



## Elder Abuse Emerges From the Shadows of Public Consciousness

by Philip Bulman

Two recent studies shed light on the prevalence and detection of an often overlooked crime.

**D**etective Cherie Hill was skeptical, to say the least.

An elderly woman was trying to convince her that her grandson, who lived with her, had not hurt her. Standing in the police station in Anaheim, Calif., surrounded by half a dozen family members, the woman told Hill that a cereal box had fallen on her wrist and caused a bruise. Hill, an experienced elder abuse investigator, looked closely at the bruising, which went all the way around her wrist. She surmised that a cereal box — even a large, airborne cereal box — would not likely wrap itself around someone's wrist when it landed and cause that degree of bruising. Then there was the additional bruise on her face that police officers had noticed when they first

responded to the call. The 23-year-old grandson had been arrested and was in jail. Hill suspected that family members were now pressuring the woman to recant to get the grandson released. She had initially told neighbors that her grandson had grabbed her and hit her.

Hill asked Dr. Laura Mosqueda to examine the bruises. Mosqueda is director of geriatrics at the University of California, Irvine Medical Center. She has also studied bruising in the elderly to determine a scientific basis for distinguishing accidental bruises from abusive bruises. Mosqueda believed the bruising was abusive. In addition, during the conversation the elderly woman, who had dementia, repeated that her grandson had grabbed her.

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Prosecutors later charged the grandson with elder abuse. He was found guilty. The judge in the case placed the young man on probation and issued a protective order. Two pioneering studies of bruising in the elderly sponsored by the National Institute of Justice helped investigators in this and many other cases, Hill said.

“These studies are really important for law enforcement,” she said. “It has completely changed the way prosecutors handle these cases. It’s just really phenomenal.”

Many people believe that bruising in elderly people is normal because they are more likely to experience accidental falls. Indeed, a combination of factors such as thinner skin and less subcutaneous fat does make bruising more common among older people than their younger peers. So researchers decided to study “normal” bruising in elderly people and then follow up with a separate study of bruising that resulted from physical abuse.

### **A Scientific Look at Bruising**

To learn what normal bruising looked like, researchers recruited 101 people, 65 and older, with an average age of 83. Trained interviewers went to their homes every day for six weeks. Participants undressed and were examined from head to toe for bruises. Each bruise was photographed, and the interviewers documented their location, size and color and noted how long it took for the bruises to fade. The researchers found that 90 percent of the bruises were on the extremities. Not a single accidental bruise was found on the neck, ears, genitals, buttocks or soles of the feet. Of the 20 large bruises (larger than 5 centimeters — about 2 inches — in diameter) only one occurred on the trunk of the

body. Red and purple were the most common colors on the first day that a bruise appeared. However, some fresh bruises were yellow, a significant finding because many people believe that yellow bruises are more likely to be older. Indeed, yellow was the most common color in bruises that stayed visible for more than three weeks.

Once researchers knew what accidental bruising looked like, they turned their attention to deliberately inflicted bruising. Stark differences emerged. The team of researchers examined 67 people, 65 and older, who had been reported to adult protective services as possible abuse victims. An expert panel confirmed the abuse before including the people in the study. Seventy-two percent of those who had been physically abused within 30 days before examination had bruises. When compared with the previous group (who had not been abused), they had significantly larger bruises. Another important finding is that 91 percent knew what caused their bruises. Only 28.6 percent of the comparison group — those who had normal, nonabusive bruising — remembered the incident that caused their accidental bruises.

Abusive bruises are often larger. More than half are 2 inches or larger in diameter. The physically abused elders were much more likely to have bruises on the head and neck, especially the face, and on the posterior torso. Researchers also noted

significant bruising on the right arm, perhaps because people raised their arms in an attempt to block an attacker.

Aileen Wigglesworth, a gerontologist and assistant professor at the University of California, Irvine, worked on both studies. Wigglesworth said that although the studies give police and prosecutors forensic markers that are vital tools in elder abuse cases, more work remains on other fronts, even on basic issues like the credibility of people who ask for help.

“People tend not to believe elders,” she said.

Some people assume that memory loss and dementia afflict all elders, making them unreliable witnesses. The reality is that even some people with dementia can talk about abuse; they may forget small details, but they are likely to remember emotionally charged events.

“With dementia, they don’t remember things with no emotional content,” Wigglesworth said.

People who work in the field face a host of other challenges as well. Elders typically want to protect family members and are reluctant to report abuse. Sometimes family members are striving to take care of an elderly person but fall short. This may not involve outright abuse, but neglect or the simple inability to care properly for an elderly person. In those cases social service agencies can often help, Wigglesworth said.



