

Peter C. Kratcoski

Maximilian Edelbacher *Editors*

# Perspectives on Elderly Crime and Victimization

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*This book is dedicated to elderly men and  
women throughout the world*

# Preface

The populations of nations throughout the world, especially those economically developed countries of North America, Europe, and Asia, have become older.

In the United States and Europe, the “baby boomer” generation born soon after World War II ended is now approaching “senior citizen” status. Later generations of child-bearers in various countries, either by choice or by adherence to government policies, had fewer children than families in the past generations. At the present time, many countries are seeing a population decline and a change in the structure of the population, with a larger segment of the population in the older age category.

This change has not gone unnoticed by the “shakers and doers” in the industry, retail marketing, and the housing market, as well as political leaders. For example, in the past, housing, clothing styles, and recreational and leisure time operations were geared toward the younger and middle-aged populations. Now, there has been a dramatic shift in focus toward older persons who have the time, funds, and resources for housing, clothing, and activities consistent with an older age lifestyle.

There has also been a gradual trend in the interests of criminologists to study the causes of elderly crime and elderly victimization by crime, as well as criminal justice practitioners who respond to elderly crime and elderly victims of crime.

The chapters in this book were written by criminologists who have completed research on the causes of elderly crime and the response of the justice system to those older offenders convicted of a criminal act and criminal justice practitioners who have dealt with many criminal cases involving the elderly during their careers. The authors of the chapters focus on the criminal behavior of the elderly and provide valuable information on the causes of elderly crime, the scope of the problem, and the ways the criminal justice systems of their countries respond to older offenders.

In regard to the older offender, it is often stated that human nature is the same and does not change, regardless of the country in which the human behavior is manifested. According to this view, if a person has the disposition to engage in behavior defined as deviant or criminal as a young person, the deviant behavior will continue as an adult and even into an old age. This will be true, regardless of the specific social, economic, and cultural situation of the person. This notion is challenged by authors in the various chapters of this book who demonstrate that elderly crime is

related to the specific social, personal, and economic situation of the individual as well as the social and political situation of the country and times in which the elderly person lives.

There are many similarities in the characteristics of the older offenders who reside in the various countries represented in this book. These include the types of crimes committed, the motivation for committing the crimes, and the opportunities for the older persons to commit crimes. There are also differences that are predominately related to the cultures of the countries, the nature of the acts that are defined as violations of the criminal law, and the opportunities for the elderly to commit crimes.

A portion of this book focuses on the victimization of the elderly. The increase in the number of elderly persons, as well as the changes in the lifestyles of the elderly, has led to increases in the amount of criminal victimization of the elderly. Other factors that help to explain why the elderly are vulnerable for victimization pertain to changes in the structure of the family as well as changes in the types of activities and social relationships of the older population. Several authors in the book attribute the decline of the extended family, the physical and social isolation of the elderly, and the increase in dependence of the elderly on caretakers who are not related to them as factors that relate to the criminal victimization of the elderly.

When the offender-victim relationship is analyzed by authors reporting on different countries, several similarities in the relationship for both violent crimes and property crimes appear. In a large proportion of the crimes against persons such as murder, domestic violence, and assault, the offenders and victims are intimately related, relatives, or acquaintances. In the case of most property crimes, with the exception of theft, the offender is more likely to be a stranger to the victim.

Older persons living alone and without a network of friends or service agencies to rely on to provide advice or to assist in times of trouble are most vulnerable to victimization through scams and frauds of various types. If older persons have one or more disabilities, such as a physical handicaps or mental deterioration, and do not have family, friends, or community agencies to provide assistance, they become easy targets for criminals.

The governments of many of the countries have recognized the problem of the crime and victimization of the elderly and taken steps to address these problems through legislation and by providing funds for victim assistance programs.

The chapters in this book demonstrate that criminal victimization of the elderly is a complex problem and the issue needs more research. Their contributions are a beginning.

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Vienna, Austria

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# Acknowledgments

The number of academics, researchers, and justice practitioners who have sufficient knowledge of the subject matter of this book, elderly criminals and elderly victims of crime, is relatively small. To date, the subject matter has not been a major topic for those completing research on crime and criminals, nor has it been a major topic for those who work in various components of the criminal justice system such as law enforcement, the judiciary, and corrections.

The editors of this book were quite fortunate to have the contributors of the chapters agree to write original works for this book. The different perspectives these authors writing on the laws, cultures, and social conditions of the various countries in Asia, Africa, Europe, and North America provide, in regard to the causes of elderly crime, criminal victimization of elderly persons, and the justice response to elderly crime, give the reader information that is not likely to be found in other sources. These authors are acknowledged in the contributors section of the book.

In addition to those who contributed to the book by writing chapters, there were many others who provided major assistance by being interviewed, supplying statistics on the elderly offenders under their supervision, or sharing documents and information describing their programs for either elderly offenders or elderly victims of crime.

These include:

Dr. Alex Boros, Director of the Research Division, Oriana House, Inc.

Amanda Gates, CQI Administrator, Oriana House, Inc.

Alison Jacob, Director of Day Reporting Program, Stark County Common Pleas Court

James J. Lawrence, President and CEO of Oriana House, Inc.

Lori Lawrence, Executive Assistant, Oriana House, Inc.

Tessa Smith, Research Coordinator, Oriana House, Inc.

Special thanks to Katherine Chabalko, editor of Springer, Inc., for her invaluable guidance, and very special thanks to Lucille Dunn Kratcoski, for her expert work in editing the chapters of this book.



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**Dr. Michael Platzer** has served the United Nations for thirty-four years in various capacities in the Division of Human Rights, the Office of the Secretary General, the Office of Technical Cooperation, the UN Centre for Human Settlements, the UN Office at Vienna, and the Office of Drugs and Crime. He received a Doctor of Law with specialization in International Law from Cornell University. He has written numerous articles on women's rights, juvenile justice, rights of cities, post-conflict reconstruction, social exclusion, refugees, and peace building, and has lectured at the Diplomatic Academy (Vienna), the Economic University of Bratislava, the European Peace University, Bond University (Australia) and the University of the West Indies. Dr. Platzer has been the liaison officer for the Academic Council on the

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## About the Editors

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**Maximilian Edelbacher** graduated from Vienna University (Mag. Jur.) and was Hofrat of the Federal Police of Austria, chief of the Major Crime Bureau, and an international expert for the Council of Europe, Organization for Security and Cooperation in Europe (OSCE), and United Nations Organizations (UNO). He also chaired the Austrian Antifraud Insurance Bureau and has lectured at several universities, including the Vienna University of Economics and Business Administration, Danube University Krems, Kent State University in the United States, and Vienna University, Department of Sociology. He was appointed as special investigator of the AVUS Group on white collar crime cases, served as vice president of the Vienna Liaison Office of the Academic Council on the United Nations, and is a director of the International Police Executive Symposium.. He is the author of a number of

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# Part I

## Trends in the Criminal Behavior of the Elderly

### Introduction

The criminal behavior of older persons received little attention in the past. References to older criminals in the theories of crime causation generally did not even mention older offenders in the analyses, or the older offender was just given a footnote. With just a few exceptions, national statistics on the amount of crime, the perpetrators of crime, those arrested for various crimes, and the characteristics of offenders who were under community supervision or were incarcerated in correctional facilities do not focus on older offenders.

However, there has been a growing interest in the older criminal offender in recent years for several reasons, including a growing interest in older offenders and older victims of crime by academics and researchers who are interested in determining if the general theories of crime causation apply to the older offender or if there are unique circumstances pertaining to older offenders that require the theorist to use a different perspective when trying to explain the reasons for older persons engaging in crime. Another reason for the increase in interest is a practical one. As the older criminal population grows larger and more older persons are convicted and placed under the supervision of a justice agency, the matter of determining if the traditional methods used to punish and correct criminal offenders, such as probation, community correctional facilities, and prisons are appropriate for older offenders. Since many have special needs relating to physical health problems, mental health problems, and substance abuse, there are many researchers and practitioners who are convinced that a different approach to the punishment and corrections of older offenders may be needed.

The chapters in Part I focus on these issues. In Chap. 1, the author presents reasons for the worldwide growth of the elderly population, concentrating on the growth of the older population in the United States. Information is presented on the major types of crimes committed by the elderly, and statistics are presented on the distribution of elderly crime and the offenders' relationship with their victims.

An explanation of theories of crime is given, and an analysis of the applicability of these theories to the causes of older criminal behavior is presented.

In Chaps. 2 through 5, the amounts of crime committed by the elderly in countries in Europe, Asia, and Africa are presented, and theories pertaining to causes of crimes committed by the elderly are discussed.

In Chap. 2, the author traces the dramatic changes that occurred in Europe after World War II and tries to determine how these changes, including the rebuilding of European countries, economic growth, the creation of the European Union, the “fall of the iron curtain,” political upheaval, and immigration, relate to crime in those countries included in the analysis. The aging of populations of most countries of Europe and its effects on the crime of the elderly are considered. The author shows that there has been a significant increase in several types of crimes by older persons such as theft, fraudulent obtaining of services, shoplifting, unlawful use of credit cards, as well as an increase in crimes by the elderly pertaining to drug abuse.

The aftermath of the creation of the European Union, particularly in regard to the Eastern European countries that joined the union after their separation from the “Soviet Bloc,” is given special attention in this chapter. The countries composing the EU vary tremendously in economic resources and wealth. The movement of large numbers of people from the poorer countries to the more wealthy countries has created some crime problems that affect the older citizens.

In Chap. 3, the author focuses on elderly crime in China. The author analyzes the trend in older crime by selecting data from a major industrial and financial area of China, Beijing, and an underdeveloped poorer area of China, Tibet, as samples for the research on trends and types of crimes committed by the elderly.. The statistics pertaining to the crimes of the elderly in China reveal that there was a steady increase in elderly crime from 2012 to 2016. During that time span, elderly crime by both males and females increased. The large majority of elderly crime for both men and women centered on public order crimes, such as disturbing the peace, fighting, provoking trouble, and obstruction of justice. The author attributes the mental and personality deterioration of the elderly, dissatisfaction with the way public affairs were handled, and the displeasure of many older people with the public reforms made in China as the major reasons for elderly crime.

In Chap. 4, the author presents an analysis of crime by the elderly in England and Wales, elderly victims of crime, and the justice system’s response to elderly criminals. The author uses case example to illustrate the activity of older career criminals and compares the elderly career criminals with elderly criminals who did not commit crimes until a later period in their lives. The causes of the criminal behavior of older situational offenders are considered. In addition, the criminal justice processes in England and Wales are explained, and emphasis is given to assuring the rights of older persons who are being investigated for crime. The author also provides information on the role of the elderly as functionaries in the justice system.

In Chap. 5, the authors discuss the crime situation in South Africa. The traditions, cultural values, and behavior patterns adhered to by the people of some sections of South Africa in the past that still have an effect on sections of South Africa up to the present time are discussed. Some of the people who were socialized in a

culture of violence are now older persons, but still adhere to the values and behavior patterns followed when they were young. The trend in violent crimes committed by the elderly has continued to increase. A major portion of Chap. 5 is devoted to the discussion of the victimization of the elderly, in particular that of older women who are vulnerable to becoming victims for a variety of reasons.

In summary, the statistics presented by the authors reporting on elderly crime in several countries indicate that the trends in the amount of crime and the types of crimes committed by the elderly are similar in many instances. Some of the variation in the types of crimes by the elderly can be attributed to differences in the traditions, customs, and laws of the various countries.

Several difficulties in completing a comparative analysis of crimes of the elderly in different countries relate to the differences in the legal codes of definitions of crimes, the large percentage of criminal offenders who are never detected and recorded, the lack of complete statistics, and the different methods used to classify and record criminal activity.

Regardless of the limitations of the data, the older population appears to be responsible for a larger proportion of the overall crime that is recorded than it was in the past. However, there may be differences in the types of crimes committed by the elderly by country and region of the world. The elderly residing in some countries may have more opportunity to commit some types of crime, for example, violent crimes, than those in other countries. Differences in culture, motivation, and opportunity may explain the variations in the types of crimes committed by the elderly in countries throughout the world.

# Chapter 1

## Trends in Types of Crimes Committed by the Elderly in the United States



Peter C. Kratcoski

### Definition of Elderly (Older) Criminal

Research findings on determinates of criminal activity reveal that age is closely related to the amount of crime, the relationship of the criminal and victim of a crime, and even the types of crimes committed by criminal offenders. These findings consistently show that the large majority of crimes are committed by the younger population (18–35) and that the proportion of total crimes gradually decreases in the older age categories (36 and above.) There is a rather dramatic decline in the proportion of the total of crimes committed by those age 65 and older.

