seniors who did not see themselves as having any responsibility to their children, several explained: "we already did the important part, we raised them."

Financial Experience

There is a wide diversity in financial experience and financial arrangements among older couples and within their families. Seniors explained that "household decisions" were usually made jointly while they married. However, widowed men (75 %) were more likely than widowed women (12 %) to state that they felt that they had the major say in decisions within the family. Among people who said that both of them handled the finances, often only one paid the bills.

In three out five of the families, the husband had taken care of the finances throughout the marriage. For some older women, this meant enduring the consequences of poor financial decisions made by their spouses. For example, one woman described how her life had been a series of moves from one rundown house to another. Because the house was always in her husband's name, she had no say in the matter. It was only after her husband's death that she was able to plan for her future.

Older women also identified a number of systemic obstacles to being able to gain financial experience in their lifetime. For example, in order to get a housing loan from Veterans Affairs, title to the house had to be in the husband's name. Women were not permitted to have credit cards in their own names until late in the 1970s. Even today, some financial institutions still ask about a husband's finances when a woman applies for credit.

Findings indicated that older women are not necessarily financially inexperienced. In most families, one person took responsibility for paying bills or filling out income tax forms. However, this could be the woman or the man. Who had the responsibility depended on several different factors:

- ◆ experience (e.g. if handling finances was part of their job, e.g. accountant, cashier)

- ◆ education
- ◆ marital status (single)
- ◆ physical health
- ◆ available time
- ◆ amount of money involved

Also in some families, although one person had the responsibility for handling finances at one point, at other transition points (e.g. retirement), the role would sometimes change to the other person. Women in lower income families were more likely to handle the finances. The more complex the financial matters were, the less the other spouse is to know about it (unless they were somehow involved in it on a day to day basis).

Rural/ Urban Contrasts: It is important to note that there were strong urban/rural differences. In urban areas, husbands were more likely to handle the finances. In rural and remote areas, women had often taken on this responsibility, especially if her husband was at sea, worked out in the bush, for the railway or on the road.

There are also cultural differences. For example, among people from the Philippines, women save and have total responsibility over finances.

About 10% of the older women had taken care of their mothers' finances during the last few years/months of their mothers' lives, usually when there had been a rapid deterioration in the mother's health. The amounts of money involved were often small. These daughters usually assumed this responsibility as an adjunct to other types of personal assistance they already provided their mothers such as bathing, feeding, dressing.

Second Marriages

In the study, several seniors currently married have been married before. This changes a lot of what we might consider as typical financial relationships in families. First, in second marriages, there is often a distinction made between "my money" and "your money". Second, the new partner is unlikely to become involved in discussions/arguments between his or her spouse and that spouse's children. It is often a "hands off" approach : "that's not my business"; "they are your children". Thus, it is possible that in second marriages, the

spouse may not even be aware that financial pressure is being made by the children on his or her partner.

Making Important Decisions

When seniors were asked what were some of the important decisions they have had to make, a large majority (68%) explained they had little or no important decisions to make in the last five years. Whether to move was one of the most common decisions during that time. The seniors frequently explained that this lack of decision-making experience in later life, sometimes made it harder to arrive at an important decision when something came up.

Changing Stamina and Emotional Reserves

A significant percentage of the seniors (32%) (primarily males) noticed that they had considerably less energy (emotional and physical resources) to deal with problems, compared to when they were younger. As a result, the men tended to be less confrontational as they grew older. Other research has also indicated that older men tend to use avoidance as a conflict resolution strategy than younger men.¹⁴

As will be seen later in the section on financial abuse, both the decline in energy and shift in values become important components in understanding older adults' reactions in financial abuse cases. In the surveyed literature, lawyers and other service providers often appear frustrated at seniors' reluctance to pursue financial recovery measures against abusers.

This reluctance by older persons has often been characterized as a typical victimization response. The older persons are said to be depressed, embarrassed, or feeling responsible for the victimization. These reactions exist, but based on the findings from the Notary Study, older people often simply see pursuing the abuser as a poor use of what limited time and resources they have left, i.e. legal pursuit of the abuser may diminish their quality of life.

Declining legal avenues may be a rational choice; not a reaction to victimization.

¹⁴ Boxer, A.M., Cook, J.A., & Cohler, B.J.(1986)

Financial and Legal Experience

General

In terms of experience with legal matters, seniors (and likely most adults) are relatively inexperienced. Their experience with legal matters is primarily limited to property transactions (selling or buying a home); wills; or divorce. Not surprisingly, a greater percentage of older women in the study (40%) than older men (11 %) had to deal with probate because their spouses predeceased them.

Older women explained that when their husband died, several people were willing to help them to learn the necessary financial skills. Their grown children (or sometimes brother-in-laws) were often supportive and helped. The children frequently helped mothers with probating the will, as well as other "transitional" activities.

However, many of the women in this study did not have children, or the children lived too far away to be able to offer assistance. Both men and women explained that where their spouses' death was sudden/ unexpected, this transition period was difficult. In some instances, a close friend might help during this time. The remaining senior women without any assistance were often left "fend for themselves".

In terms of financial matters, a small percentage (3%) women did not have a bank account in their own name until their husband died. **Women were more likely to be financially inexperienced where her husband ran his own business and he treated it as *his* business as opposed to theirs.** Fifteen per cent of husbands and 23% of wives have made efforts to educate their spouses about finances. However, unless the other person felt that there was a compelling reason to learn (e.g. impending health crisis), they often resisted any change in the *status quo*.

Legal Matters

Signing Legal Documents

Seniors were asked about their behaviour and attitudes towards legal documents. Not surprisingly, seniors suggested that for the most part, they were careful about reading documents very carefully until they were sure they understood every part; and looking over their monthly statements carefully.

Few seniors admitted to considering their time too valuable to try to figure out what the document says. The individuals who acknowledged that they did not take the time were usually men who had been in business and relied on secretaries or lawyers.

A small percentage of seniors (9%) admitted only to reading the important parts of documents, but not bothering with the rest; assuming legal document is in order; or signing without asking questions if they trusted the person who was asking them to sign. Men and women were equally likely to act this way.

However, there may be some inconsistency here between what people believe they do, and what they actually do. For example, it became apparent in the interview questions about Powers of Attorney, that many seniors signed these documents with no knowledge of what they signed. Also, in preparation for this study, it became clear that many had not read the introductory letter and often the seniors signed the consent form without reading it.¹⁵

Real Estate Transactions

In some cases, seniors have been approached by their children or other relatives to transfer title of his or her home to them. Sometimes the seniors initiated the plan themselves. However, in either case, seniors sometimes

¹⁵ Some of this may reflect physical or other disabilities. Even though a senior may have limited visual acuity or hearing difficulties, yet he or she may not expressly acknowledge these difficulties. For example, a B.C. study by the Plain Language Institute noted that if people gave seniors something to read that had small print, and asked they were having any difficulty with it, the seniors almost invariably said "no". However, if they then gave the senior the same material in larger print, the senior then stated "This is wonderful, it is so much easier to read, now I can read what it says".

misunderstand the effect of what they are doing. (See the section on Real Estate Transactions in Part II). Seniors need good explanations, in clear language, about the effect of important real estate transactions they may be considering.