*Cherie Hill and Aileen Wigglesworth spoke at the 2009 NIJ Conference. To see a brief interview go to: <http://www.ojp.usdoj.gov/nij/journals/media.htm>.*

## The Prevalence of Elder Abuse

To find out just how widespread elder abuse may be, NIJ sponsored a study that involved an extensive telephone survey of older Americans. More than 5,000 people, 60 or older, participated. Interviewers asked participants about their experiences in the previous year, as well as their lifetimes overall. The prevalence of physical mistreatment was 1.6 percent. Of those who reported this mistreatment to interviewers, only 31 percent said they had reported the problem to police. Strangers accounted for only 3 percent of these assaults; family members were the perpetrators in 76 percent of the cases.

In July 2003, there were 35.9 million people 65 and older, according to the U.S. Census Bureau. If 1.6 percent of those were physically abused, the total number of cases would be 574,400. The older population is on the threshold of a boom, according to census projections. A substantial increase will occur during the 2010 to 2030 period. The elder population in 2030 is expected to be twice as large as in 2000, growing from 35 million to 72 million.

Of those surveyed, 0.6 percent reported being sexually abused in the previous year. About 16 percent of these people said they had reported the assault to the police. Family members were responsible for about half of the assaults.

Other types of abuse include:

- ▶ Financial exploitation: 5.2 percent
- ▶ Potential neglect: 5.1 percent
- ▶ Emotional mistreatment: 5.1 percent

Overall, 11 percent of those surveyed reported some form of mistreatment in the previous year; 1.2 percent reported two forms of mistreatment, and 0.2 percent reported three forms.

### For more information:

- ▶ The complete study can be found at: <http://www.ncjrs.gov/pdffiles1/nij/grants/226456.pdf>.

County, Calif. The center's team includes doctors, law enforcement officers, prosecutors, adult protective services workers and others involved in elder abuse cases.

Mosqueda, who has worked on hundreds of elder abuse cases, said there are many obstacles, including hesitation by police and prosecutors because they do not know how to confirm a claim. "They say, 'They said they were hit, but they've got Alzheimer's; we can't believe them,'" she said.

Or, sometimes people will assume that a death was due to natural causes because of a person's advanced age. Mosqueda describes a common attitude in these terms: "Old people are supposed to die. Haven't you heard?" As a result, doctors and others who suspect abuse often have trouble involving law enforcement in cases, Mosqueda said. "Many times we are just dragging the police, begging to get them involved," she said.

One complicating factor in some cases is detecting negligence. Still, the results of negligence can be just as bad, Mosqueda said. "There are people who are being neglected to death, dying under horrible circumstances," she said.

Some law enforcement agencies are developing expertise in elder abuse, but the field is in its infancy in many regions. Besides, while researchers have been able to recruit participants for bruising studies from local communities, these do not include the many elderly who live in nursing homes, Mosqueda said.

Although researchers and others concerned about elder abuse face many obstacles, they are gradually becoming more successful. Michael Uhlarik, a former prosecutor in Suffolk



*Elder abuse was a topic at the 2009 NIJ Conference. To listen to a panel that discusses how much it occurs and how to measure it go to: <http://www.ojp.usdoj.gov/nij/journals/media.htm>.*

"We need a whole lot more remedies than just going to court, and that's something we're really concerned about," she said "We're not out to put every caregiver in jail."

Besides doing basic research, Wigglesworth and Mosqueda also work on active cases and provide training to law enforcement officers and medical examiners at the Elder Abuse Forensic Center in Orange

County, Mass., said the Suffolk County District Attorney's Office had teamed up with law enforcement and social workers to share information and decide how best to pursue cases. Uhlarik, who is now a judge, said the group was able to offer training for police, prosecutors and doctors. Once they become familiar with the reality of elder abuse, some people will become passionate about the cause.

"You have to find a handful of committed people who think this is *the* issue," Uhlarik said.

### Prosecutors and Victim-Witness Advocates Score Victories Together

Kelly Higashi, Chief of the Sex Offense and Domestic Violence Section of the United States Attorney's Office in Washington, D.C., agreed that a certain degree of specialization is worthwhile.

"It is important to get people to develop expertise in this area," she said.

Because of the unique legal status of the District of Columbia, the U.S. Attorney's Office prosecutes local crimes as well as federal crimes. Higashi's unit handles elder abuse as part of its broader mission. Sometimes the office has faced extraordinary challenges in pursuing cases. For example, in a 1999 case a man was able to enter a group home

because a security alarm had been turned off. He raped a 77-year-old female resident who was suffering from paranoid schizophrenia. The victim was terrified and embarrassed about the incident. Maria Shumar, a victim-witness advocate in the

**The victim-witness advocates may work on everything from trial preparation to helping someone find new housing. Higashi believes that their work has been critical to her office's success.**

U.S. Attorney's Office, worked closely with the woman, even taking her to the courtroom ahead of time so she could see what it looked like and practice sitting in the witness stand. "It was a tough case because the defense grilled her for a day," Shumar recalled. Still, the assailant was convicted.

