



Abuse, Neglect and Exploitation of Older Adults and Vulnerable Persons

Administrative Office of the Courts
Guardianship Compliance Office

A GUIDE FOR JUDGES
AND COURT STAFF

ABOUT THIS BENCHCARD

The abuse of older adults and vulnerable persons is a hidden problem in the justice system and may be an underlying factor in a variety of court cases involving older persons and other vulnerable adults. This bench card has been adapted from the bench card created by the National Center for State Courts Center for Elders and the Courts bench card on Elder Abuse to include Nevada specific information and statutes regarding the abuse of older adults and vulnerable persons.

Is the Abuse of Older Person's or Vulnerable Person's a Crime?

NRS 200.5092 includes *abandonment, abuse (including physical, sexual and emotional abuse), exploitation, isolation or neglect* of an older adult or vulnerable person as crimes against the person.

An *older adult* is defined as a person who is 60 years or older.

A *vulnerable person* is defined as a person 18 years or older who suffers from a condition of physical or mental incapacitation because of a developmental disability, organic brain damage or mental illness; or has one or more physical or mental limitations that restrict the ability of the person to perform the normal activities of daily living.

What types of cases might the Court see Elder Abuse in?

Probate:

- Power of Attorney Disputes
- Guardianship

Criminal:

- Domestic Violence
- Fraud
- Forgery
- Assault

Civil:

- Landlord/Tenant
- Protection Orders
- Financial Exploitation

Family:

- Dissolution of Marriage

What Important Information Do I need to Know about Older Adults, Vulnerable Persons, and Abuse?

Older adults and vulnerable persons may be more susceptible to abuse if they have diminished capacity to make every day decisions, cannot give meaningful consent because they do not understand the significance of a transaction, or are subject to undue influence.

- **Capacity** is the set of skills that people use in order to receive and evaluate information in order to make and communicate decisions. Capacity is not all or nothing, it can fluctuate over time, situations and tasks.
- **Consent** requires individuals to be able to understand the transaction or activity, make judgements about it, and decide if it is something they choose.
- **Undue Influence** is the improper use of power or trust in a way that deprives a person of his or her free will and substitutes the objectives of another person. Undue influence in this context is the exploitation of trust, dependence or fear of another person to deceptively gain control over that person's decision making or assets.

How to Recognize Abuse or Neglect

Abuse may be an underlying concern for cases heard in all divisions of the court. An older adult or vulnerable person who is a victim of abuse may appear before the court as a defendant, a plaintiff, a witness, a juror, a petitioner, a respondent or a victim. Awareness of common red flags can help identify possible cases of abuse.

Physical Signs of Abuse	<ul style="list-style-type: none"> ■ Unexplained injuries, bruises, welts, scars, burns (rug, cigarette), broken bones, sudden and unexplained weight loss, specific complaints of discomfort.
Behavioral Signs of Abuse	<ul style="list-style-type: none"> ■ Display of fear, agitation, hesitancy, depression, withdrawal, sudden behavior changes, unwillingness to communicate, disorientation, confusion, unjustified isolation on part of the older adult or vulnerable person, suddenly fears touch, changes in sleep patterns, sudden fear of bathing, sudden fear of a person or place, mood swings, or any specific complaints.
Physical Signs of Neglect	<ul style="list-style-type: none"> ■ Smells of urine and/or feces, poor hygiene, unsuitable clothing for the weather, bed sores; lack of medical aids (glasses, dentures, walkers, leg braces, etc.), hoarding, lack of, or inadequate, supervision, person is left without care, food or nutrition, dehydration, malnutrition, needed medical and dental (including the administration of prescribed medication) not provided.
Signs and Symptoms of Exploitation	<ul style="list-style-type: none"> ■ Sudden changes in financial condition of the person, missing/stolen money or property, loss of property, significant withdrawals from financial accounts, checks written as "gifts" or "loans," suspicious changes in will, power of attorney, titles and policies, addition of names to the elder's signature.
Types of Emotional Abuse	<ul style="list-style-type: none"> ■ Insults, harassment, denial of communication, denial of, or threat of denial of, right to family and other social interaction, denial, or threat of denial, of inclusion, denial, or threat of denial, of economic stability, denial rights or threat of denial of rights, necessities, and opportunities, denial of ordinary freedoms, isolation.

Reporting Abuse of an Older Adult or Vulnerable Person

Adult Protective Services in Clark County : 702-486-6930 Adult Protective Services in All Other Areas: 888-729-0571

Tools to Help the Court Respond to Elder Abuse

The tools available to you vary based on court and community resources, the nature of suspected abuse, and the type of case you are hearing. The following tools offer strategies in the areas of assessment, remediation, and case management.

Assessment Tools:

- Use expert witnesses, professional evaluators, court investigators, or trained interdisciplinary teams to assess the older person's capacity. To identify assessment resources, assign court staff to collaborate with local agencies (including Adult Protective Services and the Ombudsman Program), organizations, and individuals to develop a community resource guide for elders. Resources may include:
 - Public health physicians and psychologists (medical and mental health assessments)
 - Adult Protective Services (APS screening and services)
 - Occupational Therapists (functional capacity assessment)
 - Fire Department or code enforcement agency (home safety inspection)
- Consider temporary court intervention that prompts medical assistance to treat reversible conditions that impact capacity. Conduct periodic review hearings to determine if court intervention continues to be needed.

Remediation Tools:

- Issue a restraining or "no contact" order that is tailored to individual circumstances.
- Schedule review hearings to ensure compliance with court orders, including treatment programs and restitution, if applicable.
- If appropriate, appoint a guardian ad litem to monitor the provision of services and compliance with protective orders.
- If the court employs mediation or other dispute resolution service, prioritize safety by being aware of imbalances between the parties.
- Ensure that plea agreements meet the needs of the victim of abuse. Be creative in sentencing and the use of alternative sanctions.
- Encourage the use of victim/witness advocates throughout the judicial process. If advocates are not available, train court staff to guide abused persons through the court process.
- Allow an opportunity for victims to provide impact statements.

Case Management Tools:

- Ensure the courtroom is accessible and accommodates physical and/or cognitive impairments.
- Expedite cases in which abuse is an underlying factor, including avoiding unnecessary continuances and delays.
- If possible, consolidate ancillary cases involving the same family or victim to create a consistent, efficient, and therapeutic outcome.
- Understand gradations of diminished capacity and calendar cases to accommodate medical needs and fluctuations in capacity and mental alertness.
- While preserving the defendant's right of confrontation, consider procedures that assure the victim's testimony is memorialized, such as videotaped examinations and conditional exams.
- Consider creating a Vulnerable Person Court Docket that addresses a variety of complex cases requiring expertise in elder or disability law. The Court/Docket should be presided over by a specially trained judge.