



Elder Justice Advocate Program Elder Abuse Court Card

This Card has been created to assist the Judiciary and other court personnel to identify and respond to complex cases of elder abuse and mistreatment.

Types of Elder Abuse

Emotional/Psychological

Financial

Neglect (active, passive, self)

Physical

Sexual

- Reference: New York State Social Services Law, Article 9B, Adult Protective Services, §473(6) for definitions of types of abuse.
- See: §473-b for immunity for good-faith reporting of endangered adults.

Risk Factors and Considerations

1. History of abuse, violent behaviors, Orders of Protection

- FCA §814 provides for communication between Family & Criminal Courts.

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- Reminder: ID Theft, Larceny, and Coercion are family offenses under CPL §530.11 and FCA §812.

2. Presence of weapons

- **Increases risk of lethality.**
- See: CPL §530.12 - 14, FCA §828, §841, & §842-a (including 2018 changes), PL §400.00 et seq.

3. Co-occurring Disorders (mental health and substance use disorders)

- Of victims: increases vulnerability and decreases likelihood of being believed. Also:
 - Multiple medications are common.
 - May be prescription, over-the-counter, recreational, or a combination.
 - Older adults are prescribed opioids more often than any other age group.
- Of suspects: potentially increases both unpredictability and **risk of lethality.**
- Potential Remedy: Problem-solving courts such as Mental Health, Domestic Violence, and Veterans' Courts.

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4. Health considerations

- Older adults may have medical challenges that impact their ability to access and navigate the system. Some examples include:
 - Sensory impairments such as low vision or hearing loss.
 - Ambulation challenges.
 - Bowel and bladder incontinence.
 - Cognitive decline/dementia.
- Sundowning.
- **Potential remedies: conditional examinations (CPL §660.20), priority court times (CPLR §3403-a[4]), courtrooms with easy physical access, increased light, firm chairs, hearing amplification devices, and Remote Access to Court (if applicable; under FCA §531-a).**

5. Financial and/or physical dependency

- Victims and perpetrators may rely on each other for various needs; personal care, transportation, income, housing, and more.

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- Reminder: older adults' ability to rebound after a financial loss may be impacted by their ability to seek gainful employment and invest over time.

6. Other lethality predictors

- **Any physical or sexual abuse.**
- **Strangulation/ Criminal Obstruction of Breathing.**
- **Stalking.**
- **Abuse of others, including pets.**

Some New York State Statutes to Consider

While NYS does not have a specific “elder abuse” statute, there are several statutes that contain enhancers based on the age of the victim:

1. **PL §120.05 Assault 2nd** – provides that if the statutory requirements for Assault 3rd (physical injury required, but NOT serious physical injury); *and* the victim is age 65+; *and* the perpetrator is at least 10 years younger than the victim – the crime can be charged as Assault 2nd.

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2. PL §260.32-34 and §260.24-25 Endangering the Welfare

statutes can be considered for myriad crimes against older adults. Consider what constitutes a “vulnerable elderly,” “physically disabled,” or “mentally incompetent” person, and whether a perpetrator can be charged in the absence of an injury. Note the definition of “caregiver” in PL 260.31(1).

3. PL §190.65 Scheme to Defraud - §190.65(1)(c) contains enhancements for “vulnerable elderly persons.”

4. GBS §349-C Deceptive Practices & False Advertising allows for additional civil penalties.

5. PL §485.05 Hate Crimes has a consideration for age (60+) and disability.

Additional consideration – Animal Abuse

- Agriculture & Marketing (A&M) §353 (Overdriving, Torturing, & Injuring Animals).
- A&M §353-a (Aggravated Cruelty to Animals).
- PL §145.00; 145.05; 145.10 (Criminal Mischief – NYS law considers pets to be “property”).

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FINDING HELP

844-697-3505

Adult Services Helpline (for contact information for your local Adult Protective Services office)

800-342-9871

NY Connects through Office for the Aging (local resources for older adults and their caregivers)

212-746-6905

NYC Elder Abuse Center's Helpline for family, friends, & neighbors of NYC-residing older victims offers support, information, and referrals. (Non-emergency, no-fee service)

212-746-7211

NYC Elder Abuse Center offers professionals consultations on elder mistreatment cases re: medicine, psychiatry, forensic accounting, law and social work. (NYC cases only; no-fee)

800-942-6906

New York State Hotline for Sexual Assault and Domestic Violence

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212-428-2760

New York State Unified Court System - ADA Office

646-386-5540

New York State Judicial Committee on Elder Justice

585-244-8400

The Upstate Elder Abuse Center at Lifespan (to locate an Elder Justice Advocate near you; direct services in Monroe & surrounding counties)



BREAK THE SILENCE
Upstate Elder Abuse Center *at Lifespan*

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