While such cases involving assaults by strangers do occur, more often crimes against the elderly are perpetrated by family members or other people who know the victim. Some

examples from Higashi's office include:

- In 2008 Darryl Gaynor, 38, was sentenced to 24 years in prison for sexually assaulting his 72-year-old aunt in 2007.
- In 2008 Martin "Tony" Brown, 48, was sentenced to 24 years in prison for killing his 89-year-old grandfather in 2006.

The victim-witness advocates may work on everything from trial preparation to helping someone find new housing. Higashi believes that their work has been critical to her office's success. "Having a good number of advocates and having them specialized and having them co-located is helpful," she said.

A number of factors are now converging that may improve the outlook for elder abuse. Prosecutors have won high-profile cases in Washington, D.C., and other cities. Law enforcement officers are becoming increasingly aware of the elder abuse problem and now have solid forensic studies to rely on. Moreover, the public is growing more aware of this previously hidden problem.

"We have a window of opportunity like we've never had before with elder abuse," Shumar said.

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### For More Information

- A wealth of information is available at: <http://www.centeronelderabuse.org>.
- The study about normal bruising, *Bruising in the Geriatric Population*, is available at: <http://www.ncjrs.gov/pdffiles1/nij/grants/214649.pdf>.
- The study about abusive bruising, *Bruising as a Forensic Marker of Physical Elder Abuse*, is available at: <http://www.ncjrs.gov/pdffiles1/nij/grants/226457.pdf>.



To listen to a panel that discusses how forensic markers and technology are used to detect elder abuse and neglect, go to: <http://www.ojp.usdoj.gov/nij/journals/media.htm>.



## Prosecuting Elder Abuse Cases

by Sarah B. Berson

Elder abuse presents many challenges to prosecutors — some of which are unique to elder abuse, some of which are familiar, if thorny, issues from child abuse and domestic violence (such as complicated family dynamics<sup>1</sup>). Indeed, much of the system meant to protect elders is drawn from the child protective services system.<sup>2</sup> Child abuse is not, of course, a perfect analogy for elder abuse, and there has been debate over the functionality (for example, do compulsory reporting statutes work?) and ethics (for example, do they respect the autonomy of competent adults?) of these laws.<sup>3</sup>

The laws that protect elders specifically and the definitions of elder abuse itself vary from state to state, though all states have some form of legislation that addresses the issue.<sup>4</sup> Laws that protect older adults (usually defined as those 65 and older) usually fall into one of three categories:

- Laws “that create and govern state [adult protective services] APS units, which are charged with providing services to vulnerable adults. APS agencies are generally viewed as the front-line responders

to the problem of elder mistreatment because they investigate reports of elder mistreatment and offer victim services.”

- Reporting “laws that permit or require certain persons to report certain types of mistreatment to a government agency, typically APS.”
- Laws “that specifically prohibit or specially penalize (or both) certain treatment of older adults. Some create new crimes for which perpetrators of elder mistreatment can be held liable; others provide for enhanced penalties for those convicted of crimes involving elderly or otherwise vulnerable victims.”<sup>5</sup>

Recommendations by the American Bar Association for improving the handling of elder abuse cases by prosecutors include setting up special elder abuse units or special prosecutors. The ABA recommends training prosecutors on the kinds of crimes committed against the elderly and the particular issues the elderly may present as victims, improving victim aid services, educating the public and professionals, and forming multidisciplinary teams.<sup>6</sup>

When it comes to prosecuting elder abuse cases, multidisciplinary teams have been invaluable, said Tristan Svare, deputy district attorney with the Elder & Dependent Adult Abuse Prosecution Family Violence Unit, Central Division at San Bernardino County (Calif.) District Attorney’s Office. The teams, like APS units, are drawn from the child-abuse model for prosecuting cases.

“They are absolutely essential to work a case properly,” Svare said. He pointed to the role they play in gathering individuals with critical, specialized knowledge in a particular subject matter together in child abuse cases. “Without experts to say ‘this is truly abusive; this is what happens when you shake an infant,’ you won’t get anywhere on the case.”

The same is true in cases of elder abuse, Svare said.

The National District Attorneys Association policy position on elder abuse echoes Svare’s sentiment, stating that, “Frequently, a multidisciplinary approach may be a more effective means of prosecuting elder abuse cases, holding offenders accountable, protecting victims and preventing future abuses.