Kratcoski and Edelbacher (2016, p. 58) note, “the concept of ‘age’ is generally understood and can be easily measured. It is a continuous variable, but in order to develop a better understanding of how age is related to one’s development, emotions, and behavior during different periods of life, age has been conceptualized to include different categories such as infancy, young childhood, adolescence, middle age, and old age, or elderly.” Although these labels signifying different periods of one’s life have been generally defined by those writing about the effects of age at different stages of life such as adolescence, midlife, and old age, they are not usually specifically defined, with the exception of using age for the making of laws, such as defining the legal age to vote, obtain a driver’s license, purchase alcoholic beverages, and, in the case of the elderly, obtain social security benefits.

Those completing research on the relationship of age to crime tend to be even more specific in developing age categories. Some researchers have used the age of 60 and above to designate old age, and others have used 65 and above. Kratcoski and Edelbacher (2016, p. 58) note, “In some of the research, the older criminal offender and older victim are categorized as early old age at 64 to 74, advanced old age as 75 and older, and old-old age as 85 and above.”

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When completing empirical research on crime and using age as an independent variable, the age of 65 and above is generally accepted as the age to designate the older criminal. In the FBI's *Uniform Crime Report*, one table provides the number of arrests made by police agencies in a given year by age. The ages of those arrested are separated into 5-year categories. Thus, one has the opportunity to compare those arrested who were 60–65, 66–70, and 71–75 and above. Since government publications, particularly the *Uniform Crime Report*, are the primary sources of statistics on elderly crime used in this chapter, the age 65 and older is used to designate the elderly (older) criminal offender.

## Perspective on Causes of Criminal Behavior by the Elderly

### Box 1.1 Profiles of Elderly Criminals

*Anthony Marshal dead: Son convicted of looting Brooke Astor's money was 90*

“Marshal, who died Sunday, saw his aristocratic life unravel as he was convicted in 2009 of raiding the fortune of his socialite mother, Brooks Astor.”

“Marshal was sentenced to one to three years in prison after he was convicted of exploiting his aged mother's slipping mind to loot her millions. Appeals delayed his incarceration for 3 1/2 years, but Marshal ultimately went to prison in June, 2013.”

(Fox News-Associated Press, 2014.)

*Joseph*, age 73, was arrested for parole violation after only 2 months from being released from a correctional facility. Although he appeared to be in conformity with the conditions of parole and the laws of the state in which he resided, he failed to adhere to one provision of state law pertaining to those convicted of a law pertaining to sex offenders. He failed to register with a law enforcement agency after he was released from prison.

Joseph was arrested for the offense of gross sexual imposition after a girl who lived next door, age 8, informed her mother that Joe had placed his hand under her dress and touched her private parts. The mother informed the police. The investigation of the charge led to a discovery that, over a period of many years, Joe had sexually molested his own daughters and perhaps other children who lived in the neighborhood. His long history of molesting children was never reported to an authority for various reasons, including the shame it would bring to the family as well as the likely loss of income to the family if Joe were sent to prison. Joe was convicted of the charge and given a 5-year sentence in a state correctional facility. Although it was his first criminal conviction, the sentencing judge gave Joe the maximum sentence. The fact that Joe had a long history of molesting children no doubt entered into the decision

(continued)

**Box 1.1** (continued)

of the judge to give a long sentence. An interview with Joe revealed that he could not explain why he became sexually aroused when he was around young girls. His problem was well known by the members of his own family. Each of his three daughters had taken their turn being the sexual object of their father until each daughter became of such an age (about the age of puberty) that the father no longer found them desirable. He was able to continue his deviant sexual behavior unnoticed except for members of his family until all of his daughters were no longer of interest and Joe began to seek victims outside his own home. It was sometime later that the incident with the neighbor's daughter led to his arrest.

A hearing on Joe's parole violation resulted in a revision in Joe's case management plan with additional conditions and more supervision by the parole authority.

(Case file of research completed by Peter C. Kratcoski on Older Offenders)  
*Ex-Brazilian President Convicted*

*Rio De Janeiro:* "Former Brazilian President Luiz Inacio de Silva was found guilty of corruption and money laundering Wednesday and sentenced to almost 10 years in prison."

"Brazil's first working class president will remain free while an appeal is heard, but he is now also the country's first ex-president to be convicted in a criminal proceeding at least since democracy was restored in the 1980s."

"In many quarters, the man known to Brazilians simply as Lula remains revered—both for his economic policies and his role in fighting for democracy during the country's dictatorship. The *71-year-old* has been considered a front-runner for next year's presidential election."

(Mauricio Savarese and Sarah Dilorenzo, (Associated Press) Akron Beacon Journal, A6 Thurs. July 13, 2017)

*O.J. Simpson Granted Parole in Robbery Case*

Lovelock, Nev.: O.J. Simpson was granted parole Thursday after more than eight years in prison for the Las Vegas hotel-room heist, successfully making his case for freedom in a nationally televised hearing that reflected America's fascination with the former football star.

Simpson, 70, could be released as early as Oct. 1. By then, he will have served the minimum of his 9-to-33 year sentence for a bungled attempt to snatch sports memorabilia he claimed had been stolen from him.

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*Greg*, age 76, was arrested on a charge of assault, after he threatened his wife with a knife during an argument. The argument started when Greg, who was eating his lunch, saw the pet cat jump on the table and start to eat from

(continued)

**Box 1.1** (continued)

the fried chicken being served. He responded by trying to stab the cat with his knife. The cat did not want to give up the chicken he was eating and Greg kept swinging at him until his wife tried to stop him. At that point, he threatened to kill his wife if she interfered. Thus she backed off and called the police. When they arrived Greg had calmed down. He was not successful in killing the cat, only being able to hit the cat's tail with his knife. His wife tried to convince the police officers that Greg was now under control and did not need to be arrested, but the officers were required to make an arrest and Greg was transported to the county jail. (Personal research—Peter Kratcoski)

## Socialization in a Criminal Culture

These examples of crimes committed by older persons were chosen to illustrate that older criminals commit the same types of crimes as criminals in other age categories. These crimes include crimes against persons such as murder, rape, assault, robbery; property crimes such as theft or property destruction; and public order crimes such as public intoxication, vagrancy, and disturbing the peace. Older criminals are found in most occupations, including professional occupations such as doctors, lawyers, and teachers, and in occupations related to the business and corporate world.

A statistical analysis of crime by the elderly reveals that the amount of crime in the United States committed by the elderly is increasing for most types of crime, and older criminals are represented in all categories. There are several theoretical explanations why crime by the elderly is increasing. Kratcoski and Edelbacher (2016, p. 59) state, "As a result of improvements in health care, communications, and education, changes in life styles, including the type of employment, and changes in social relationships, the life span for the population of most countries of the world has increased. People are living longer, working longer, and in general have more formal and informal contacts with many people outside of their primary social relationships."

## Social Learning Theory Pertaining to the Criminality of the Elderly

Akers et al. (1988, p. 38) contend that social learning theory integrates differential association theory of criminal behavior with behavior modification principles of criminal behavior with the major emphasis on differential reinforcement. The authors state, "According to the theory, social behavior is shaped by the stimuli that follow or are the consequences of the behavior (instrumental conditioning) and by

imitation of others' behavior (observational learning). Behavior is strengthened by rewards (positive reinforcement) and avoidance of punishment (negative reinforcement) or weakened (punished) by aversive stimuli (positive punishment) and lack of reward (negative punishment). By a process of differential reinforcement, deviant behavior is acquired and persists, or conforming behavioral skills do not develop, depending on the anticipated past and present rewards and punishments attached to it and alternative behavior."

While social learning theory I can be used to explain deviant behavior of all types, including drug and alcohol abuse, violent behavior, professional crime, and organized crime, some stimuli and differential reinforcements that may have considerable influence for a young age groups or middle age group such as peer groups, family, school, employment, fellow workers, and neighborhood associates may be of far less importance for elderly persons. Hendricks (1994) observed that the degree to which the older person has become disengaged from the general society and thus is less concerned with succeeding in employment, increasing his or her income, purchasing a home, maintaining a social status in the community, and caring for the needs of children than in the past will also determine the types of groups the older person will interact with and have as positive reinforcements. Older persons who have become disengaged from the general society will not have the same foci concerns as in the past but now may be more concerned with their health and the health of their spouse or significant other, leisure activities, and adjustment in a different residential environment, especially if they are now residing in a nursing home or senior citizen community. The age ranges of the groups with which they interact may become more concentrated in the older age groups as they sever relationships with former coworkers, friends who resided in the old community, and even their own children.

When one has knowledge of the context and circumstances in which social learning theory is applied to an elderly person, one can better understand why the behavior of that person is generally in conformity with societal norms or in conflict with societal norms. For example, if the person primary reference groups are those who are involved in church-related activities and social welfare activities, the elderly person is not likely to engage in deviant behavior that conflicts with the norms of the group. On the other hand, if the elderly person is involved with various political and community action groups that tolerate and even encourage behaviors such as destruction of property and violence, these behavior patterns may carry over into the elderly person's behavior patterns.

## **Anomie**

The concept *anomie* developed by Durkheim (1951) has been used to describe how a change in the way of life as well as changes in customs, values, and beliefs can result in a state of "aimlessness," a lack of moral convictions, and a disregard for the social controls and influences of neighbors, religious leaders, and government



officials. Merton (1938), building on the concept of anomie, uses the concept *social strain* to illustrate how circumstances within one's physical and social environment can cause confusion, anxiety, fear, disruption, and a general breakdown of the norms and values that were used to provide direction in one's life. Rosow (1974) uses strain theory as the basis for identifying the dimensions of aging that can lead to an *anomic state* for many of the elderly. The older person's retirement from employment, loss of spouse, loss of good health, or reduction in income are all factors that can contribute to the strain the older person experiences. Another dimension of aging discussed by Rosow (1974) is the lack of a socialization process to prepare older persons for the new roles they will play in the community when their old roles are no longer applicable to their life's circumstances. A third dimension of old age applies to the psychological feeling of being powerless, not being considered of any value or use in society, and even being considered a drain on the resources of the community.

It should be noted that the values and norms of any society are in a constant state of change for all age groups, including the elderly. As previously noted in this chapter, the life span has increased, people are retiring at a later age, and even after retirement from one position some assume new employment, often in a completely different line of work than that originally held. Others become involved in volunteer work and community service, and this gives them an opportunity to be useful and develop a sense of being of value to society. It is becoming more common for an older person to take a new spouse or significant other once separated by the death of their previous spouse. However, for many, depending on the circumstances, the adjustment to old age is difficult, and the psychological as well as physical demands of making the transition to everyday life in the new role may result in using escape mechanisms such as alcohol or drug addiction or even self-destruction in the form of suicide. For others, the pressure may be predominately from the constant struggle to obtain the money needed for day-by-day existence. For example, a report on income and poverty in the United States for the year 2015 (Proctor, Sernega, & Kollar 2016, pp. 2–3) indicated that the poverty rate for those aged 65 and above was 8.8% of the total for those in the older age group. However, the incomes of a large percentage of the elderly are tied in with social security benefits and supplementary income programs such as food stamps, Special Supplemental Nutrition Program for Women, Infants and Children, the earned income tax credit, and Medicaid. The Report indicates, "People 65 and older had a supplemental poverty rate of 13.7%, equating to 6.5 million people in poverty. Excluding Social Security from income would more than triple the poverty rate for this group, resulting in a poverty rate of 49.7%." These facts are not presented to imply that the elderly whose income is below the poverty line or whose income is barely sufficient to meet their day-by-day expenses are likely to become criminals, but those on fixed incomes in times of emergencies may resort to unusual methods when they are in desperate situations. A significant proportion of the elderly, particularly men, are homeless and have physical health and mental health problems, and their day-by-day survival might require violation of the law in some capacity (Hunger Notes 2016). The Federal Bureau of Investigation (2015) statistics for the crimes of the elderly (65 and above) reveal their crimes to be predominately related to various forms of

theft, predominately minor theft. For the elderly who are hungry, homeless, and in need of medical care, criminal activity may be considered the most rational solution to their problems.

