

**TURN UP THE
VOLUME!**

2024 Australian Elder Abuse Conference

22–24 July 2024

Adelaide Convention Centre



Intervention Orders in Elder Abuse – Helpful or Hindrance?

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EAAA
Elder Abuse Action Australia

aras
Aged Rights
Advocacy Service



Acknowledgement

Better Place Australia acknowledges Aboriginal and Torres Strait Islander people as the Traditional Custodians of the lands on which we live and work. We pay respects to Elders past and present, and celebrate their continuing connection to Country.

Definitions

Definition of Elder Abuse

“is a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust, which causes harm or distress to an older person. (World Health Organisation, 2014)

Elder abuse is a form of family violence.

(Royal Commission into Family Violence, 2016)

**** This presentation focuses on elder abuse perpetrated by adult children (or similar intergenerational relationships such as grandchildren)*

**Perpetrator or Person Using Violence (PUV)*

Elder Abuse as Family Violence: Differences & Commonalities in Context



Elder Abuse

PUV can be familial or non-familial friend or carer (family like relationship)

Primary driver: Ageism

Better Place Australia (non-gendered) and community legal services, such as Senior Rights Victoria

NIL programs for PUVS specifically of elder abuse

Crisis accommodation for specifically older people – NIL. Often need to access emergency respite in aged care.
(FV crisis accommodation rarely appropriate for older people).

Family Violence

PUV most commonly Intimate Partner

Primary driver: Gender inequality

The mainstream, feminist system: geared to women as V/S and their children

Mens Behaviour Change Programs – heavily focused on IPV

Crisis accommodation available (refuge or motel) for women & children

Snapshot of the Problem

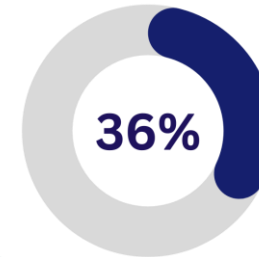
Prevalence of Elder Abuse in Australia:

1 in 6 (14.8%)*

How many older people sought help?

Overall, 36% sought help or advice. *

*Older people who sought help or advice typically turned to family members or friends



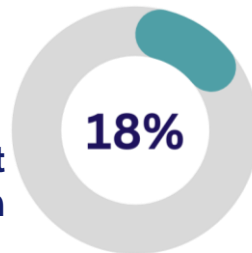
Sought help
or advice

Relationship to PUV:

18% - Adult children*

10% - Partner/spouse*

Adult
Children



Partner/
Spouse



Common risk factors of PUV:

Mental health issues, AOD, unemployment, physical health issues

Not extensive list

Qu, L., Kaspiw, R., Carson, R., Roopani, D., De Maio, J., Harvey, J., Horsfall, B. (2021). *National Elder Abuse Prevalence Study: Final Report. (Research Report)*. Melbourne: Australian Institute of Family Studies.

Intervention Orders: Victoria

Legislation and services for older people experiencing elder abuse are predominantly state-based. This presentation draws on Victorian legislation and statistics

Legislation in Victoria: Family Violence Protection Act 2008

- Family Violence Safety Notices (FVSN) - issued by Police, 'on-the-spot' notice when attending an incident
- Intervention Orders

Conditions available in FVSN & IVOS:

- Prohibited from committing family violence
- Prohibited from damaging property
- Prohibited from being within 200 metres of the victim's home/workplace/place of study
- Prohibit from approaching within 5 metres of the victim
- Prohibited from contacting
- Prohibited from publishing anything about the victim survivor online
- Prohibited from surveilling or monitoring (stalking) the victim
- Prohibited from having someone do something they are prohibited from doing under the IVO.