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Wills

In this study, 90% of the men and 73% of the women had wills. About 5% of the men stated that their wills were out of date, compared to less than 1% of the women. Over one half of the widows surveyed did not have a will until their husband died. About two-thirds of the married women with wills had reciprocal wills (wills that mirrored the terms in their husband's will).¹⁶

To this point in the study, no senior identified having been coerced to draw up or change a will in favour of someone. However two seniors were misinformed or had been misrepresented about how they were setting up their estate under the terms of the will.

Most wills were drafted by lawyers (56%) or notaries (21%). A small percentage of the seniors (7%) drafted their own wills or had it done by a family member with some form of legal experience (13%).

Power of Attorney and Banking Power of Attorney

Older men were twice as likely as older women to grant a general or special power of attorney to someone. In this study, 12.5% of men and 6% of the women had given someone a power of attorney. An additional 8% of the seniors

¹⁶ For example a wife might bequeath everything to her husband in the event that she predeceased him, and he might bequeath everything to her, if he predeceased her.

had granted a banking power of attorney (authority to deal with a specific bank branch).

For both women and men, a daughter was the most likely person to be given the responsibility under a power of attorney. However, older women also frequently granted powers of attorney to sister-in-laws or granddaughters. In some instances the woman had been granted a power of attorney by her own sister or daughter.

Women's role in handling finances for older adults apparently is not a new phenomenon. In many instances, the older woman had earlier been given power of attorney for her mother, or in some other way had been actively involved in mother's

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managing her finances.

In many cases, the grant of the power of attorney was initiated because of illness, or the senior going to hospital. However, the power of attorney usually was not revoked after the senior returned home. Physical difficulties getting to the bank was another reason cited for use of the document.

Revoking Powers of Attorney: In many cases, seniors were unaware that they could revoke a power of attorney or how they would go about this. Consider this example:

A 78 year old man who had severe arthritis granted his son a power of attorney. Afterwards, the senior had serious second thoughts. He telephoned a lawyer to ask how to revoke the power of attorney. The man was informed by the lawyer that he would have to write to any of the institutions or places where the son might use the power of attorney to let them know he was revoking the power. He would also have to tell his son that he was terminating the power of attorney.

Technically, the lawyer's information was accurate. However, for seniors, this explanation has several pitfalls including: 1) the fact that the senior did not know where the son might be using the power of attorney; 2) the lawyer's explanation does not address the critical issue of "How does a senior tell his son that he no longer trusts the son to handle his finances?" (this type of information about dealing assertively but tactfully with children who bully is very important); and 3) how does the senior take care of his financial needs if there is no one to replace the son's role.

Confusion of Terms: In many cases, the senior was unsure what the of power of attorney they had granted in signing a document-- a banking power of attorney or regular power of attorney. People would often state it was the latter, when on further questioning it was really the former.

Seniors were also often unsure as to the nature of the power of attorney (what it could or could not do). For example, power of attorney was sometimes assumed to cover health care decisions. The seniors were also unsure as to:

- the extent of it (e.g. if it was an enduring power of attorney) or
- when it was given (e.g. in the hospital).

Only 1% expressly identified that they had given an enduring power of attorney (one that continues even if the person granting the power subsequently becomes mentally incapable). The term "power of attorney" was also frequently confused with the powers given to an executor under a will (the figures above have excluded these cases).

Signing: The circumstances in which the power of attorney was signed are sometimes suspect:

"Yes, but I don't know which one. She brought it out and I signed it."

Abuse: Although many of the seniors reported no problems with granting the power of attorney, in a few cases, there was out and out theft:

"My sister had power of attorney (for me). She was 'kiting' (stealing) and using it to subsidize her daughter."

Financial Matters

In August, 1995, CNN reported the American banking industry as stating "in the next 5 years, there will no longer be traditional banking as we know it" The banking industry representatives suggested that all banking transactions would be electronic, people would conduct their banking business at home by phone or at self service stations (ATMs) located conveniently everywhere; and individuals would not longer go to a bank branch that they saw as "theirs".

What are seniors reactions to changes in the banking industry? A significant number of older women and men in this study commented about the loss of old benchmarks by which they could ascertain their current financial status.

In particular, many seniors noted they no longer received cancelled cheques from the bank, or monthly statements with large enough print for them to read it. Some reported that their institution would provide some of these, but only at an additional fee. Banking abbreviations used in statements also caused confusion. On the positive side, several seniors reported that it was now somewhat easier to understand their credit card agreement because the credit card companies were trying for "plain language".

Direct Deposit

Direct deposit (having cheques electronically deposited to bank account) has been suggested as one of the ways of protecting seniors from "financial abuse". In considering this as a protection, it is important to consider

- ◆ what types of financial abuse is this intended to eliminate
- ◆ what barriers might prevent seniors from feeling comfortable with it.

In this study, older women were less likely to use direct deposit than older men by a ratio of 3:5. Among women who preferred not to use direct deposit, a common explanation given was that the Old Age Pension cheque was the first time in their lives that they had their own money and they liked the feeling of actually having the money in their hands. For these women, receiving the cheque was an important symbol of having control over one aspect of decision-making in their lives. It gave the women a feeling of personal control and independence. Among older women who had worked outside the home, this preference to not use direct deposit was far less common.

For people who used direct deposit, the advantages were seen as :

- "I don't trust the mail system"/postal strike
- "convenient if travelling" (money is directly in account and can access it as needed)
- "it is the sensible thing to do- I don't have to not handle the cheque more than necessary" or "it can't get lost this way"

Seniors offered the following explanations for why they preferred to deposit the money themselves using the bank teller/ service representative services.

- I have plenty of time
- "it's the only opportunity I have to talk to people"¹⁷
- "the staff know me" and "going to the bank is my only social outing these days" (the importance of personal contact and reducing social isolation)

Pre-authorized Payment Plan

Only a small percentage of seniors used pre-authorized payment plans. This was usually for hydro-electric, car payment or services such as Life Call. The main reason given for not using it was a concern that they would not have control over the situation if they were overcharged.

¹⁷ **Comment:** There is a strong preference among seniors for personal contact with staff at a financial institution. This, in combination with the fact that often the senior has been a long time client with a particular institution or branch, suggests that there may be an important role for staff as "gatekeepers" in some types of financial abuse cases.

ATMs ("Banking Machines")

Older men are more likely to use automated teller machines ("ATMs") than older women, by a ratio of 3 to 1. The main reason for seniors using the ATMs was their convenience, especially for those open 24 hours a day or if they were travelling. Seniors gave the following reasons for not using ATMs

- **tradition:** "I got a long fine without them this far in my life"
- **concerns about personal safety, security, being robbed,** particularly if there are "scruffy types" who hang around the banks (this was a particular concern among older women)
- the misconception that they would be **charged for the service** (actually this is accurate if using the INTERAC system)
- "I have other business in the bank anyway" (**limited transactions** that the ATM can do)
- **visual impairment**, which made it hard to see the screens and the location of the ATM is not always obvious ("I wish they'd keep the machines looking the same though.")
- **machinery malfunctions**
- **long lineups**

Women who worked outside of home (particularly if they worked in a office) were more likely to use ATMs than women who worked at home throughout their lives. Women who travelled were more likely to use ATMs.