The successful prosecution of elder abuse, neglect and exploitation requires the collaboration of specially trained individuals from multiple agencies and organizations within the community.”<sup>7</sup>

Svare said he is in an unusual position. California has good, comprehensive laws about elder mistreatment; Southern California has excellent resources for dealing with the complexities of elder abuse cases. Of particular note is the geriatrics program at the University of California, Irvine, which started the country’s first Elder Abuse Forensic Center in May 2003.<sup>8</sup> He is also part of an elder abuse prosecution unit (San Bernardino County has had a specialized prosecution team for elder abuse cases since 2000<sup>9</sup>). Having a unit that is familiar with the special features and challenges of elder abuse prosecution can play an important role in moving cases forward, Svare said. Yet, he adds, such a unit is simply not practical in all offices.

The American Prosecutors Research Institute conducted interviews with elder abuse prosecutors and identified several barriers to prosecution:<sup>10</sup>

- “The priorities in a prosecutor’s office can change from elder abuse

one day to gangs and drugs the next.”

- “Training of the prosecutors is spotty at best. The training has to be ongoing and reflect the needs of the current staff in the positions.”
- “Prosecutors will only take cases that they believe will result in conviction. These cases present complex issues and can be difficult to prove.”
- “There is a lack of public education or public outreach on the topic from most prosecution offices.”
- “There are systemic problems in the interplay between prosecutors, law enforcement, APS, nursing homes, and the roles each is to play.”<sup>11</sup>

Svare similarly noted that prosecutors might hesitate to take elder abuse cases for many reasons. These include their overall complexity, because they often involve complicated medical and financial issues and concerns about victim competency. Also, elderly victims might have other special needs and may lack jury appeal.

“We need to teach prosecutors that they can do this,” Svare said.

Awareness among the public and among law enforcement is crucial. Prosecutors should take a leadership role in educating communities about elder abuse by raising awareness. It is a crime and should be treated as such, Svare said.

Police, for example, need to recognize elder abuse and treat it as potentially criminal and something that should be investigated. The key to this is, again, education and training — teaching officers and other first responders to identify and respond to signs of abuse and neglect among the elderly, Svare said.

Of course, prosecutors want to have a winning record, but that should not be the deciding factor, Svare said. “It can’t be about ego,” he said. “It has to be about the case — what’s the just thing to do.” Svare added that prosecutors were more likely to get a plea than in any other type of case — especially if it is a good case on paper. However, even if it goes to trial, if nothing else, “it’s good for raising awareness in the community.”

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## Notes

1. In residential settings, family members (including extended family) are responsible for committing almost 90 percent of elder abuse. See Twomey, M., M.J. Quinn, and E. Dakin, “From Behind Closed Doors: Shedding Light on Elder Abuse and Domestic Violence in Late Life,” *Journal of the Center for Families, Children & the Courts* 6 (2005): 73-80; Barber, J.W., “The Kids Aren’t All Right: The Failure of Child Abuse Statutes as a Model for Elder Abuse Statutes,” *Elder Law Journal* 16 (1) (2008): 107-111.
2. “Introduction” in *Elder Mistreatment: Abuse, Neglect, and Exploitation in an Aging America*, ed. R.J. Bonnie and R.B. Wallace, Washington, DC: National Academy of Sciences, 2003.
3. See generally, for example, Barber, “The Kids Aren’t All Right: The Failure of Child Abuse Statutes as a Model for Elder Abuse Statutes.”
4. Kohn, N., “Outliving Civil Rights,” *Washington University Law Review* 86 (5) (2009): 1053-1115.
5. *Ibid.*
6. American Bar Association, Criminal Justice Section, Senior Lawyers Division Commission on Domestic Violence, Commission on Law and Aging, *Report to the House of Delegates*, February 2008: 6-7, <http://www.abanet.org/crimjust/policy/crimeselderly.pdf>.
7. National District Attorneys Association, *Policy Positions on the Prosecution of Elder Abuse, Neglect, and Financial Exploitation*, March 2003, [http://www.ndaa.org/pdf/policy\\_elder\\_abuse\\_march\\_22\\_2003.pdf](http://www.ndaa.org/pdf/policy_elder_abuse_march_22_2003.pdf).
8. Wigglesworth, A., L. Mosqueda, K. Burnight, T. Younglove, and D. Jeske. “Findings From an Elder Abuse Forensic Center,” *The Gerontologist* 46 (2) (2006): 277-283.
9. Brambila, N., “Prosecutor: Cases Frequently Not Viewed as Serious Crimes,” *The Desert Sun*, July 18, 2009.
10. American Prosecutors Research Institute, “Protecting America’s Senior Citizens: What Local Prosecutors Are Doing to Fight Elder Abuse,” Special Topic Series, Alexandria, VA: American Prosecutors Research Institute, September 2003: 4, [http://www.ndaa.org/pdf/protecting\\_americas\\_senior\\_citizens\\_2003.pdf](http://www.ndaa.org/pdf/protecting_americas_senior_citizens_2003.pdf).
11. American Bar Association, *Report to the House of Delegates*.