## **Convenience and Opportunity Theory Pertaining to the Criminality of the Elderly**

The underlying notion of opportunity is that the motivation to commit a crime does not adequately explain why individuals become criminals. Many persons may be motivated and desire to commit crimes, but for one reason or another they do not have the opportunity. According to *opportunity theory* (Cohen, Felson, & Land, 1980; World Encyclopedia of Law, 2000), in addition to the desire to commit a crime, the offender must have an accessible target (victim), must see the target as attractive or worth the effort, must see the potential for numerous victims, and must believe that the potential victim(s) do not have adequate guardians that will prevent the victimization. In short, opportunity theory suggests that offenders will select their victims on the basis of their not having to exert considerable effort, the likelihood of obtaining a high reward, and the possibility of not having a high risk of getting caught and being punished for their crimes. For example, Gottschalk (2016, pp. 5–31) combines convenience theory, opportunity theory, and other theories to explain how motivation, organizational opportunity, and deviant behavior can explain the occurrence of white collar crime.

Other explanations for the increase in the crime rate among the elderly include those related to situational factors affecting the elderly. The poor economic situation of a large proportion of the elderly may be related to the increase in cases of theft, shoplifting, and even fraud. An increase in mental health problems such as depression, psychosis, and radical expressions of anger and aggressiveness could help explain the increases in the rate of violent crime among the elderly.

The Japan Times (2013, p. 1) states several reasons for the increase in crime among the elderly in Japan. They may stem from bad economic conditions. Senior citizens shoplift lunch boxes and bread out of poverty. Social situational factors are also preconditions for the increase in elderly crime. Some steal because they are lonely and isolated.

Other explanations for the increase in the crime rate among the elderly pertain to the numerous changes in laws and regulations to which elderly person must adjust. Many of these changes pertain to violations of ordinances or minor misdemeanor offenses, such as not wearing a seat belt while driving, speeding, improper care of property, loud noises, and public disturbances.

Roberts (2017, p. 1) states, “Simply put, *routine activity theory* suggests that a criminal act is likely to occur when an opportunistic offender converges in space and time with a suitable target.” Roberts continues, “It certainly comes as no surprise then that opportunistic criminal predators also engage in routine and

systematic activity patterns when selecting targets.” Traveling familiar corridors, criminals look for targets that will afford easy access and quick escape routes and offer little or minimal chances of resistance, detection, or apprehension. This “risk vs reward” evaluation is sometimes referred to as the “rational choice” perspective.

Wilkstrom (2009, p. 1) in discussing how routine activity theory pertains to criminal activity, suggests that, “Another key idea is that people act in response to situations (including when they commit crimes); therefore, the kinds of situations they encounter in their daily life influence their crime involvement (and, as a result, influence a society’s crime rate) and changes in people’s exposure to situations may lead to changes in their crime involvement (and consequently, changes in a society’s crime rate).”

Opportunity theory, convenience theory, and routine activity theory are helpful in explaining the trend in increases in crime among the elderly as well as why some types of crimes are more frequently committed by the elderly than other types. The advances in communication systems, particularly the internet, provide opportunities to persons to commit sex-related crimes, fraud, extortion, hate crimes, sale of stolen property, and other crimes without having personal contact with a victim. Thus, any person, who is mentally competent, regardless of their age, can partake in most types of criminal acts.

## Disengagement Theory

Cumming and Henry (1961) formulated a theory of disengagement for the elderly in a book titled *Growing Old*. Grounded in the sociological functional perspective of social systems, they based their *disengagement theory* on several postulates relating to growing old in a society. These include the fact that older people begin to prepare for death when they realize that their ability to interact with others has deteriorated. They gradually become excluded from the social norms that guided their interaction when they were of a younger age, and they voluntarily give up their roles and positions in society when they realize they have lost some of their abilities to perform due to physical and mental deterioration. They adopt new social roles that take the place of their former roles in society. They are ready to disengage when they lose their desire to perform their former roles, and they become aware of their current shortcomings, brought on by their deteriorating abilities to perform. The changes that occur when they engage in new roles bring different forms of gratification and rewards than those received from the roles played when they were younger.

The disengagement of the elderly benefits society, since it prepares the way for a younger generation to take on the roles and responsibilities of the society. It occurs in all societies, but the specific process will differ, depending on the development of the society, culture, and even specific circumstances. Also, the disengagement of

elderly men may differ from that of elderly women, depending on the different roles men and women played during their younger years.

The narrow functional perspective of disengagement theory as applied to the elderly received several criticisms. Cornwall et al. (2008) contend that the theory does not adequately take into consideration the changes in societies, the complexity of the social lives of many of the elderly, and the fact that many of the elderly continue to perform roles that they assumed when younger, either out of desire or necessity. For example, many elderly continue to be the predominant economic source for the family, and others assume the role of parent substitute for their grandchildren. Those not forced into retirement or who are independent business owners, professionals, teachers, artists, or writers often work well into the age period considered elderly out of a love for their work, desire to make money, and personal satisfaction. This perspective of the aging process is compatible with continuity theory. Steffensmeier and Allan (2017) notes, "The continuity theory states that individuals who are successfully continue habits, preferences, lifestyle, and relationships through midlife and later.... People who are doing well in midlife, who are happy, healthy, and just plain dandy should carry over the habits and ideals that made them that way." Another criticism of disengagement theory (Crossman, 2017) emphasizes the fact that the theory does not take into consideration the emotional strain that many of the elderly who are forced to retire from their occupations may experience.

Depending on the specific circumstances and situation of the elderly, continuity theory and disengagement theory are relevant in understanding the criminal activity of the elderly. For example, persons who had become relatively skillful in committing criminal acts throughout most of their adult lives will, no doubt, be motivated to continue well into their senior years, providing the opportunity exists, and they have the ability to perform the activity required. On the other hand, disengagement theory may apply to some career criminals who decide to stop engaging in criminal acts for various reasons, including lack of motivation (the criminal activity does not bring on the excitement or monetary reward, produces too much stress) and lack of ability to perform the criminal act. This would be especially important to those engaging in crimes that require a certain amount of physical agility. The factor of lack of opportunity would especially apply to those white collar workers who had engaged in various crimes while employed, such as embezzlement, fraud, price-fixing, extortion, and other crimes for which the opportunity arose from within the context of their occupation.

Disengagement from occupational role, social relationships, and community activities engaged in during the productive years of the individual may produce many conflicts, emotional strains, and economic hardships for the elderly person who is forced to disengage from the previous lifestyle. The necessity to make adjustments in lifestyles and to find new sources of satisfaction may motivate some elderly to engage in behavior that can become criminal, such as drug and alcohol abuse or deviant sexual behavior. For others their economic situation may motivate them to become involved in various forms of theft as a means for survival. As previously mentioned, old age may open up opportunities to commit some crimes, particularly those related to fraud and theft.

## Growth of the Elderly Population

The population of the United States age 65 years old or older in 2009 was 39.6 million or 12.9% of the total US population. A report by the Administration on Aging/Administration for Community Living (2015, p. 1) estimates that, by 2030, there will be 72.1 million persons age 65 or older living in the United States. This number will constitute approximately 19% of the total population. The older population is expected to increase at a faster rate than any other age groups. Population predictions pertaining to other countries in the European Union (CIA World Factbook and Statistik Austria, 2015, p. 1; Eurostat, 2012) indicate that these countries have experienced considerable growth in their older population and the increase in the proportion of their populations growth that are defined as elderly will continue well into the future. Such factors as a declining mortality rate, decrease in the fertility rate, a higher life expectancy due to advances in medicine, and improvements in living conditions are the reasons.

## Prior Research on Crime Committed by the Elderly

Several research studies on older offenders (Keller & Vedder, 1968; Shichor, 1984; Wilbanks, 1984) found that “Such offenses as drunkenness, larceny-theft, fraud, disorderly conduct, gambling, disturbing the peace, and some types of sexual offenses were prevalent for the older offenders in the majority of cases” (Kratcoski & Edelbacher, 2016, p. 59). The major source of nationwide statistics on crimes committed by the elderly is the Uniform Crime Report. This report, compiled annually by the Federal Bureau of Investigation (FBI), consists of all crimes known to have been reported in the year as well as all crimes cleared during that year as a result of arrests made of the criminal violators or other factors known to the police, such as the death of a known criminal.

Using *the Uniform Crime Report* as a data source for making conclusions on the extent and types of crimes committed by the elderly has several limitations and is not likely to give a totally accurate account. The limitations include errors made by the reporting sources of the data, that being the police agencies that send in their crime statistics to the FBI for tabulation, the fact that many victims of crime do not report that they have been victimized, as well as the fact that a large proportion of crimes do not result in an arrest and thus it is not possible to ascertain information on the characteristics of the criminal offender. Some of the gaps in the information on the crimes of elderly offenders is filled by special reports completed by the FBI on specific types of crimes such as violent crimes and hate crimes (several of these reports will be cited later in the chapter), and nationwide victimization surveys often provide specific information on the characteristics of the offenders as well as the characteristics of the victims of crime.

A comparison of crimes known to have been committed by the elderly (FBI, 2014) in the year 2000 and crimes by the elderly (age 65 and above) in the 2013 revealed that the proportion of total arrests for all categories of serious crimes had increased significantly, with the exception of robbery, and fraud, forgery, embezzlement, drug-related offenses, receiving stolen property, liquor law violations, and family-related crimes were some of the crimes for which the proportion of arrests of the elderly showed significant increases.

Kratcoski and Edelbacher (2016, p. 59) note that the proportion of arrests of the elderly for violent crimes in the United States was less than 1% in 2013 and the proportion of arrests of the elderly for property crimes was 5% in 2013. A report on violent crime trends completed by the Bureau of Justice Statistics (2014) reveals that the violent crime for those aged 60–65 has remained consistently low when 1980, 1994, and 2012 are compared. Steffensmeier and Allan (2017) suggest that the low proportion of arrests for violent crimes among the older population can be explained by the fact that most violent crimes, such as forcible rape, robbery, murder, and aggravated assault, are physically demanding and dangerous and older persons are less likely to have the ability to commit such crimes than those in younger age categories. Kratcoski and Edelbacher (2016, p. 59) contend, “Conclusions based on the number of arrests made for various crimes can be erroneous, since a large proportion of reported crimes are never solved, and it is difficult to determine the characteristics of the person who committed these crimes. In addition, victims of crime often do not report their victimization for a variety of reasons, including the fact that the offender is a relative, fear of retaliation, or a belief that reporting will not stop the victimization.”

## Characteristics of Elderly Criminals

Many of the unknowns given to determine the characteristics of the older criminal offender are also true when trying to determine the characteristics of the victims of the older criminal. Given the large amount of missing information on those crimes reported, as well as the large numbers of victims of crime who do not report their victimization, often the best that can be ascertained about older criminals victims is by applying theoretical assumptions about elderly crime. Routine behavior theory and opportunity theory may be helpful in explaining some types of crimes and not others. For example, in the case of Joe, the child sexual molester previously discussed in this chapter, the offender had the opportunity as well as the motivation to commit the offense. Older offender cases involving personal crimes reveal the importance of the opportunity and routine activity theories but perhaps demonstrate less motivational and more spontaneous behavior on the part of the older criminal. In research on older homicides completed by Kratcoski and Walker (1988), they found cases in which the offender killed a friend during an argument over a racist remark made by the victim about a relative of his friend and a wife who murdered

her husband because he was complaining about the amount of meat that was in the stew she made for dinner.

As indicated in the beginning of this chapter, there are several factors that account for the increase in the amount of crime committed by the elderly as well as the changes in the types of crimes they commit. The facts that people who reside in the United States have a longer life expectancy than those who lived in the past, that many are still employed at the age of 65 and older, and that a larger number of older residents are receiving some form of government entitlement than in the past lead to opportunities for the elderly to commit crimes that were not present for past generations. For example, the increasing number of older persons involved in social security fraud illustrates this opportunity for an older person to victimize the government.

## Types of Older Criminal Offenders

Kratcoski and Edelbacher (2016) and Kratcoski and Walker (1988) found that older criminal offenders can be found in most of the criminal acts categories. They discovered that some of the older criminals fit the definition of career criminal, while others would be considered situational offenders. Kratcoski and Walker (1988), in their research on older sexual offenders housed in a correctional facility, found that some of the older sexual offenders, perhaps the majority, had long history of sexually molesting children, typically their own children or grandchildren, but in other cases the prisoners' only offense occurred late in their life and seemed to be related to some dramatic crisis in their lives such as a death of a spouse, onset of mental illness, depression, and isolation. Arlune Culler, Director of Intensive Supervision Probation, Stark County, Ohio, noted that some of the older offenders who had served long sentences in prison on various offenses, but specifically serious sexual offenses, often have a difficult time adjusting to probation or parole and were charged with a new offense because they do not adhere to specified regulations such as not registering and reporting to a law enforcement agency as required or who live closer to a school zone than what is allowed for those convicted of serious sexual offenses. Culler contends that they do not commit new sexual offenses but often were confused about rules and requirements, thus causing violations of community supervision rules. (Personal interview by author—3/18/2017)

Kratcoski (2017) noted this dichotomy of career and situational types was also found in the cases of those older offenders who committed crimes against persons. Most of the older criminals in prison who were convicted of such crimes as murder, manslaughter, or aggravated assault had criminal histories of crimes against persons, but others charged with similar offenses were serving sentences for their first criminal conviction, in which there were situational factors surrounding the incident, such as an argument between the offender and victim over some trivial matter.