Credit Cards

Approximately one quarter of the seniors in this study have and regularly use credit cards. Far fewer seniors actively use their cards and some of the seniors volunteered that they had no idea where the cards might even be.

Lending Money

Lending money to others in the family is a very common occurrence (57%) among seniors, not only to daughters and sons, but to sisters as well. Among people who had not lent money, it was usually the fact that they had little or no

discretionary money to lend that was the reason, not any personal belief about the appropriateness of lending.

In most instances when seniors make a loan to another person, they do not receive any interest on it. This was particularly the case recently where the bank interest rate that the senior might otherwise receive was low.

Sometimes seniors drew a distinction was made between family and in laws on paying interest. As one woman put it,

"...in-laws pay interest,husbands come and go"

Usually there was not a formal (written) agreement in place. In some cases the amount of the loan was small (\$500-1000), but several seniors mentioned that they had given large loans- e.g. paying off the children's mortgage on this informal basis.

At least one writer has suggested that being in the habit of lending money with no indication of repayment should be treated as suspicious behaviour.¹⁸ It is clear from the present study, that a pattern of lending money with no indication of repayment is extremely common practice among seniors and it, alone, should not be considered as a risk indicator for financial abuse.

In the present study, most loans to a family member or friend were repaid. About 20% of loans that seniors had made were not repaid or not repaid in full. In some cases, the senior described this as a "loan that turned into an unintended gift". Most seniors in this situation did not express feeling uncomfortable or used.

Sign on the dotted line: Among seniors who used written agreements, two main reasons were given :

- "if anything happens to either of us, it would be clear"
(gentleman in his 80s)
- misconceptions about the law, e.g. that if nothing was signed, it is impossible to do anything about the loss.

¹⁸ Sengstock, et al, 1986

Non Payment of Personal Loans

When asked what they would do if the person they lent the money to did not repay them, seniors responded in several ways:

1) "I'll accept the loss-- ("family is more important than money" or "its not worth the fight, I don't have enough energy these days for fighting") or

2) there are other ways to balance out- give equal money to others in the family (especially in the will)

Only a few seniors (less than 5%) would take legal action, particularly if it was a family member.¹⁹

Cosigning Loans

A small percentage of seniors (7%) have cosigned for loans. However, another 5% have been asked and declined to do so. In most instances, cosigning the loan had not generated any difficulties.

Large Sums of Money at Home

Nine per cent of seniors stated that they kept large sums of money at home. In many cases, this was simply a continuation of early life practices -- they had always been this way. In other instances, the senior was worried about the security of banks (a throwback to their own or their parent's experiences during the Depression and stock market crash in 1929).

In rural areas, keeping large sums of money at home sometimes resulted from the senior not being able to get to the bank, due to inclement weather. Physical difficulties in getting to the bank was a more common explanation for keeping large sums of money at home in urban areas.

¹⁹ It is important to remember that it has only been in the last century that family members have been permitted to sue each other. apparently, the courts saw lawsuits as creating discord in the family.

PART II**Financial Abuse**

In this part of the study, seniors were asked whether, since turning 60, they had faced any of 30 potentially abusive situations and if so, how they handled it. The term "abuse" was not used to identify the situation so as to focus on the behaviour, not the person's subjective interpretation of it as "abusive" or not.

The study intentionally used a range of victimization examples, including crimes by strangers. These examples varied from situations in which strangers or acquaintances were trying to pressure them to donate, to people taking possessions without their permission to persuading them to change their will, to theft of money.

Criteria for Financial Abuse

In this study, two criteria were used for determining financial abuse:

- 1) "Could the situation the person was describing be framed as against the law in some way, either civilly or criminally?" and
- 2) "Was there a trust relationship? "

The first criterion is conservative, but has the advantage of using an objective standard. The second criterion, the "trust relationship", is a social definition. Trust arises by the nature of the relationship between two people. It can be explicit, it can be assumed to exist in certain kinds of relationships (e.g. between family members) or it can be established by law or regulations (e.g. between professionals and clients). In using this definition, the objective was to differentiate between abuse and crimes committed by strangers.

Although civil and criminal law cover a large part of what we call "financial abuse", the term can be extended into other misuses of power that are not considered to be legal issues. Criminal and civil law set minimum standards of behavior. Beyond these minimum standards, there are moral or societal standards of acceptable behaviour towards older adults would not be considered

be criminal. For example, a daughter who makes her children's visits with their grandparents conditional on the grandparents' continued financial support.

Extent

Financial abuse is more common than we have previously suspected. In this study, 8% of the older adults acknowledged having faced or living with a situation that could be termed financially abusive. This is three times higher than the findings arising from a national telephone survey on abuse conducted in Canada in 1989. However that study, commonly called the "Ryerson Study" only asked six questions on financial abuse.

The Notary Study, by its nature, could only involve interviewing seniors whose mentally capable was not seriously in question. This raises the possibility (indeed the probability) that the extent of financial abuse among senior population overall is higher than suggested by this study.

An additional 10 % of the seniors in the study volunteered that they had not personally faced any of the financially abusive situations, but they knew of situations in which a relative or close friend over the age of 60 had gone through this. Although, initially, the study had not been framed to include this second category, it subsequently provided some enlightening comparisons in abuse situations. Together, the two categories of experiences present a picture of financial abuse among older adults that throws into question some of the current assumptions about financial abuse among seniors.

Gender

More women than men acknowledged having encountered one or more of the financially abusive situations. The ratio was 3:1. However, it is important to recognize that more older women than older men were interviewed in this study. In relation to their proportion of the respondents, women were equally likely as men to be financially abused.

Not Just "Elder Abuse?"

Seniors described how exploitation or conning can occur at any age. Several seniors (12%) stated that they had not encountered these situations since they turned 60, but they had earlier at, age 40, 50 etc. In those instances people were usually exploited by people outside the family; although sometimes a family member (occasionally a spouse) was the perpetrator. This finding supports other studies where middle aged people have also reported being abused (any kind) at some point in their life.²⁰

If exploitation also occurs among middle aged adults, why do we seem to focus solely on financial abuse of older adults. The answer in part is the "economic consequences". If something economically adverse happens to a person at age 40, the person has 25 working years to recoup the loss. At age 80, they usually don't. Also the exploitation often involves the senior's one major asset, his or her house.

But if we focus solely on economic consequences, are we saying that it is okay to con or steal \$1000 from an 80 year old who is well off, who "won't miss it", but not okay to do it to an 80 year old who is poor? There may be a latent sexism in that approach - according to Statistics Canada, older women are far more likely to be poor than older men (45.2 % of unattached female seniors are below the poverty level²¹).