Benefits of IVO



- Can secure immediate safety by excluding the PUV from home
- Disrupts acute incident/crisis
- Allows services to access older persons, develop safety plans, review services etc. for older persons.
- If the PUV complies, safety can significantly increase
- Mechanism to remove child from the home
- IVOs can be crafted to respect parents' wishes. (Example: can't approach within 200 metres of the home, but can have contact in public places).
- Keeps PUVs accountable and in sight of the system.
- Consequences for breaching IVO
- Sends message to PUV and community that elder abuse is a crime

Barriers for parents reporting breaches to Police



- Older person calls 000 to secure immediate safety but is highly reluctant to report breaches and/or cooperate with Police beyond this.
- Frequent breaches occur and are not reported. IVO becomes 'just a piece of paper'.
- Older people are frank with practitioners they will be unwilling to report breaches and view IVOs as not working.
- Historical experiences of Police are a barrier to reporting IVO breaches

Barriers for parents reporting breaches to Police

- Older people do not like the consequences of IVO breaches on their child; criminal history and/or imprisonment
- An IVO seems futile to older person; they know their child won't comply.
- At time of reporting, risk & repercussions can INCREASE
- Have reported IVO breaches previously, and their situation (both child and older person) hasn't changed.
- Do not want to live alone

Potential Age-Related Barriers to Reporting to Police



- Access to reporting IVO breaches –phone? Access to community? PUV accompanies to all appointments
- English as second language
- Cognitive impairment
- Lack of understanding regarding IVOs and/or conditions
- Lack of understanding of what constitutes a breach

PUV related barriers/challenges to reporting

- Have reported IVO breaches previously, and PUV blames them for this and the consequences (ie. imprisonment or homelessness)
- Has not assisted in increasing accountability by PUV or acted as deterrent
- History of child experiencing trauma (FV) or other life-changing experience
- Loss & grief, pain
- Do not want homelessness for adult child (real possibility given Australia's housing crisis)
- Fearful adult child will suicide and/or further deterioration of their mental health.
- PUV provides care to older person
- Fearful will lose contact permanently with adult child, want to preserve the relationship
- Relationship often enmeshed

Sentencing Outcomes of Breach of IVOs

Most common sentencing outcome in the Magistrates' Court:

- Imprisonment (26%),
- Community Correction Orders (24%)
- Fines (21%)



In 2011, 14% of breach offences received a term of imprisonment.

In 2020, this had increased to 40%*

Partly explained by introduction in 2013 of new aggravated and persistent breach offences, which carry a higher maximum penalty of five years' imprisonment than the maximum penalty of two years' imprisonment for non-aggravated breach offences.*

Imprisonment rate for non-aggravated breach offences also increased, to 34%, independently of those new offences*

Tenfold increase in the number of offenders receiving short prison sentences (less than six months)*

Reference: Sentencing Advisory Council. (2022). Sentencing Breaches of Family Violence & Safety Notices, Third Monitoring Report

What do older parents want?

They just want their child to get help

They want the abuse to stop

(Adult child receives support =
risk lowering for parent)



What do older parents want?



Questions we need to explore...

Do IVOs in elder abuse make older people safer?

Is the system overly reliant on IVOs in a space where they are often futile?

Older parents want family & holistic approach

Where to from here?

- Further research on this issue. Let's hear from the older victims themselves as to their lived experience
- System needs to provide a valid & 'appealing' option for older people to achieve safety. Not this one-size-fits-all approach, which is based on IPV
- Recognise that in elder abuse, IVOs are anecdotally, largely ineffective medium to long term.
- Alternate solution? Keep IVOs but a different response when they are breached. An initial police response and then a diversion-type program. Where if PUV engages with support the criminal matter is dismissed. Win/win
- Wrap-around case management for PUVS to address housing & mental health, AOD issues
- Housing, housing, housing
- We have Drug Court and Koori Court – could such a model work in elder abuse situations?
- Holistic & family approaches note that preservation of the relationship is what the older parent overwhelming wants.



Questions?

References:

Qu, L., Kaspiw, R., Carson, R., Roopani, D., De Maio, J., Harvey, J., Horsfall, B. (2021). *National Elder Abuse Prevalence Study: Final Report. (Research Report)*. Melbourne: Australian Institute of Family Studies.

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https://www.sentencingcouncil.vic.gov.au/sites/default/files/2022-04/sentencing_breaches_of_family_violence_intervention_orders_and_safety_notices.pdf

World Health Organisation. (2022). *Abuse of Older people*. <https://www.who.int/news-room/fact-sheets/detail/abuse-of-older-people>