In regard to property offenses among the older offenders (particularly those in the federal system), many of the criminals had long histories of various property offenses such as drug trafficking, fraud, tax evasion, embezzlement, and numerous other



property offenses, while other older inmates were first-time offenders. The Federal Bureau of Investigation (2015) shows a significant increase in arrests of older persons (65 and above) for drug abuse charges. According to Arlune Culler, a large proportion of the older drug abuse offenders supervised by the Intensive Supervision Program of Stark County, Ohio, are situational offenders, and their drug offense is in some way connected to situational factors. (Personal interview by author—3/18/2017)

## Victimization Surveys

National Crime Victimization Network (2014, p. 1) in a study by the Michigan Research Center on Victimization of the Elderly for the years 2005–2009, reported, “One study examining police reported homicides in several states highlighted the variations across age groups typically combined as “elderly.” When disaggregating the average 65 population into three categories, victim and incident characteristics differ between the “oldest old” victims (age 85 and older) and the “young old” victims (age 65–74). A higher percentage of the oldest victims are female (60.6% compared to 41.0%) killed by family members (30.0% compared to 15.8%) and killed by personal contact weapons (37.5% compared to 15.8%).” In a study of elderly victims (Smith 2012), it was reported that 30% of the victims age 65 and older who had reported that they were violently victimized stated that they were violently victimized by their own child or grandchild (Truman & Langton, 2015, p. 6).

## Elderly Victim-Offender Relationship for Elderly Homicides

Van Ginneken (2013, p. 36) states “When lecturing about risk, I often show audiences a dart board bearing in the middle, a red dot with the number (1) and the mention: You. Surrounding this, in ever wider concentric circles are (2) other members of your household, (3) further family and friends, (4) people from your neighborhood and town, and finally (5) immigrants and (6) foreigners.” After some discussion with the audience on “who is the most likely to kill you,” he provides the evidence that self is the most likely killer of oneself, followed by close family, other relatives, friends, and neighbors, and the least likely to kill you are strangers and immigrants from foreign countries.

Kratcoski and Walker (1988, p. 70, 71, 74) researched all of the criminal homicide cases from the Cuyahoga County, Ohio, Prosecutor’s Office and the files in the Cuyahoga County Coroner’s Office for a time period extending for 15 years. Of the 1578 cases of which the relationship between the offender and victim(s) was known, 77 (13.3%) of the offenders were age 60 or older at the time the criminal homicide offenses were committed.



Of the 77 older homicide offenders, Kratcoski and Walker (1988) found:

- 24% of the older homicide offenders killed their spouses.
- 9% of the older homicide offenders killed a relative.
- 57% of the older homicide offenders killed an acquaintance.
- 10% of the older homicide offenders killed a stranger.

Other facts that help one to understand the nature of homicides committed by older offenders are:

- More than two thirds of the older offenders killed their victim in either their own homes or the homes of the victim.
- Almost 90% of the older offenders used a firearm to kill their victims.
- In more than two thirds of the cases, the killing occurred during or shortly after an argument between the offender and the victim.

The authors found that in only 10% of the cases of the 60-year-old or older homicide offenders, the victim was a stranger, compared to 18.5% of the other age groups in which the victim was a stranger. Also, a significant proportion of the older homicide offenders committed suicide (19%) after they killed their victim.

In other characteristics such as the type of weapon used, the location where the criminal act occurred, and the circumstances related to the homicide, the older offenders were very similar in characteristics as all other age groupings.

## **Weapons Used by Older Offenders**

The rate of crime for violent offenses, particularly the most serious violent offenses such as homicide and aggravated assault, may differ significantly by age group as a result of opportunity as well as situational factors. For example, the physical contact required between the offender and the victim in crimes such as homicide, aggravated assault, and robbery against persons might dissuade the older person from thinking about engaging in such acts simply from fear of being hurt. However, if the older person has access to a firearm, the fear of being physically hurt during the course of committing a violent criminal act may diminish, since a firearm has been described as the “great equalizer” in reference to personal contact in a confrontational situation. A review of arrests for homicide in the United States using the FBI’s Uniform Crime Report (2015) as the basis for comparisons reveals that there are significant differences between the younger age groups and the elderly group in homicides. Many of these differences can be explained by such factors as motivation, opportunity, and fear of the confrontation. Access to a firearm by the older offender as well as the younger offender might be a major factor in explaining the similarity of the characteristics of the older and younger age groups in homicide cases.

Gun ownership does not necessarily result in higher rates of homicide by any age group, either the very young or the old. There are many factors to consider when one tries to determine the causes for homicide crimes other than gun ownership (ABC News Network 2013). For example, in the United States Larsen (2011, pp. 1–2) in

a summary of a global study on homicide noted that of the almost half million homicides states “In 2010 the total number of homicides estimated from the global research, “More than a third (36%) were estimated to have occurred in Africa, 31% in the Americas, 27% in Asia, 5% in Europe and 1% in the tropical Pacific region.” Guns were used in the largest share of the firearms. Larsen states, “Factors contributing to the homicides include: economic crisis; food insecurity due to environmental changes; and weak or limited rule of law In deed, these patterns are reflected in the fact that the “largest shares of homicides occur in countries with low levels of human development, and countries with high levels of income inequality are afflicted by homicide rates almost four times higher than more equal societies.” In another study, it was found (Templeton (2015)) that other countries with a sizable proportion of the population who owned a firearm had rather small number of deaths by a firearm. In Germany, 30.3% of the adult population owned a firearm, but the firearm deaths per 100,000 population was only 1.1, and in France 31.2% of the population owned a firearm, but the firearm deaths per 100,000 population was only 3.0. To determine the relationship between gun ownership and violent crime in any country, the laws, societal norms, and culture must be considered.

A study comparing the homicides in New York City with that of Chicago in 2015 showed that New York, with a population of 8.2 million, had 419 homicides in 2012 compared to Chicago, a city of 2.7 million, that had 506 homicides in 2012 (Lidgett 2016). In New York, the proportion of homicides for which a gun was used was 56.3%, while in Chicago the proportion of homicides in which a gun was used was 87.5%. It is difficult to explain why the proportion of homicides in which a firearm was used is so different in the two cities. Such factors as the size of the police department, gun control laws in the city, and overall crime rates must be considered. For example, determining the proportion of the homicides that were felony-related crimes and knowing the offender-victim relationship and the circumstances surrounding the homicides are all important in understanding the criminal behavior. Although neither of the studies cited focus on the older homicide offender, they do tend to confirm the notion that having access to a firearm is related to an increase in the number of homicides in the United States in recent years. A handgun was the predominate weapon used in the large majority of the homicide cases in the United States. A World Health Organization study stated “Compared to 22 high income nations, the United States gun-related murder rate is 25 times higher.” Quoting a World Health Organization study published in 2010, Grinsteleynl (2010, p. 1) notes that, “Even though it (the research study) has held the population of the other 22 countries combined, the United States accounted for 82% of all gun deaths.” In a study that included 27 developed countries of the world, Bangalore and Messerli (2013, p. 837, 838) found that, “In a linear regression model with firearm-related deaths as the dependent variable with gun ownership and mental illness as independent covariates, gun ownership was a significant variable.” Applying these findings to opportunity theory and the older homicide offenders, given the high proportion of the population in the United States that owns one or more firearm, it is reasonable to conclude that guns play a significant role in the homicides committed by elderly offenders.

The research by Kratcoski (1992) showed that almost 90% of the older homicide offender used a firearm, a proportion very close to that of the other age groups included in the study. In that same study, when the circumstances of the homicides were inspected, it was found that the large majorities of the homicides occurred in either the offender's or the victim's home; the offender and victim were either married, relatives, or close acquaintances; and in the majority of cases, the homicide occurred during or shortly after a quarrel or altercation over a trivial matter. The database for the study did not address the matter of the presence of mental illness in the older homicide offenders. However, one can surmise that, in the cases of homicide-suicide that predominately related to a spouse who was suffering from a fatal painful illness being killed by a marital partner who committed suicide using the same weapon used in the homicide, the offender was deeply emotionally and psychologically disturbed.

A number of reports on inmates in jail and in prisons (give some references) imply that as many as one third of the inmates in jail and inmates in prisons have substantial mental health problems. Unfortunately, most of the research does not specify the ages of those with mental health problems. Thus, it is not possible to determine if mental health problems for the elderly are substantially different from those of other age groups, either in frequency or in severity.

Handling of older offenders will be based on either the policies of the criminal justice agency or the use of discretion on the part of the criminal justice agents. Research by Fattah and Sacco (1989, Cutshell and Adams (1983)) found that the police response to the older offenders who were arrested for such offenses as shoplifting, vagrancy, public intoxication, and family violence was generally sympathetic. The police officers viewed most older offenders as being mentally confused and in need of assistance and supervision rather than harsh punishments. On the other hand, some researchers (Aday & Krabill, 2006) found that some judges give harsher sentences to older offenders than they give to offenders in other age groups who were convicted of the same offense.

Vinyard (2016), in a study of child pornography offenders who have been convicted under federal statutes, found that older age was a predictor of being given a harsher sentence than that which was given to younger offenders convicted of the same offense. Vinyard (2016, p. 51) concluded, "Of all the extra-legal factors considered in this study, age exerted a significant effect in predicting those child pornography offenders sentenced to a life term of supervised release. The result is contradictory to findings in the most recent extant sentencing literature on the effects of age and sentencing, which finds that the younger offenders are more likely than older offenders to be punished more harshly." The author provides several speculations for the reasons for older child pornography offenders to be treated more harshly than younger offenders. He suggests that the older offender may be perceived as a greater threat to society. He states (p.55), "The idea of an offender over age 50 receiving sexual gratification from images depicting the sexual assault of children under the age of twelve, including infants and toddlers, may be unsettling for judges."

## Summary

The manner in which age is conceptualized must be considered in relationship to the specific culture and time period of a society. For purposes of research in the present-day United States, old age (elderly) is generally considered to begin at age 65 and older.

The amount of crime committed by the elderly, while a small proportion of the total crime, has been increasing in recent years, and it is expected to continue to increase well into the twenty-first century. The reasons for this increase in crime by the elderly include a longer life span of the population and more opportunities for the elderly to commit criminal acts, particularly for those elderly persons who are involved in property crimes such as theft, fraud, and corruption.

Various theories explaining the causes of criminal activity, such as social learning theory, routine activities, opportunity theory, anomie, and convenience theory, that apply to other age groups also apply to the elderly, although in a different context.

In researching the crimes of the elderly, it is important to distinguish between those elderly offenders who are habitual criminals and have spent most of their lifetimes engaged in criminal behavior from the situational older offenders whose crimes are related to a recent situation or event that occurred in their lives.

## Discussion Question

1. Explain how the conceptualization of the concept of age can be affected by the specific time period and society in which it is being applied.
2. Discuss social learning theory and how it applies to the criminal behavior of the elderly.
3. Discuss the concept “anomie” in reference to the criminal behavior of the elderly.
4. Discuss the reasons why an older person might be motivated to commit crimes.
5. Discuss how the access to firearms is related to the violent crimes of the elderly in the United States.
6. Based on the research presented in the chapter, discuss the reasons for an elderly person to commit a homicide.
7. Discuss “opportunity theory” as it applies to the elderly who commit “white collar” crimes.
8. Discuss the relationship between the mental illness of the elderly and their deviant behavior.
9. The husband of Mrs. Jones, age 83, died at the age of 85. He and his wife were married for 42 years before his death. Both of the Jones were receiving social security, and Mr. Jones was also receiving a pension from the automobile corporation where he was employed until his retirement. After his death, the checks from social security and the pension continued to be sent. Mrs. Jones signed her

former spouse's name and cashed the checks. What types of crimes is Mrs. Jones committing? What theories of crime causation are applicable to this case?

10. Discuss disengagement theory. What are some of the means older persons who have disengaged from their predominate status in society use to re-engage. What types of criminal activity might be engaged in by elderly persons during the re-engagement process?