Types of Financial Abuse

The most common forms of financial abuse involved coercion, harassment or misrepresentation (a pattern of behaviour). The second most common form of financial abuse involved abuse of a power of attorney. One in five financial abuse situations in this study involved real estate transactions, such as signing over title to the home to a child or friend (particularly with an informal/ implicit agreement that the title is being given in return for an the children assisting the senior later in life); mortgages, second mortgages, or reverse mortgages where the proceeds are to pay off a family member's debt or to pay for a family member's business venture. As the senior's home is often be his or her largest

²⁰ See Hudson, 1994; Sengstock, 1986.

²¹ Unattached means -single, widowed, divorced.

asset (and in many cases, only asset), this transfer often represents a devastating loss for the senior. In other cases, it totally undermines what the senior's intentions were.

For example, a woman recently transferred title of her house to one of her daughters, even though she wanted another daughter to have the house when she died (she simply did not want the second daughter to "fritter away" the proceeds of the house at this point). Although there are legal principles (constructive trusts) that would cover this case, there are other legal principles that could nullify the mother's planning. In either case, the second daughter may never get what her mother intended or the mother's estate could end up paying for this major misunderstanding.

Is this a case of financial abuse? It is unclear. Often we describe something as "financial abusive" if there has been misrepresentation or an intention to deceive. The mother was unaware that this transfer negated her intentions. In this particular case, the mother's sole source of information was from her first daughter. But, what if the first daughter was as uninformed or misinformed as her mother?

A Historical Glimpse at Financial Abuse

Seven per cent of seniors in this study also provided descriptions of financially abusive situations that happened to older relatives or close friends (usually people of their parents' generation). These situations provide an interesting, historical glimpse into the nature of the problem and provide collateral evidence that financial abuse is not something new in our society. Most of the situations that the seniors described involved a senior whose mental capabilities were declining and family members exploiting that opportunity to their own advantage.

Victims

Findings from the study suggest that it may be inappropriate to speak the "typical victim". The study found few commonalities among seniors who were financially abused. In contrast to previous, non-representative studies, victims of financial abuse were no more likely to be physically dependent or frail than older adults who had not been abused.

However, the study does suggest that where the victim is physically dependent on the abuser, the abuse may be more serious in nature. There is continued and close contact with little opportunity for financially abused person to escape a concurrent barrage of psychological abuse. In particular, there are more likely to be other forms of abuse occurring concurrently, especially psychological abuse.

Profile of the Financial Abuse Victim

Based on existing literature

- mentally incompetent; and/or
- exploited by opportunist or at late stage in life;
- naive, over trusting;
- passive and compliant;
- isolated or lonely.

Based on the Notary study

- ◇ no more likely to be physically dependent or frail than older adults who had not been abused.
- ◇ where the victim is physically dependent on the abuser, the abuse may be more serious in nature.
- ◇ isolated (often by the abuser)
- ◇ not more trusting or naive than other seniors who are not financially abused
- ◇ not more financially inexperienced
- ◇ not more passive or compliant
- ◇ occurring at any stage of the life cycle

Trust

In contrast to past assumptions, older adults facing financial abuse are neither more trusting nor naive than their non-abused peers. If anything, they may be somewhat less trusting, either because of the abuse or because the abusers

have fostered that distrust of others in them. Nor were they any more passive/compliant than older adults who had not been financially abused.

Gender of Abuser

According to the preliminary findings from this study, financial abuse is equally likely to be perpetrated by women as men. Women however appear to have more opportunity for financial abuse. In particular, daughters are given the responsibility of dealing with the finances and mothers often feel closer to their daughters as well. This is supported by at least one previous study that has indicated that most frequent financial abusers are daughters.²² It is important to remember, however, that even given the responsibility, most daughters don't abuse it. The trust is well placed. (See section on Power of Attorney).

Financial Abuse by Spouses

It is unusual to even consider that financial abuse by spouses might occur. Basically we ignore the possibility because of social and legal presumptions that spouses provide for each other and share resources. However, the law does recognize that couples may have had their own property before marriage, and that sole ownership does not end on becoming married.

This study also indicates that spouses can be financially abusive. Widows described situations when they were younger (in the 30s, 40s and 50s) where their husbands forged the wives signatures on loans, or blatantly lied to them about what the wife was being asked to sign. Husbands noted situations where common law wives sold the first wives' jewellery and other possessions without permission.

Abuse against women

Financial abuse against women often had elements that older men did not usually face. For example, daughters sometimes would deny access to the grandchildren as a ploy to manipulate the older women to do as the daughter wanted. Financial abuse by men was more likely to involve physical violence or intimidation.

²² Sengstock, 1986.

Abuse against men

In several instances, a financially abused older man had been in business before retiring. The abuser was able to play on that past business experience segue, framing the abuse as "business proposition" or an opportunity to "help a struggling young entrepreneur". Because the older men in these instances were used to accepting the consequences of a business decision, positive or negative, they accepted the loss, even where the transaction patently involved deception or misrepresentation.

For these men, calling into question their continued competence in making business decisions would mean substantial loss of face. The second difference is that for older men, there is sometimes a sexual or emotional relationship with the abuser that further complicates the dynamics of the situation.

Sex, Affection, Loneliness, and Finances

Both women and men can be in a new relationship where someone is exploiting them financially. Seniors raised some interesting questions about these relationships. For example, in a suspected financial abuse case, does the fact that the new man in an older woman's life is close in age to the woman make it *less likely* that we will interpret the situation as "financial abusive". Do we assume exploitation if it is a 23 year old befriending an 83 year old? If so, what is the basis of our assumptions?

The Tie Between Financial Abuse and Other Forms of Abuse

In two-thirds of the financial abuse situations which seniors described, financial abuse was accompanied by another form of abuse, primarily psychological abuse (such as intimidation, manipulation or threats). Occasionally, the abuser resorted to physical force to obtain the victims resources, usually when psychological abuse did not succeed.

Where only financial abuse was the only type of abuse that occurred, the situations typically involved theft. In both instances, financial abuse could usually be achieved without any form of resistance on the part of the victim.

Two themes arose from older adults' descriptions of the person committing the financial abuse: 1) financial abuse is often part of a long established pattern of behaviour on the part of the abuser and 2) the abuser has a "false sense entitlement" on which he or she relies to rationalize the abusive behaviour.

A. Pattern of Behaviour

The seniors' responses indicated that the abuser already has a long standing pattern of behaviour in place before the financial abuse starts. Abusers were often described as having been self interested (focusing on their own needs and interests to the exclusion of others) manipulative, and impulsive most of their lives. This may account for the high levels of minimization and denial in abusers that service providers have noted (see Tomita).

In many instances, this is the way the abuser has always behaved. Therefore, the person will not see it as wrong. When younger, the seniors found it easier to ignore, counter, or fight off the abuser's manipulative or self interested behaviour. Seniors described how as they grew older they had diminished psychological resources and personal energy which left them more vulnerable to the abuser's demands.

B. Buffers Against Abuse

In some instances, seniors described how financial abuse would have been more commonplace if they (or others in the family) had not actively inhibited the abuse by directly challenging the person ("George, you can't do that. It's Mom's money, not yours"). One typical statement was:

"We always had to watch [our brother] George. He was always scheming. He would have sold Mom's house right from under her several times over, if we had not been there. In his mind, Mom's property was his property to do with as he wished"

Seniors also described thwarted attempts at exploitation. Typically these occurred where the bonds between family that were just being built or not very strong. For example, one senior described how a new son-in-law who wanted to subdivide his mother-in-law's farm property shortly after he married her

daughter, stating "We'll do this. This will be good for us." In that particular case, family members quickly established boundaries for the new son-in-law as to what was appropriate behaviour towards his mother-in-law and her property.

In some instances, attempts were thwarted by providing more accurate information to the potential victim about the effect of the proposed transaction:

"Mom, did you know if you sign as guarantor for Ralph and he isn't able to pay the loan, you could be forced to sell the house"

In other instances, family seemed to condone the behaviour, or at least were less willing to become involved, particularly if the senior and the abuser were living in the same house.

C. Abuse as Purposeful Behaviour

In family relationships involving financial abuse, it is generally assumed that the abuser will focus on one individual. According to evidence in this study, this is only the case if the abuser has found "a good mark". However, if circumstances change, the abuser may seek out other vulnerable people, either in the family or other seniors.

For example, a senior described how one man turned to his parents to prop up his failing business. In the beginning, they gave him money, but eventually they stopped giving it. At that point, he turned to his mother-in-law, draining all her financial resources to the point where she was forced to rely on the local foodbank.

[This example raises interesting questions about who we count as the abuser. The man knew his mother in law despised him but she had a good relationship with his wife/ her daughter. He would send his wife and six children over to his mother in law's, and get his wife to do the inveigling for him. Is his wife the abuser, or him, or both?]

Self Neglect

The study indicated that in some instances there is a connection between abuse and self neglect.²³ The fact that a person is financially abusing an older person can lead the senior neglecting his or her own needs- denying or restricting himself or herself food, so as to be able to give money to the abuser. Social agencies encounter her on that self neglect basis. Alternatively, self neglect may also be a sign to the abuser that the senior is not totally in control of his or her life, and therefore susceptible to outside control.

Socio-Economic Status:

Financial abuse does not appear to be correlated to the amount of money that a senior has. Instead, it seems to be more related to the abuser's attitudes and needs and to the fact that the person has any money or resources at all. However, the specifics of financial abuse will differ according to the assets. The perpetrator may differ.

For example, if a person only has their old age pension cheque, the perpetrator is likely to be someone who has is in close, direct contact with the senior, perhaps someone who helps them pay bills or write cheques. If the assets are stocks or mutual funds and the senior has to rely on someone for "expert advice", then financial abuse might come from that source.

How Much Money is Involved

In this study, the extent of the financial abuse involved several thousand dollars in each case. Where houses or property was involved, the amounts reached hundreds of thousands of dollars. On average, the seniors lost in excess of \$20,000 each. This is a small scale study, so there is room for error. But, to put this in perspective, if the 8% prevalence rate for financial abuse of seniors in B.C. is accurate, and if \$20,000 is a fair estimate of the average financial loss to the senior, that means that 33,700 seniors in B.C. face the prospect of financial abuse. Their estimated losses would total \$675,000,000.

²³ Sellers, 9, 1992 suggests that allowing self to be financially exploited is a form of self neglect.

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Social workers in care facilities indicate that the problem of financial abuse is far more common there, particularly where the senior's mental capability is in question or is deteriorating.²⁴

“So What’s the Difference”: Helping versus Financially Abusive Behaviour

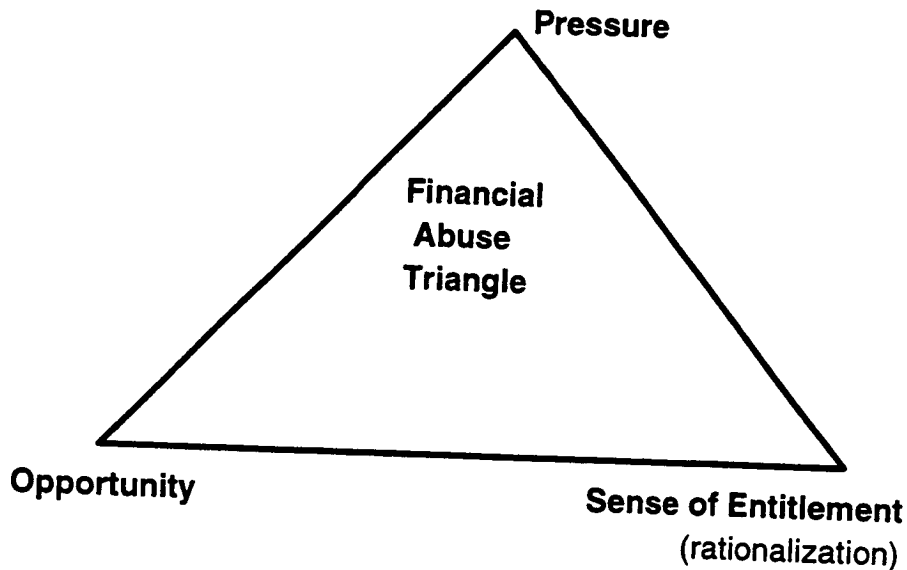
One common element in the non-abusive situations, was the senior's feeling of choice whether to give or lend money.²⁵ The second common element was trust. The majority of seniors kept no record of the transaction, and emphasizing that the transaction was based on trust. In most cases, that trust was well founded, as the money was repaid.

Helping Behaviour (one or elements present)	Financial Abuse (one or elements present)
<ul style="list-style-type: none"> • Presence of Choice 	<ul style="list-style-type: none"> • Feeling of little or no choice
<ul style="list-style-type: none"> • Opportunity for Discussion 	<ul style="list-style-type: none"> • Isolated so that discussion with neutral/objective party is not possible
<ul style="list-style-type: none"> • Opportunity for considering long/short terms consequences 	<ul style="list-style-type: none"> • Forced into quick decision; threats or intimidation

Financial abuse was far more likely to occur where **three elements were present together**: 1) financial pressure; 2) opportunity; and 3) a false sense of entitlement. It maybe helpful to visualize financial abusive situations as a triangle in which each element supports and reinforces the other(See Figure below).

²⁴ See Reilly, E. & Spencer, C. "Ethical Dilemmas in Abuse and Neglect Cases" Presented at 24th Annual Conference of the Canadian Association on Gerontology, Vancouver, B.C. October 26-29, 1995.

²⁵ In many instances, this followed a discussion about the matter with his or her spouse or someone else in the family, looking at senior's economic situation both in the long and short term.



If we address one or more of those three elements, we are more likely to be successful in dealing with financial abuse.