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# Chapter 2

## Trends in Types and Amount of Crimes Committed by the Elderly in Europe



Maxmilian Edelbacher

### Introduction

After World War II, the economic growth of most countries of Europe was at a very low level, and the amount of reported crime was also low. Europe had suffered tremendously as a result of the War. Since their governments and economies were in ruins, these countries would have been easy pickings for the development of a “black market,” corruption, and other forms of crime. However, with the support of the US government’s Marshall Plan, the defeated countries, especially Germany and Austria, were able to recover rather quickly, and a rapid growth in the economies of these countries occurred in the 1950s and 1960s. Germany and Austria experienced a *Wirtschaftswunder* (economic wonder). Although the complete infrastructure was destroyed during the war, the hardworking Germans and Austrians were successful in quickly rebuilding all fields of the economy, including industry, employment, private housing, as well as the government and the social structure, and the damage caused by the war was diminished. The development of the economy and the stabilization of the government were no doubt the primary reasons why the crime in these countries was under control.

A partnership of European countries based on their economic development, referred to as the Treaty of Rome, was founded in 1957. Industrial nations of Europe, including Belgium, France, Germany, Luxembourg, Italy, and The Netherlands, the main producers in Europe at that time, joined the economic partnership. The treaty came into power in January 1, 1958. On November 1, 1993, the European Union was founded in Maastricht. The original countries were Germany, Italy, France, and Luxembourg. Today the European Union (EU) has 28 member countries and 510

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million people who live in an area of 4381.324 km. In 2018, the United Kingdom will drop out of the European Union.

Until the fall of the “Iron Curtain” in 1989, Europe was a rather secure continent compared to America, Africa, or Asia. The approximately 300 million people who lived in the countries of Europe were not experiencing dramatically high rates of crime. There were differences in the quality and quantity of crime from country to country and the challenges of organized crime existed, but generally most people had a good “quality of life”; the economies, governments, and social structures were stable; and crime was not a day to day concern. When the Soviet Union of Russia was dismantled, the situation changed dramatically. Now Europe had a population of about 500 million people, and the economies of many of the countries that had been under the Soviet Bloc were significantly lower than those of the more developed countries. The former Communist-Bloc countries had a much lower economic level than the rest of Europe, and the people of the formerly communist countries were experiencing a rather poor standard of living. When the national borders were opened, the peoples of the Eastern European countries soon learned how much better life was in the Western part of Europe, and many of them tried to move from their home countries to the Western European countries. The “push-pull” theory suggests that people are more or less pushed out of their country of residence for such reasons as political persecution, war, and internal civil strife, a lack of opportunity to enjoy a decent standard of living, and natural disasters that plague the country. The pull factors might include political freedom, economic opportunities, and a chance to start a new life. This theory is applicable to the European situation during the immediate time period after the national borders were opened, and peoples of the various countries had an opportunity to move from country to country without having to fear the authorities. On the one side, *pull* factors such as the Western industrial leaders and other establishments of the Western European nations were eager to have a source of workers coming from the East who were willing to work at some of the more menial jobs and to be paid less than those in the current work force, while on the other side, people from the East tried to improve their quality of life and were ready to move from their home countries to the Western European countries. Although this vast movement of peoples from Eastern Europe to Western Europe appeared to be mutually satisfactory for both the East and the West as with any change in the social and economic structure, there were consequences that would not be felt until a later period.

Another important factor that influenced life in Europe significantly was the foundation of the European Union. The economic partnership of several European countries starting in the 1950s eventually expanded to the European Union with 28 member countries in cooperation at the present time. When the Eastern European Block broke from the Soviet Union and the countries became independent, they wanted to become members of the European Union. Not all of them were accepted, but many of them became members. Being a member of the EU meant they were to enjoy the four basic freedoms of the European Union.

They are:

- Freedom of settlement of people
- Freedom of movement of money
- Freedom of movement of goods
- Freedom of movement of services

The four-freedom idea was based on the vision that, after two World Wars, Europe should become a continent that enjoys peace and freedom. This idea is still alive at the present time, even though Europe has had several conflicts that threatened the era of peace and freedom that was established after World War II ended in 1945. However, at the present time, the solidarity of the European Union and a promise of economic security for all of the people included under the Union's umbrella are being threatened by the changes in the economic situation of Europe and the leaders of various countries who want to return to the pre-European Union status. The United Kingdom will drop out of the European Union, and in some countries including France, Austria, The Netherlands, and Poland, right-wing parties have become more powerful. The leaders of these parties promise to leave the European Union, if they come into power in their countries. There is a deep feeling of dissatisfaction among many of the people, because the European Union was developed as an organization that supported closing the gap between the "poor" and the "rich," and the Union was not closing this gap or was ignoring the issues. The majority of the people wished to live in an area of social equality, and this wish was not fulfilled by the political work in the European Union.

## **The Effect of the European Union on the Elderly**

The excellent development of the economic frame conditions in Europe assured that elderly people would have an adequate standard of living, enjoy their old age, and not have to worry about such things as costly medical and healthcare bills that would threaten their standard of living. However, not all of the elderly have this worry-free life. Expected opportunities did not materialize, and many never emerged from the poverty level. In fact, the gap between the rich and the poor has continued to increase, and there are an increasing number of elderly people that stay poor.

Many European countries offered excellent healthcare service, especially for elderly people. Due to increasing costs, these healthcare services that were affordable for a long period of time have been cut back by governments in Europe in order to reduce the expenses. Elderly, who trusted in a retirement without worry, are now confronted with insecurity and wonder if their healthcare costs will be covered by the insurance plans.

There also is a recognition of the development of increasing problems for extremely young people. Many of them are not well educated and therefore have little chance to be integrated in the work force. Similar problems arise with elderly people who dropped out of or were pushed out of the work force. They lost their jobs because their salaries proved too expensive for their firms or because their firms closed down.

To start again and to get a job very often are nearly impossible for them. This creates the danger that their retirement income can be cut extremely, because they do not have enough years of active work to be granted regular retirement payments.

All these problems arose because of the changing frame conditions in Europe. The economic growth of Europe in the 1950s and 1960s gave hope for a brighter future for all generations. There was an excellent check and balance between the generations, and there was a belief that the economic development and social security could be delivered for everybody.

At the present time, the economic development is very vulnerable. Europe is confronted with enormous migration problems, unemployment of young and elder people, and inability to provide social security for all as was expected. As political crises emerge, there is a tendency to elect more and more right-wing party leaders, and more people are willing to follow their ideas. Even the idea of a unified Europe is no longer accepted by all, and more and many people doubt if Europe will have a positive future.

## **The Relationship of Political and Economic Changes to Crime**

Generally it is difficult to compare crime situations of the different regions of Europe because there exist a broad variety of systems of reporting crime and the ways of identifying and measuring crime in the different systems are not always comparable. The European Union headquarters in Brussels ([http://ec.europa.eu/eurostat/statistic-explained/index.php?title=Crime\\_statistics/deoldid+292637](http://ec.europa.eu/eurostat/statistic-explained/index.php?title=Crime_statistics/deoldid+292637)) tried to set up a ranking of crime in the European countries. The measurement instruments started with questions on how many cases of robbery, theft, violence, and sexual offenses happened in a period of time. This survey started for the first time in 2007. Approximately, 35,000 people were selected from 15 traditional European countries, and later the countries of Poland, Hungary, and Estonia were added to this questionnaire. German professional researchers, using such instruments as Gallup polls and the Max Planck Institute, questioned 2000 Germans about their crime experiences.

The European Crime and Safety Survey (EU ICS)<sup>4</sup> included crimes which were not reported by the victims to the police authorities. The questionnaire showed a ranking of dangerous countries, starting with the most dangerous country, followed by the most dangerous cities of Europe. The most dangerous countries were:

1. Ireland
2. The United Kingdom
3. Estonia
4. The Netherlands
5. Denmark

6. Belgium
7. Sweden
8. Poland
9. Germany
10. Finland, Luxembourg

The most dangerous cities ranked in the survey are presented below.

#### Ranking of Dangerous Cities<sup>a</sup>

1. London	11. Paris
2. Tallinn	12. Istanbul
3. Amsterdam	13. Wien
4. Belfast	14. Edinburgh
5. Dublin	15. Helsinki
6. Copenhagen	16. Madrid
7. New York	17. Athens
8. Stockholm	18. Budapest
9. Brussels	19. Zagreb
10. Berlin	20. Lisbon

<sup>a</sup>This listed ranking follows the source of [www.spiegel.de/panorama/justiz/kriminalitaets-ranking-die-gefaehrlichsten-laender-in-der-eu-a-464595.html](http://www.spiegel.de/panorama/justiz/kriminalitaets-ranking-die-gefaehrlichsten-laender-in-der-eu-a-464595.html) which was checked on April 23, 2017. Another source of information on crime statistics can be found on the website [http://ec.europa.eu/eurostat/statistic-explained/index.php?title=Crime\\_statistics/de&oldid=292637](http://ec.europa.eu/eurostat/statistic-explained/index.php?title=Crime_statistics/de&oldid=292637). It was accessed by the author on April 23, 2017.

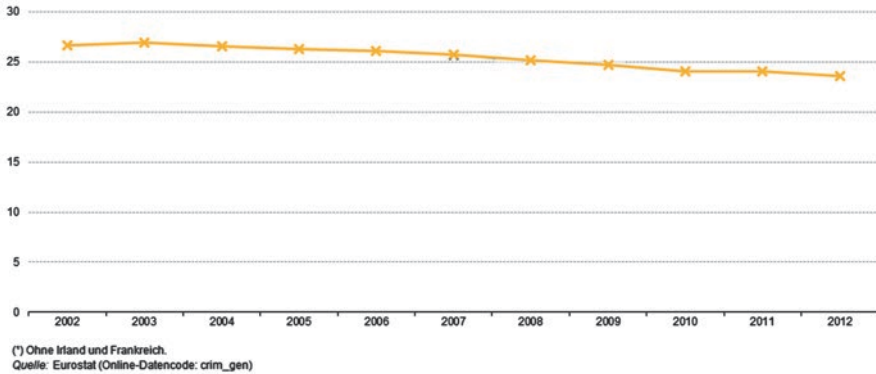
The report records the dates of all police-registered crimes in 28 European countries concentrating only on crimes defined by the criminal codes of the 28 countries. Since 2003, the rate of offenses is decreasing. In 2012, about 12% fewer crimes were registered in Europe than were recorded in 2003. The following graph shows the trend of crime in the 28 countries surveyed (Fig. 2.1).

5: See Note 3, same source ([http://ec.europa.eu/eurostat/statistic-explained/index.php?title=Crime\\_statistics/de&oldid=292637](http://ec.europa.eu/eurostat/statistic-explained/index.php?title=Crime_statistics/de&oldid=292637))

The Euro crime statistics do not include Ireland and France.

## The European Crime and Safety Survey

The European Crime and Safety Survey reports all crimes, even crimes that are not reported by the victims to the police forces. In Europe, all kinds of crimes decreased between 2003 and 2012. There are no statistics available for 2012–2016, but from the point of view of a police expert, it may be presumed that this tendency was continued up to the present time.



**Fig. 2.1** Trends of crime in selected European countries

The survey shows that Ireland and Great Britain are the most dangerous countries of the European Union. More than 20% of people living in Ireland or Great Britain reported being victimized in a period of time of 1 year. London seems to be the most dangerous capital in that 30% of the people reported having been victimized at least one time in a period of 1 year. Crime reports include the so-called major crimes, consisting of murder, robbery, burglary, theft of cars, economic crime, and cybercrime.