Financial Pressures: Research on other kinds of financial harm (such as fraud or embezzlement) indicates that financial pressures on the potentially abusive individual can come from a variety of sources, including²⁶:

- Greed
- Living beyond one's means
- High personal debt
- High medical bills
- Poor credit
- Personal financial loss
- Unexpected financial needs
- Vice pressures (gambling, drugs, alcohol, expensive sexual relationships)
- Work related pressures
- Spouse who insists on an improved lifestyle
- Long term or chronic unemployment
- Divorce
- Ambition

²⁶ Adapted from Albrecht, W.S., Wernz, G.W., & Williams, T.L. (1995) Fraud: Bringing Light to the Dark Side of Business (New York: Irwin)

Preliminary findings from the Notary Study back this up. In each instances of financial abuse, the senior identified some form of financial pressure on the abuser.

Financial pressure is not enough: There is some evidence that people who financially abuse seniors do so in response to pressing personal needs- e.g. loss of business (near bankruptcy) or substance abuse problems. The person in these circumstances turns to his or her parents/grandparents/ aunt/ uncle as an easy source of money.

But is pressing financial need enough for abuse to occur? In the Notary Study, 63% of the seniors had family members with serious financial problems of some sort (often related to unemployment); but only 8% who financially abused.

The second critical element is **opportunity**.²⁷ Opportunity can already pre-exist or can be created by the abuser. Opportunity includes:

1. **Opportunity created through social roles:** Social expectations about who will assist seniors in financial matters (e.g. daughters, sons) sets the stage for who has access to the funds in the first place.
2. **Opportunity created through isolation.** Isolation is an important component of opportunity because it makes the financial abuse harder to detect. It also makes it harder for the abused person to check information provided by the abuser ("a reality check").

Consistent with previous studies, the victims of financial abuse tend to be isolated more often than people who had not experienced financial abuse. In this study, the abuser often actively created or heightened the isolation and actively undermines the person's feelings of worth/self esteem. The victim often faced a daily barrage. For example, a widow described the daily barrage she faced from her daughter and son- in-law:

²⁷ Adapted from Albrecht, W.S., Wernz, G.W., & Williams, T.L. (1995) Fraud: Bringing Light to the Dark Side of Business (New York: Irwin)

"You're an old woman. You can't do it alone. You know there are bad people out where you live. Look at what happened to that lady in Kelowna [100 miles away]. Someone will hurt you. Sell the house and we will protect you. We are the only people you can trust."

The seniors also described how the abuser(s) would create rifts in the family, alienating other family members, would magnify events in the older adult's life to create fear or would build on existing fears. Other elements can create isolation for seniors, increasing the risk of financial abuse:

- ◇ geography - distance from children (or others able to dissuade or monitor the abuser's behaviour)
- ◇ language
- ◇ hearing impairment
- ◇ no longer being able to drive

- 3. Lack of Controls that Prevent and/or Detect Fraudulent Behaviour.** In financial abuse cases in this study, opportunity included the fact that there are no controls on powers of attorney (the form is readily available at a stationery store and does not have any major requirements in terms of witnessing or monitoring the attorney's acts).
- 4. No Adverse Consequences:** An individual who commits this kind of behaviour is not punished, or suffers no significant penalty and often resumes the behaviour. In the Notary Study, seniors who were financially abused were often stoic about it, deciding not to pursue the matter legally to recoup their losses. Their decisions were mainly based on social factors (such as the stigma of suing or stigma of having raised this manipulative person) as well as legal factors (the likelihood that they might not be successful). These individual decisions have a cumulative effect, in which the abusers basically "get away with it". As Sheila Neysmith has put it "Abuse occurs where inequities are condoned".²⁸

²⁸ Neysmith, 1995, 45

Sense of Entitlement

Even if a person has both the opportunity and financial pressure, that is often is not sufficient. The third critical element is the person believing that he or she is entitled to these resources. Susan Tomita has discussed the role of rationalization and neutralization in abuse and neglect cases. W.S. Albrecht has discussed its important role in fraud cases. Basically, rationalization is the substitution of "good reasons" for the real reasons behind perpetrators actions.

- "they owe it to me"
- "I am only borrowing the money and will pay it back"
- "nobody will get hurt"
- "I deserve it more"
- "It's for a good purpose"

In the Notary Study, seniors' observations indicated that abusers had what may be loosely termed a "false sense of entitlement". This belief states "I am entitled to your money, house or furniture etc. because ofage, birth order, birth number, gender or feeling of past wrong."

That false sense of entitlement can be based on :

GENDER:

You're an old woman.

I'm a young man.

..... Therefore, let me have the money, I deserve it.

AGE: "You are old, and had your chance at life."

"You have no real future. I am young, and have real needs.

..... Therefore, move over, and let me have the money, I deserve it.

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BIRTH ORDER :

"I am the eldest/youngest.

..... Therefore, let me have the money, I deserve it.

BIRTH NUMBER:

I am the only child.

I am going to get it once you die, anyhow.

..... Therefore, let me have the money, I deserve it.

FEELING OF PAST WRONG:

You (or someone else in the family) did something wrong to me in the past.

I deserve to be repaid.

As mentioned earlier, each of these three elements is necessary. However, no one of them, alone, is sufficient for financial abuse to occur. This model offers a rudimentary framework on how we might address financial abuse issues: do we tackle opportunity; do we address social or legal assumptions about entitlement; or do we focus on the financial pressure aspect?

Abuse in Institutional Settings

Although this study focussed on seniors living in the community, seniors were also asked about their experience with long term care facilities. Only 5% personally knew a person who was currently residing in a long term care facility.

Of this percentage, very few had contact with the person since the person began residing there, even though they had been friends or co-workers for many years. As one 78 year old respondent explained "I tried visiting him for a while, but it was so depressing seeing all those old men with their heads lying on the table, drooling."

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However, 4% of the total number of seniors in this study described problems that their friend or family member had encountered while in an institutional setting. The financial abusive behaviors included

- family members getting the resident to sign cheques on days when the person's mental capability was seriously in question
- theft of property
- disposition of assets (e.g. furniture) without the person's knowledge or consent

In addition, three respondents noted other forms of abusive or degrading behavior occurring in institutional settings, including the door to their room left open so that people could see residents left disrobed or uncovered. In each of these cases, the respondent felt that the resident was vulnerable because they were mentally impaired and could not communicate.

PART III

Responses to Financial Abuse and Perceived Resources

The third part of the study focussed on personal responses to financial abuse and perceived resources in abusive situations. Seniors were given five vignettes involving financial abuse, and asked to imagine they had a close friend facing that situation. They were then asked how they might respond if the friend came to them for help. The vignette situations involved forced change of will, exploitation with threat of physical force etc. This part of the study resulted in somewhat surprising findings:

Even in the most serious vignette (which involved a pattern of exploitation, plus some physical threat), 15% of the seniors stated that they would not do anything. Some seniors were very judgmental of their peers and stated "I wouldn't want to associate with anyone dumb enough to let that happen to them".

Others stated very bluntly "I don't give advice." Their reasons included

- " it is none of my business";
- " they don't want my advice";
- " you don't want to go too far"

This may represent a strong willingness among these seniors to respect personal boundaries and privacy.

At the same time, however, this finding is important, because it highlights a potential obstacle that abused seniors may be facing if they do disclose the abuse to a peer. **In almost every case where seniors responded " I don't give advice", the person was an individual considered to have knowledge and carry respect in the community (what is sometimes refereed to a "gatekeeper")**. In almost every case in this particular study, the person expressing these attitudes was male.

Sometimes seniors are the most critical of or least tolerant of other seniors who have been abused. As expressed by one senior: "I would not want to associate

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with any one who could be that stupid". In these comments, it apparent that a financial abused seniors faces more losses than just loss of money: loss of others' respect (blaming behaviour-- "how could she have allowed to get it go that far") and loss of status as a good mother or father.

Peer responses to abuse are important to keep in mind. When service providers describe abused older adults as being passive or unresponsive, it may be that the senior has tried in the past to informally broach the problem with people they trust, only to be rebuffed or somehow blamed for the situation.

Most seniors responded differently about the senior in these financial vignettes though. Their most common response was to have this situation handled as a family matter, and to be resolved within the family. Twenty per cent of the seniors offered comments (such as "Where is the family?" "Where is the mother/father"). This may also indicate a belief among seniors that parents continue to be responsible for their grown children's behaviour, not matter how old the "children" are.

TYPES OF SUGGESTED INTERVENTIONS FOR DEALING WITH FINANCIAL ABUSE

	<u>Advantages</u>	<u>Disadvantages</u>
<p>1. Increased use of direct deposit</p> <p>2. Increased watchfulness by gatekeepers such as banks, lawyers, notaries</p>	<ul style="list-style-type: none"> - make be effective for theft -demonstrates a social responsibility on people in a positions where financial abuse is most likely to occur. - may eliminate opportunities for fraud 	<ul style="list-style-type: none"> - does not decrease isolation - may be somewhat paternalistic; depending on the framework, may be costly to implement.
<p>3. Increased accessibility of easily understood information for seniors about rights, options</p>	<ul style="list-style-type: none"> - helps gives senior sense of control over a situation that he or she otherwise feels is "out of control"; may help restore self esteem 	<ul style="list-style-type: none"> - tends to be passive; assumes senior knows what to ask about in the first place
<p>4. Empowerment strategies ("how to say no")</p>	<ul style="list-style-type: none"> - helps gives senior sense of control over a situation that he or she otherwise feels is "out of control"; may help restore self esteem 	<ul style="list-style-type: none"> - does not deal with the fact that the societal aspects that make an abuser feel that he or she is entitled to this money or these resources - may be a hard skill to teach for some seniors

CONCLUSION AND RECOMMENDATIONS:

This preliminary study focussed on "normal legal and financial behaviour" among seniors. It also examined financial abuse among seniors who have typically been considered at lower risk of this type of abuse than seniors with fluctuating or declining mental capacities.

The study has underscored that many of the assumptions currently held in among many service providers and in business community about financial abuse are erroneous, or at best, incomplete. It is clear that there is a need for further research on other populations not covered by this study (mentally incapable).

Financial abuse needs to be understood within a social and normative context. If we understand those norms, the values older adults bring, we may be better able to offer choices and options that meet the needs of abused older adults--ones in which the desire for continued contact with the abuser and cessation of the abuse are both possible.

APPENDIX A

THE OLD PICTURE OF FINANCIALLY ABUSED PERSON:

These have been described as the three categories of people subjected to financial abuse:

Bereaved Widow/er- persons of long marriages whose spouses ran the financial businesses of the family. The spouse dies, leaving the survivor to cope with the anxiety and confusion.

Financial Prisoner- elders who are physically, emotionally or psychologically dependent on a family member, friend or caregiver. The seniors eventually come to depend on the exploiter for virtually every aspect of their well-being. As a result the seniors ultimately lose their free will. Even when they are aware of what is happening, they are powerless to say "no". So long as this dependent relationship continues, the victims (who otherwise appear rational and lucid) will even ratify the exploitive transactions after the fact.

Slipping- once the elder was perfectly capable of handling their own affairs, but senility or other ailments cause them to lose interest and ability in such matters. These persons typically turn to the exploiter, typically someone they trust to handle their affairs. Often the delegation is not overt, but simply assumed by the exploiter with little or no understanding by the elder of what is occurring or its consequences.

APPENDIX B Specific Types of Financial Abuse that are Against the Law

<u>Criminal Law</u>	<u>Example</u>
♦ theft (s.322 Criminal Code)	Stealing money or other property
♦ theft by person holding power of attorney (s.331)	using the power of attorney for a purpose for which it was not intended; using it for one's own benefit
♦ forgery (s.380)	signing person's name to a cheque without his or her permission
♦ stopping the mail with intent (s.345)	
♦ fraud s.346	
♦ extortion (s.346)	
♦ breach of duty to provide necessities of life s.215	-a person who has a power of attorney or guardianship who refuses to spend money on the senior's necessities
♦ assault s.265	-striking a person (in this case to get money)
♦ harassing telephone calls s. 372.3	- constantly phoning when the person doesn't want to hear from the caller or feels powerless to stop the calls
♦ intimidation s.423	- physically or verbally threatening the person; acting in some way that leads the person to fear that he or she must go along with the perpetrator's wishes
♦ uttering threats s.264.2	- verbally threatening the person
<u>Civil Law</u>	
♦ misrepresentation	-lending money to a person for one reason and actually another
♦ fraud	
♦ nuisance	-constantly phoning

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- ◆ battery
- ◆ breach of contract
 - reneging on agreement to provide care in exchange for deed to home
- ◆ coercion of will; undue influence
 - unfairly using your position or contact with the person to get them to draft a will usually in your favour or sometimes against the favour of someone else
- ◆ breach of fiduciary duty or trust
 - using monies entrusted to you for your own use;
- ◆ conflict of interest
 - as executor of a will, selling part of parent's business to you or wife for less than fair value
- ◆ conversion and detinue
 - using or treating goods (furniture, property) as if they were their own; not necessary that person in mind to commit a wrong- could be an innocent mistake
 - being there when you have no right to be; staying when asked to leave
- ◆ trespass
- ◆ intentional interference with land
- ◆ breach of trust
- ◆ lack of testamentary capacity
 - having a person sign a will without them understanding the nature and effect of what they are doing
- ◆ theft
 - taking some possession without the person's authority, or without their knowledge