## The United Nations Office on Drugs and Crime (UNODC) Global Crime Study

An UNODC Global Study of 20126 reports that all over the world each year, nearly half a million people (437,000) lose their lives by violence. The proportion of deaths by homicide is highest in North America, Middle America, and South America, with 36% of the total occurring in these continents, 31% occurring in Africa, and 28% occurring in Asia. The information presented in this report would tend to indicate that Europe is a relatively safe continent in regard to violent deaths, since only 5% of all murder cases were recorded as occurring in Europe. However, the statistics may be misleading, because they do not take into consideration the vast differences in the size of the populations of the different continents. A more detailed presentation of the number of deaths occurring in separate countries gives a better indication of the dangerousness of a specific country or a city within the country. Table 2.1 provides statistics for 2012. It reports the following countries and cities as the most dangerous:

One might ask how this information on the most dangerous countries and most dangerous cities relate to crimes by the elderly. The surveys mentioned above do not present information on the ages of those arrested for various crimes; one can only speculate the relationship between the aging population of a country and the crime trends of that country. It is also difficult to ascertain what effect the fall of the Soviet

**Table 2.1** Ranking of most dangerous countries and cities for killings<sup>a</sup>

Countries			
1. Nigeria	33.817 killings	8. Germany	662 killings
2. South Africa	16.259 killings	9. Italy	530 killings
3. USA	14.827 killings	10. Poland	449 killings
4. China	13.410 killings	11. Portugal	122 killings
5. Russia	13.120 killings	12. Austria	77 killings
6. Turkey	1.866 killings	13. Monaco	0 killings
7. France	665 killings	14. Liechtenstein	0 killings
Cities			
1. Caracas	2.550		
2. Cape Town	2.018		
3. Sao Paulo	1.621		
4. Bogota	1.281		
5. Guatemala	1.253		
6. Honduras	1.175		

<sup>a</sup>Yury Fedotov is the acting executive director of the United Nations Office on Drugs and Crime by the elderly in Europe

Generally, in Europe, murder, robbery, burglary, and theft of cars are on decrease. But this tendency is not recognized in the field of economic crimes and cybercrimes. They increased all over the world

Bloc and the opening up the borders of the Western European countries to the people of the liberated Eastern countries had on the amount and types of crime that occurred in Western European countries after the downfall of the Soviet Bloc. Although exact statistics are not available, it is safe to assume that the large majority of the new immigrants were poor, probably not skilled laborers, and most likely young in age. Their main motivation for coming to the new country was to find employment and to have a better standard of living than that enjoyed in their previous home. Although some of the new immigrants were specifically interested in engaging in criminal activity (Edelbacher & Kratoski, 2010), it is unlikely that it was the majority. Some of the new immigrants, and particularly their children, who came from countries in which the customs and values were significantly different than those of the country they emigrated from, had problems of adjustment in the communities and, for the children, in the schools. However, there is no evidence to indicate that they contributed to a significant increase in the amount of crime in the countries to which they immigrated. In fact, based on research on immigration (throw in a study or two), the new immigrants who were predominately from Eastern European countries and perhaps Turkey were likely to try to adhere to the customs, traditions, and values of their old country if at all possible. It is the younger population that will throw off the old country values and become integrated into the new country.

A review of the trends in crime for selected countries of the European Union shows that the crime has steadily declined during the period 2000–2012, when the large influx of peoples from Eastern Europe were moving to Western European countries. Rather than increasing the amount of crime, the new immigrants may have had an effect of the reduction of crime.

In the European Union survey of most dangerous countries, only Estonia, ranking third, and Poland, ranking eighth, were countries from the former Soviet Bloc and located in Eastern Europe. The same survey showed that Poland was the only country from Eastern Europe that ranked in the top 20 most dangerous cities for killings. This survey, as was the case with the others, did not keep information on the ages of those involved in the murders, but, based on the information available, it is safe to say that they were predominately young or middle age.

In all of the criminal codes of the European nations, crimes against life and body are leveled as a top priority for law enforcement and law enforcement agencies, and the justice systems of all the countries place great emphasis on preventing and controlling these kinds of crimes. For example, in Austria, the minister of the Interior and the president of police in Vienna exerted enormous pressure on the police agencies to solve the murder or robbery crime cases, which troubled the people and created fear of crime. These crime cases were reported frequently by the media, and the public interest stayed focused on the crimes of murder, robbery, and other violent crimes. Everybody wanted to know what police could do and had done to stop such crimes, thus exerting pressure on the police to solve such crimes and find ways to prevent such serious crimes.

## Property Crimes in Europe

The largest number of crimes in Europe, as well as all countries of the world, is categorized as property crimes, consisting of theft, burglary, and crimes that have been labeled as white collar and economic and financial, such as price-fixing, bribery, embezzlement, tax evasion, and cybercrimes.

In almost every country, property crimes dominate the numbers of all offense. Almost 70–80% of all crimes reported in a country are property crimes. For example, in Austria each year, about 540,000–570,000 offenses are recorded, and in Germany, a country with a population ten times larger than Austria, there are about 5 million offenses registered each year. Recent statistics for Austria show in 2016 violent crime cases (43,098) increased by 7%, burglary cases (12,975) dropped by 16%, theft of cars (2994) dropped by 10%, economic crime and financial crime (53,905) increased by 11%, and cybercrime cases (13,103) increased by 31%. The clearance quote for all crimes recorded increased from 44% in 2015 to 45.9% in 2016.

The above statistics suggest several possibilities in regard to crime trends in Austria. Although property crimes still constitute the majority of crimes reported, the types of property crimes committed are becoming more concentrated in the areas of the so-called white-collar crimes, such as fraud, internet theft, and other economic crimes.

In regard to the ages of the perpetrators of the white-collar crimes, the statistics on those that have been cleared by an arrest give no indication of the age distribution. It would be interesting to determine if the elderly are significantly involved in such crimes related to financial crime, corporate crime, and cybercrime.

## Drug Trafficking and Drug Dealing

The trafficking of drugs and drug dealing are an important crime problem for countries all over the world. North America and Europe are main destinations of the drug cartels predominately based in Asia and South America. Opium production in Asia and cocaine production in South America are mainly oriented on the market in North America and Europe. These illegal drugs are transported by the traditional routes of transporting goods from South America to Europe by ship or from Asia via the Silk Road to Europe. Over decades, the amounts of opium and cocaine are stable.

The European Drug Report of 2015 is available on the Internet (European Central Drug Office, 2016). The European Drug Surveillance Agency is based in Lisbon, Portugal, and was founded in 1993. Since 1995, the Agency has reported each year to the European Union authorities that the number one in Europe still is cannabis. In 2013, about 671,000 products of cannabis were confiscated; opium and heroin seem to be on the decrease. The report tells that about 1.3 million people are so-called problematic consumers because they use injections for a longer period of time, consuming opiates, cocaine, and amphetamine. In 2013, about 175,000 consumers accepted therapy in Europe. The number of drug-addicted people, especially those addicted to opium, has dropped by more than 50% between 2007 and 2013, from about 59,000 to about 23,000 persons. Cocaine is the second most consumed drug in Europe. About 4.6% of the Europeans report to have consumed cocaine at least one time in their life. In 2013 about 63 tons of cocaine were confiscated. On the increase is the consumption of synthetic drugs in Europe. MDMA (3,4-methylenedioxymethamphetamine) was consumed by 3.5% of all Europeans a minimum of one time per year. The amphetamines used in Europe are mainly produced in Europe. Germany reported in 2012 about 4.8 tons of cannabis, 1.3 tons of cocaine, and 270 kg of heroine were confiscated. The German report informs that 23.1% of German in the age between 15 and 64 years have consumed cannabis once a time in their life, 3.4% have consumed cocaine, and in Austria about 14.2% consumed cannabis, and 2.2% consumed cocaine once a time in their life (UNODC, 2015).

## Challenges of Organized Crime and Terrorism

The income sources of the organized criminal groups in Europe today are mainly based on drug trafficking and smuggling of human beings. However there are other sources of illegal activity used by organized crime groups to generate revenue. After the “fall of the Iron Curtain,” Europe was confronted much more intensively with transnational, international organized crime. Organized crime existed of course all the time. Groups of the Italian Mafia were not only active in Italy, the members spread all over Europe and are settled in all countries. Beside the Italians, activities of a lot of different other groups could be recognized by police organizations. Groups from the Balkan area, from Bulgaria and Romania, were identified, but even in Germany and Austria, a lot of gang activities were discovered. For example, Austria was confronted



since the 1950s with criminals organizing illegal gambling and prostitution. When the “Iron Curtain” fell in the 1980s, there was an immediate jointing of some of the criminal groups of the former Eastern Bloc groups and the Western criminal groups.

The police were confronted not only with an increase of quantity of crime but also with an enormous increase of the quality of crime. The organized crime and transnational, international crime groups cooperated with the experienced groups of all European areas. As previously mentioned, smuggling of human beings, property crime, and smuggling of arts objects and drugs are the basic income sources, but white-collar crime, economic crime, fraud, money laundering, and counterfeiting of money and documents became more and more important issues and are used steadily by the criminal groups and entrepreneurs.

## **Islamic Terror in Europe**

Attacks by the Al-Kaida and Islamic terrorist organization threaten the whole world. Since 2001, after 9/11, Europe was confronted with a number of attacks, and the peace and freedom of the people are endangered. The Religion of Peace Organization provides the public with a list of attacks from 2002 (see <https://www.thereligionofpeace.com/europe-attacks.aspx>). Some attacks that occurred in 2017 were in Reunion, Paris; Malgobek, Russia; Stockholm; Astrakhan, Russia; Paris; St. Petersburg, Russia; London; Foggia, Italy, Paris, Paris; Oberhausen, Germany; Vöcklamarkt, Austria; and Berlin. The perpetrators of these attacks were predominately young in age. They seemed to have become radicalized through the propaganda of a militant terrorist organization. In some cases, there is a question of the mental stability of the perpetrator. The fact that those who carried out the acts were young in age does not rule out the possibility that the leaders and organizers are of an older age.

## **Types and Amount of Crimes Committed by the Elderly in Europe**

Based on demographic development, the elderly are more and more in the focus of interest of research studies and practical experiences. Research (Kratcoski and Edelbacher, 2016) reveals that the developed industrial nations of the world are expected to have a population in the near future in which as many as 20% will be in the age category of 65 and older. In the United States, in a report by Economic Policy Committee and the European Commission (Eurostat, 2012), it was predicted that the population of the European Union would decrease by 16% from 2010 to 2050, but the elderly population would increase by more than 75%.

The older generation is an important economic factor, and they play an important role in all kinds of social life in our societies. In the past, police organizations were confronted with the problems of victimization of the elderly. Policing agencies devoted considerable resources responding to the problem of elderly persons becoming victims of crime. The

police established crime prevention centers and community policing activities to try to provide the help and support the elderly who were victimized needed. As a police chief in Vienna, the capital of Austria with about 1.9 million people, I was responsible for the largest district of the city with about 200,000 inhabitants, and I was confronted with many requests from organizations for the elderly, managers of elderly homes, and managers of hospitals or public institutions who wanted advice on how to reduce the risk for elderly endangered to become victims of crime. (Personal experience of author)

At the present time, the elderly are still the targets of many types of criminal victimization. However, the police now must also respond to a significant number of situations in which the criminal offenders are older persons, often in their twilight years. Although

### Box 2.1<sup>1</sup>

“Instead of Playing Golf, the World’s Elderly Are Staging Heists and Robbing Banks”:

this article was written by Carol Matlack and published on May 28, 2015; see <https://www.bloomberg.com/news/articles/2015-05-28/worldwide-elderly-crime-rates-increase>.

British tabloids were abuzz after a dramatic recent heist in London’s Hatton Garden diamond district, as thieves made off with more than 10 million pounds (15.5 US\$ million) in cash and gems from a heavily secured vault. According to one theory, the gang used a contortionist who slithered into vault. Others held that a 30-something criminal genius known as the “King of Diamonds” had masterminded the caper.

When the police arrested nine suspects, the most striking thing about the crew wasn’t physical dexterity or villainous brilliance. It was the age. The youngest suspect in the case is 42, and most are much older, including two men in their mid-1970s. At a preliminary hearing on May 21, a 74-year-old suspect said he couldn’t understand a clerk’s questions because he was hard of hearing. A second suspect, 59 years old, walked with a pronounced limp.<sup>2</sup>

The perpetrators of the London jewel heist, though, were neither isolated nor impoverished. Prosecutors say the thieves disabled an elevator and climbed down the shaft and then used a high-powered drill to cut into the vault. Once inside, they removed valuables from 72 safe deposit boxes, hauling them away in bags and bins and loading them into a waiting van. Although their faces were obscured by hardhats and other headgears, the tabloids gave each thief a nickname based on distinctive characteristics seen on the camera.

(continued)

<sup>1</sup> <http://www.independent.co.uk/news/uk/crime/hatton-garden-jewellery-burglary-details-of-the-chaotic-scene-inside-the-vault-revealed-by-officers10164221.html>.

<sup>2</sup> <http://www.bbc.co.uk/news/uk-england-london-32799703>.

**Box 2.1** (continued)

Two of them, dubbed the Tall Man and Old Man, “struggle to move a bin before they drag it outside” in its analysis of the security footage. The Old Man leans on the bin, struggling for breath, the Mirror reported – see <http://www.mirror.co.uk/news/uk-news/hatton-garden-heist-cctv-proves-5498421>.

Most of the nine men charged in the case appeared to be ordinary blokes. The hard-of-hearing 74-year-old was described by his London neighbors as an affable retiree who loves dogs; the 59-year-old with a limp was said to be a former truck driver. Another defendant runs a plumbing business in the London suburbs. All nine are being held in custody on charges of conspiracy to commit burglary; they haven’t entered pleas.

the crimes of older persons are predominately concentrated in property crimes, older persons have been arrested for all types of crimes, including murder, rape, and robbery. The following case is an example of the activities of an older group of robbers.