APPENDIX C

REFERENCES

- Albrecht, W.S., Wernz, G.W., & Williams, T.L. (1995) Fraud: Bringing Light to the Dark Side of Business (New York: Irwin)
- Blunt, A.P. (1991) "Financial Abuse of the elderly- a nightmare for client and lawyer alike" Arizona Attorney 28 (4) 21-23.
- Blunt (1993) "Financial exploitation of the incapacitated: investigation and remedies" J. of Elder Abuse and Neglect 5 (1) 19-25.
- Boxer, A.M., Cook, J.A., & Cohler, B.J.(1986) "Grandfather, fathers and sons: Intergenerational relations among men" in K.A. Pillemer & R.S. Wolf (eds.) Elder Abuse: Conflict in the Family Auburn House: 93-121.
- Canadian Bankers Association (March 30, 1993) Statement on Seniors Issues for the House of Common Sub-Committee on Seniors Health Issues. Presented by J. de Laurentis.
- Chatman, E.A. (1992) The Information World of Retired Women (Westport, Conn: Greenwood Press)
- Colvin, LEEANNE (February , 1989) "A Response to Elder Abuse: Remedies and Remonstrations" Advocacy Centre for the Elderly, unpublished manuscript.
- Fitting, M.D. (1986) "Ethical dilemmas in counselling older adults" J. of Counseling and Development 64 325-327.
- Furtenberg, A.L. (Fall, 1985) "Older people's choice of lay consultants." J. of Gerontological Soc. Work 9 (1) 21-34.
- George, L.K. (1992) "Economic Status and Subjective Well being: A review of the Literature and an Agenda for Future Research" in N.E. Cutler, D.W. Gregg, M.P.Lawton (eds.) Aging, Money and Life Satisfaction 69-100.
- Gordon, R. (1992) "Material abuse and powers of attorney in Canada : a preliminary examination" J. of Elder Abuse and Neglect 4 (1/2)173-193.
- Griffin, L.W. (1994) "Elder maltreatment among rural African-Americans" J. of Elder Abuse & Neglect 6 (1)1-27.
- Gutman, G.M., Wister, A.V., Campbell, H., Deguid, J. (March 1995) Fact Book on Aging in British Columbia (2nd ed.) (Vancouver, B.C.: Gerontology Research Centre, Simon Fraser University)
- Heisler, C.J. & Tewksbury J.E. (1991) "Fiduciary Abuse of the Elderly: A Prosecutor's Perspective" J. of Elder Abuse and Neglect 3 (4) 23-41.

- Hickey, T. & Douglass, R.L. (1981) "Mistreatment of the elderly in the domestic setting: an exploratory study" Amer. J. of Public Health 71 (5), 500-507.
- Holden, C., Burkhauser, R. & Myers, D. (1986) "Income transitions at older stages in life: the dynamics of poverty" Gerontologist 26, 292-297.
- Hudson, M.F. (1994) "Elder abuse: Its Meaning to Middle Aged and Older Adults- Part II: Pilot Results" J. of Elder Abuse & Neglect 6 (1) 55-82.
- Jenkins, A.(1991) "Intervention with violence and abuse in families: the inadvertent perpetuation of irresponsible behaviour" Australian & New Zealand J. Fam. Therapy 12(4), 186-195.
- Katz, Z.S. & Chapman, C. (November, 1994) Inventory of Services to Respond to Abuse of Older People in British Columbia (Victoria, B.C.: Ministry of Health and Ministry Responsible for Seniors).
- Krause, N. (1987) "Chronic strain, locus of control and distress in older adults" Psychology and Aging 24 375-382.
- Krause, N., Jay, G. & Liang, J. (1991) "Financial strain and psychological well-being among the American and Japanese elderly" psychology and Aging 6 (2) 170-181
- Krause, N. & Baker, E. (1992) "Financial strain, economic values and somatic symptoms in later life" Psychology and Aging 7 (1) 4-14.
- Lau, E. & Kosberg, J. (1979) "Abuse of the elderly by informal care providers" Aging 299-301, 11-15
- Lee, G.R. (1985) "Kinship and social support of the elderly: the case of the United States" Aging and Society 5 19-38.
- MacKay, M.J. (1989) " Financial and personal competence in the elderly" Can. J. Psychiatry 34 829-832
- MacLean, M.(1995) (ed.) Abuse and Neglect of Older Canadians: Strategies for Change (Toronto: Thompson) 43-54.
- Manitoba Senior Directorate "How to recognize and avoid financial abuse" (pamphlet)
- Neysmith, S. (1995) "Power in relationships of trust: A feminist analysis of elder abuse" in M. MacLean (ed.) Abuse and Neglect of Older Canadians: Strategies for Change (Toronto: Thompson) 43-55.
- Pay, D. (March, 1993) Elder Abuse" A Financial Perspective (Vancouver, B.C.: B.C. Institute on Family Violence)
- Pittaway, E. & Gallagher, E. (1995a) A Guide to Enhancing Services for Abused Older Canadians (Victoria, B.C. : The Centre on Aging, University of Victoria)
- Pittaway, E. & Gallagher, E. (1995b) Services for Abused Older Canadians (Victoria, B.C.: Office for Seniors)

FINANCIAL ABUSE

- Pittaway, E.(1995) "Risk Factors for Abuse and Neglect Among older Adults" Canadian Journal on Aging 14 (2) 20-44 at 21.
- Podnieks, E., Pillemer, K., Nicholson,J.P., Shillington,T. & Frizzel, A.F. (1989) A National Survey on Abuse of the Elderly in Canada : Preliminary Findings. (Toronto, Ont: Ryerson Polytechnical Institute)
- Pritchard, J. (1993) "Dispelling some myths." J. of Elder Abuse and Neglect 5 (2) 27-36.
- Quade,V. (June, 1985) "Elderly victims: assets taken by relatives" ABA Journal: The Lawyer's Magazine 71 20-21.
- Rowe, J., Davies, K.N., Baburaj,V., & Sinha, R.N. (1993) " A.W.A.Y.-- The financial affairs of dementing elders and who is the attorney?" J. of Elder Abuse and Neglect 5 (2) 73-79.
- Sengstock, M.C. (1986) "Elderly victims of family abuse, neglect and maltreatment: Can legal assistance help?" J. of Gerontological Social Work 9 (3), 43-61.
- Sengstock, M.C. & Barrett, S. (1984) "Domestic abuse of the elderly" in J. Campbell & J. Humphreys (eds.) Nursing Care of Victims of Family Violence (.....) 145-188.
- Sengstock, M. & Hwalek, M. (1987) "A review and analysis of measures for the identification of elder abuse" J. of Gerontological Social Work 10 (3/4)221-36.
- Spencer, C. (1995) "New directions for research on interventions with abused older adults" in M.MacLean (ed.) Abuse and Neglect of Older Canadians: Strategies for Change (Toronto: Thompson)
- Stats Canada, Unpublished data from Vital Statistics and Health Status Section, for years 1984-86. as noted in Townson.
- Statistics Canada. 1991 Census. Educational Attainment and School Attendance. Catalogue 93-328., May 1993, Table 2.
- Stones, M.J. (1995) "Scope and definition of elder abuse and neglect in Canada" in M.J. MacLean (ed.) Abuse & neglect of Older Canadians : Strategies for Change 117-128.
- Thornton, J.E. & D.J. MacDougall (1990) "Protection of the elderly person" Law and Legal Services For an Aging Population (Vancouver: University of British Columbia, Committee on Gerontology) 16-36.
- Tomita, S. K. (1990) "The denial of elder mistreatment by victims and abusers: the application of neutralization theory" Violence and Victims 5 (3) 171-184.
- Townson, M. (April, 1995) Women's Financial Futures: Mid-Life Prospects for a Secure Retirement (Canadian Advisory Council on the Status of Women)
- Vezina, M. & Ducharme, G. (Jan. 1992) "The sad abuse of seniors" Canadian Banker 99 (1)58-61.