## Sociological Explanations of Elder Crime

Richard Hobbs (2016), a sociologist at the University of Essex who studies crime in Britain, says the country’s criminal underworld has changed dramatically in recent years. Rather than congregating in pubs or on street corners, many criminals now live seemingly ordinary lives, raising families and running legitimate businesses. They still participate in crime but only with trusted associates. “They don’t see themselves as criminals, they see themselves as businessmen.”

That makes it easier for elderly criminals to stay in the game. Older criminals often have extensive networks to draw on for needed expertise. And some essential skills, such as money laundering, don’t require physical vigor. Hobbs says, “Still, geriatric crime poses special challenges.” During the trial of the German “Grandpa Gang,” the gang members described how their 74-year-old co-defendant, Rudolf R., almost botched a 2003 bank heist by slipping on a patch of ice, forcing them to take extra time to help him into the getaway car. The 74-year-old had another problem; co-defendant A. told the court: “We had to stop constantly so he could pee!”

Young men still commit a disproportionate share of crimes in most countries, but crime rates among the elderly are rising in Britain and other European and Asian nations, adding a worrisome new dimension to the problem of aging populations.

“Elderly people in developed countries tend to be more assertive, less submissive, and more focused on individual social and economic needs than earlier generations were,” says Bas van Alphen (2014, page 1), a psychology professor at the Free University of Brussels, who has studied criminal behavior among the elderly. When they see in their peer group that someone has much more money than they do, they

are eager to get that. He says older people may also commit crimes because they feel isolated. “I had one patient who stole candies to handle the hours of loneliness every day,” says van Alphen, who describes such behavior as “novelty seeking.”

Rising poverty rates among the elderly are being blamed for elderly crime in some countries. That is the case in South Korea, where 45% of people over 65 live below the poverty line, the highest rate among the 30 developed countries belonging to the Organization for Economic Cooperation and Development. The government should make an all-out effort to expand the social safety net. “The 74-year had provide jobs and dwellings for elderly” (van Alphen, 2014, Page 1).

## **Examples of Elderly Crime from Austria and Germany**

### ***Bank Robber Because of Love***

On December 16, 2004, a 74-year-old man from Vienna dressed nicely and decided to rob a bank in the city of Vienna. He chose a bank next to the St. Stephen’s Cathedral, a top destination for tourists in Vienna. Shortly before lunchtime, he robbed the bank using a gun. He did not get much money. Police were informed in time, and the bank robber had to flee and run into a house next to the crime scene. There the police could arrest him. Police officers were very much astonished, when they recognized the bank robber. He was a well-known old criminal of 74 years – when he was arrested, he said: “C’est la vie” (that’s life). When he was interrogated, he confessed to having committed the robbery because he has fallen in love with a very young girl. He wanted to buy her a nice gift. (Edelbacher, M. personal experience as a police officer)

### ***Old Burglar Cannot Stop***

Ernst, who lives in Vienna, is about 75 years old. More than half time of his life he was imprisoned because of burglary. When he came out in 2009, he published a book with the title *I am the King of Burglars*. He was invited to the Vienna University, Institute of Sociology, to tell the students why he became a burglar. He said that after the end of the Second World War, he was sent by his mother to steal food, so they could stay alive. When he was successful, his mother was happy.

There are several theories of deviant behavior that would help explain why the person became a criminal and continued his criminal behavior throughout most of his life. They include socialization, learning, routine activities, opportunity, exchange, a culture of poverty, and others. These theories help to explain why he became a criminal and why he continued his life of crime into his senior years. His life of crime was abruptly stopped when he met a young woman and wanted to make her happy, but he broke into a kindergarten, stole a laptop, and sold it. His criminal act was videotaped, and he soon was arrested. (Edelbacher, M. personal experience as a police officer)

## *Opa Bande*<sup>3</sup>

In Germany, the “Opa Bande” (Grandpa Gang) consisting of three men in their 1960s and 1970s were convicted because of robbing more than one million Euros from 12 banks. When they testified at their trials, they claimed they were trying to top their pension benefits. One defendant, Wilfried A., said he used his share to buy a farm where he could live because he was afraid of being put in a retirement home.

## Conclusion and Future Aspects

The elderly are currently in the focus of the civil society. On the one side, they represent an enormous economic factor, while on the other side, they confront us with a lot of new challenges. Best practices are discussed on international and national levels as to how to deal with challenges of the older generations.

The trend in demographic development does create an atmosphere of optimism because in the future, especially in America, Asia, and Europe, younger generations will have to handle the burden of helping to support an increasing number of elder people. That means that all social models have to be reconsidered and perhaps rebuilt. The high standard of retirement security cannot be kept in the next decades. There are a lot of questions that cannot be answered just now. They are:

What has to be done and which solutions are possible?

Shall elder people work much longer, and is the retirement age to be postponed?

How do we handle the problem of healthcare and retirement homes?

How do we treat elderly persons who commit crimes?

How do we protect elderly in a better way not be victimized?

Hopefully, the material in this chapter and that in other chapters of the book will provide some answers to these questions. The solutions will require a multidisciplinary dialog of all different fields of science, including philosophy, sociology, medicine, law, political sciences, and others.

## Discussion Questions

1. What are some of the reasons for the increase in the elderly population in most of the countries in Europe?
2. What are some of the major reasons why the amount of crimes by the elderly population has increased in most countries of Europe in recent years?

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<sup>3</sup> see <http://news.bbc.co.uk/2/hi/europe/4510365.stm>.

3. Discuss the reasons why some countries are ranked as dangerous.
4. What are some of the major reasons why a country will have a low rate of crime.
5. What are the major reasons for a city to have a high rate of violent crime?
6. London is ranked as the most dangerous city in the world. Discuss the reasons why London is ranked as a dangerous city.
7. What is the relationship between the development of the Internet and the amount of crime committed by the older population?
8. Discuss the types of situational factors that must be considered in any research on the causes of violent crime committed by the elderly.
9. Discuss the types of situational factors to consider when researching causes of property crimes committed by the elderly.
10. Discuss the difference between a career (habitual) criminal and a situational criminal. Give examples of types of career and situational criminals that might be found among elderly offenders.

## Notes

1. See [https://en.wikipedia.org/wiki/European\\_Union](https://en.wikipedia.org/wiki/European_Union).
2. This ranking of dangerous countries was retrieved from [www.spiegel.de/panorama/just/kriminalitacts-ranking-die-gefaehrlichsten-laender-in-der-eu-a-464595.html](http://www.spiegel.de/panorama/just/kriminalitacts-ranking-die-gefaehrlichsten-laender-in-der-eu-a-464595.html)(Crime-ranking-the-most-dangerous-countries-in-the-eu). Retrieved 4/23/2017
3. Another source of information on crime statistics can be found on the website [http://ec.europa.eu/eurostat/statistic-explained/index.php?title=Crime\\_statistics/de&oldid=292617](http://ec.europa.eu/eurostat/statistic-explained/index.php?title=Crime_statistics/de&oldid=292617). Retrieved 4/23/2017
4. [http://ec.europa.eu/eurostat/statistic-explained/index.php?title=Crime\\_statistic/de&oldid=292617](http://ec.europa.eu/eurostat/statistic-explained/index.php?title=Crime_statistic/de&oldid=292617). Retrieved 4/23/2017
5. [http://ec.europa.eu/eurostat/statistic-explained/index.php?title=Crime\\_statistic/de&oldid=292617](http://ec.europa.eu/eurostat/statistic-explained/index.php?title=Crime_statistic/de&oldid=292617). Retrieved 4/23/2017
6. See <https://de.wikipedia.org-UNODC>. It is the United Nations Office on Drugs and crime based in Vienna. It is responsible for the prevention and repression measures against terrorism, organized crime, drugs, and corruption.
7. See <https://www.unodc.org-UNODC>. It publishes a report on the global crime situation each year.

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# Chapter 3

## Trends in Types and Amount of Crimes Committed by the Elderly in China



Xiangxia Li

### Introduction

According to some news, at the end of 2016 (Money.163.com, 2014), the amount of elderly in China will increase to more than 230 million in 2030, approximately 16.6% of the population of China.<sup>1</sup> The increase of the age of population in China is becoming a serious problem, which brings many problems to our civil society. One of them is the problem of elderly crime. Generally speaking, the elderly crime only takes a small part of the total amount of crimes in Chinese society; it was only under 3% of the total crimes in 2008 (Huang, 2008).

This chapter uses Beijing and Tibet as the research sample for the study of crimes committed by the elderly in China. The situation of elderly crime in both areas is researched for the years between 2012 and 2016. Based on the findings, the problems about how the Chinese law enforcement addresses elderly crime, the laws of the Chinese Criminal Code have been enacted, and others should be enacted are considered.

### The Concept of Elderly Crime in China

In the context of the aged tendency of population in China, before analyzing the trends in types and amount of crimes committed by elderly in China, the concepts of elderly and elderly crime in China are introduced in advance, which is a precondition of this article.

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<sup>1</sup> Retrieved March 31, 2017, from <http://money.163.com/16/0122/14/BDULK61Q00253B0H.html>.

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## **The Definition of Elderly**

In 1982, “the International Conference of Elderly’ Issue” was held in Vienna by the United Nations, and a unanimous agreement referred to as the Vienna International Plan of Action on Ageing was adopted. In this document, people aged 60 and older than 60 were categorized as seniors. The Law of the People’s Republic of China on Protection of the Rights and Interests of the Elderly, passed in 1996, uses the same criteria concerning the age of elderly. In the context of this article, the elderly refers to the senior as a person who is 60 years old or older than 60 years.

## **The Concept of Elderly Crime**

Elderly crime is not a new topic in criminological theory and research. In 1899, the problems of elderly crime were brought out and discussed in a criminology conference which was held in Budapest (McCarthy & Langworthy, 1988, p. 15). Since that time, elderly crime was widely studied by many scholars due to the large amount of elderly people and the increase of elderly crime (Wang, Yunfei, & Gu Jingwei, 2012). Schneider (1987) defined elderly crimes as crimes that are committed by offenders who are over 60 years old. A Japanese textbook of criminal policy (Morimoto, Ueda, Segawa, & Miyake, 2004, p. 282) also used the age 60 or 65 and older to define who have committed acts that are in violation of the criminal law as elderly criminals. Even though the age standard of elderly crime is not completely scientific, it provides us a statistical criterion for elderly crime research. In China, there is no official age standard for the concept of elderly crime. However, the majority of Chinese scholars have the perspective that 60 years old should be considered as the dividing line between elderly crime and crime of other age groups.

Some international organizations, such as the United Nations, considered 60 as the start of the elderly. In 1982, the Chinese Law on Protection of the Rights and Interests of the Elderly adopted age 60 as the start of elderly. On the basis of these criteria, in the context of this article, elderly crimes refer to the crimes that are committed by the offenders who are 60 and over 60 years old.

## **The Elderly Crime in Beijing and Tibet Between 2012 and 2016**

The elderly crime statistics for Beijing and Tibet for the years 2012–2016 were chosen as the sample for this study. All the cases about elderly crime were published in the China Judgements Online (<http://wenshu.court.gov.cn/>, Retrieved 06 May, 2017). The two areas selected for the study were chosen as the sample instead of the other Chinese regions for two reasons. One is that Beijing is the biggest political,

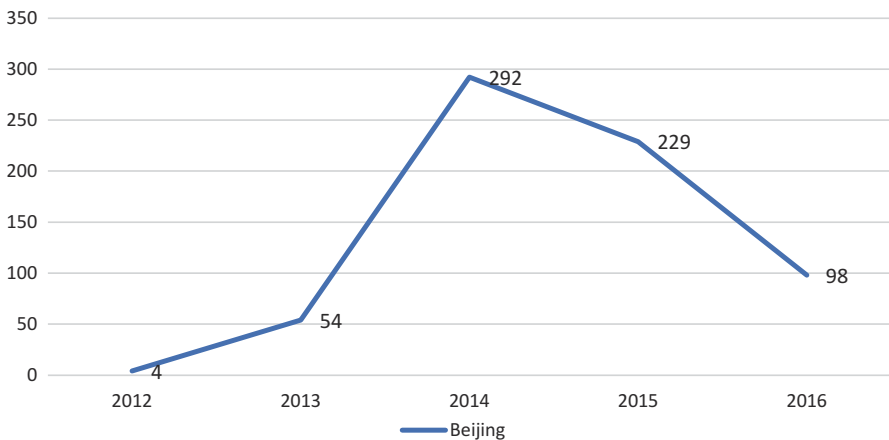
economical, and cultural center of China; and the other reason is Tibet is an economically underdeveloped region in China. To a great extent, these two regions represent the industrialized, modernized, economically developed China and the traditional, rural, underdeveloped regions of China.

### The Quantity of Elderly Crime in Beijing and Tibet

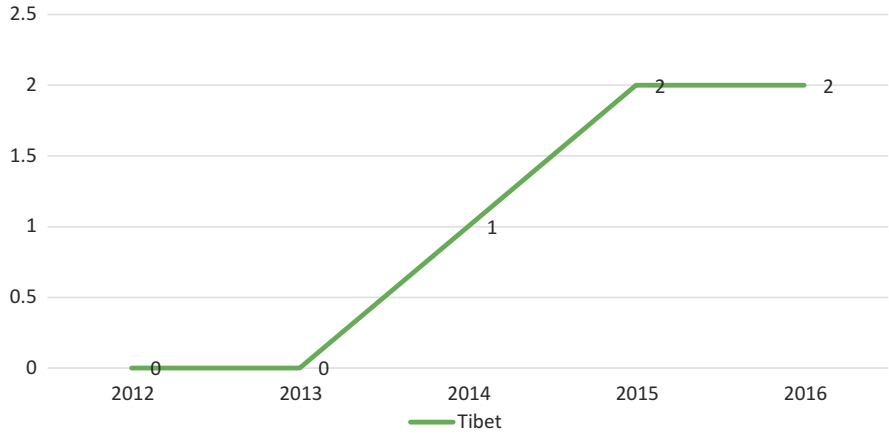
As shown in Chart 3.1, the sum of elderly crime in Beijing and Tibet was 682 cases from 2012 to 2016. The number of elderly crimes recorded for each year was 4 in the year 2012, 54 in the year 2013, 293 in the year 2014, 231 in the year 2015, and 100 in the year 2016. Apparently the quantity of elderly crime had been increasing year by year until the peak year of 2013. Since that year, the number has been declining. It is not certain if this decline in elderly crime will continue or if an increase in elderly crime will occur as predicted. As shown in Chart 3.1, between 2012 and 2016, there were 677 elderly crimes in Beijing, accordingly 4 in the year 2012, 54 in the year 2013, 292 in the year 2014, 229 in the year 2015, and 98 in the year 2016. As shown in Chart 3.2, there were only 5 elderly crimes reported in Tibet from 2012 to 2016, the total in 2012 and 2013 was 0, the total in 2014 was 1, and the total was 2 in both 2015 and 2016 (Chart 3.3).

### The Gender Ratio of Elderly Crime

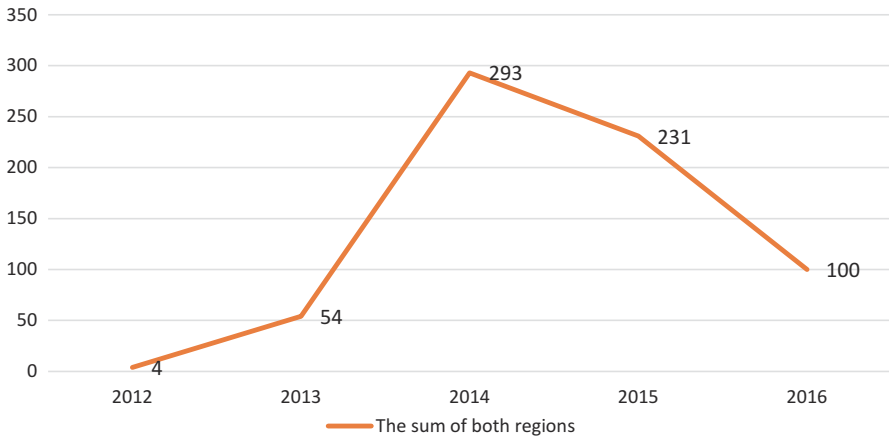
Chart 3.4 reflects the situation of the gender ratio of elderly crime in the two areas of China included in the study. There were 123 female elderly crimes reported from 2012 to 2016, and the proportion of female elderly crime was 18% of the total.



**Chart 3.1** The quantity of elderly crime in Beijing



**Chart 3.2** The quantity of elderly crime in Tibet



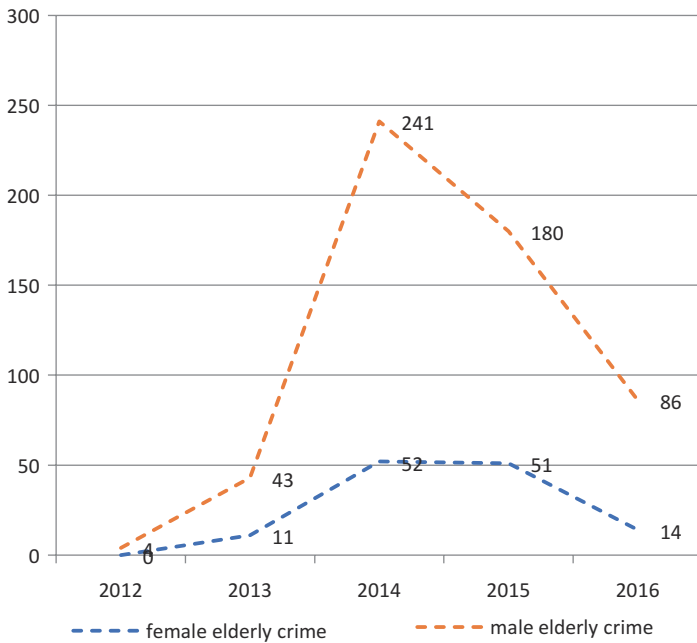
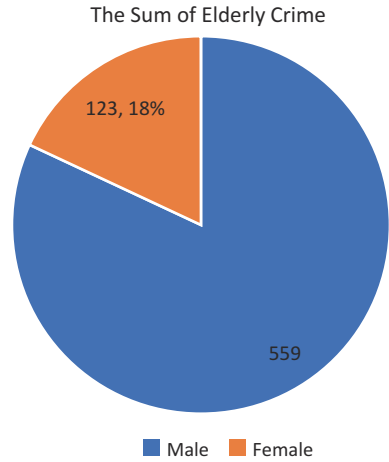
**Chart 3.3** The quantity of elderly crime in Beijing and Tibet

The total of male elderly crimes was 559 (82%) of the total number of elderly crimes reported during the 5-year period. These statistics reveal that the problem of elderly crime is predominately a male problem. Elderly male offenders were dominant, in all categories for all the years included in the research.

### The Quantitative Change of Female and Male Elderly Crime

As shown in Chart 3.5, the sum of female elderly crime each year from 2012 to 2016 was 0 in year 2012, 11 in year 2013, 52 in year 2014, 51 in year 2015, and 14 in year 2016. On the other hand, the sum of crimes committed by elderly men

**Chart 3.4** The gender ratio of elderly crime



**Chart 3.5** Quantitative change of female and male elderly crime

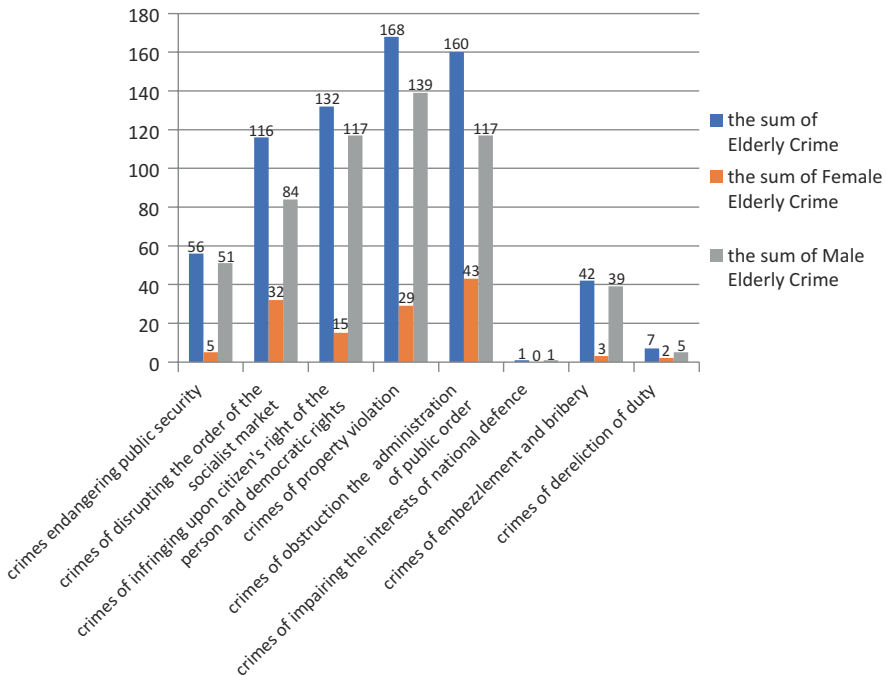
was 4 in year 2012, 43 in year 2013, 242 in year 2014, 180 in year 2015, and 86 in year 2016. Crimes were committed by male elderly per year. Apparently, both female elderly crime and male elderly crime increased from 2012 to 2014, the peak was reached in 2014, and after that year, the number of crimes for both male and female elderly offenders declined.

## The Types of Elderly Crime

As shown in Chart 3.6, from 2012 to 2016, there were eight types of crime committed by elderly offenders during the time period of 2012 to 2016. The types of crime and corresponding number of offenders were the following:

- Endangering public security (56 offenders)
- Disrupting the order of the socialist market (116 offenders)
- Infringing on citizen’s rights of the person and democratic rights (116 offenders)
- Crimes of property violations (132 offenders)
- Crimes of obstruction of the administration of the public order (168 offenders)
- Crimes of impairing the interests of national defense (60 offenders)
- Crimes of embezzlement and bribery (23 offenders)
- Crimes of dereliction of duty (7 offenders)

Chart 3.6 shows the sum of male elderly crime of each of these crimes. The number of elderly male offenders who endangered public safety was 5, disrupted the order of the socialist market was 51, infringed on citizens’ rights and democratic rights was 84, committed property crimes was 117, committed obstruction of the



**Chart 3.6** The type of elderly crime between 2012 and 2016

administration of justice crimes was 139, committed crimes against the interests of national defense was 117, committed bribery and embezzlement was 40, and committed crimes related to dereliction of duty was 5. On the other hand, only 5 females committed crimes of endangering public security, 32 committed crimes of disrupting the order of the socialist market, 15 committed crimes of infringing upon citizen's rights of the person and democratic rights, 29 committed crimes of property violation, 43 committed crimes of obstruction of the administration of public order, 3 committed crimes of embezzlement and bribery, and 2 committed the crime of dereliction of duty.

## **Criminological Analysis on the Causes and Prevention of Chinese Elderly Crime**

Based on the above cases and statistics of the type of crimes committed by the elderly, according to the structure of Chinese society and the age of criminals, this chapter article takes some typical and high-frequency elderly crimes as the study samples, in particular, crimes of endangering public security, crimes of disrupting the order of the socialist market, crimes of infringing upon citizen's rights of the person and democratic rights, crimes of property violation, crimes of obstruction of the administration of public order, and crimes of embezzlement and bribery. For purposes of research, the eight types of crime which older offenders committed between the years 2012 and 2016 were broadly categorized into three crime types. These are:

- Violent crimes
- Seeking avaricious profit crimes (which includes bribery, embezzlement, and property crimes)
- Obstruction of the administration of public order crimes

## **Analysis on the Causes and Prevention of Elderly Violent Crime**

The violent crime committed by the elderly in China means that the crime encroaches on the right of life and health. Particularly, since both crimes of endangering public security and crimes of infringing upon citizen's rights of the person and democratic rights which were carried out violently by elderly infringed the citizens' life, health, and democratic rights, they are both categorized as violent crimes. The key difference between them is the quantities of life, health, and democratic rights which they violate; from the perspective of criminology, analyzing both of them as one type makes sense.

## The Causes of Elderly Violent Crime

In accordance with Chart 3.7, the elderly violent crimes per year between 2012 and 2016 were 0, 10, 77, 63, and 38. We also see that the sum of elderly violent crime was 188 (while the crimes endangering public security and the crimes of infringing upon citizen’s rights of the person and democratic rights were, respectively, 56 and 132), and its ratio was 28%. The sums of crimes endangering public security each year were 0, 1, 26, 19, and 10. And the quantity of crimes of infringing upon citizen’s rights of the person and democratic rights was 0, 9, 51, 44, and 28 every year. The trend of elderly violent crime can be deduced as the elderly violent crimes had been increasing from 2012 to 2016; probably it will continue to rise up as the amount of elderly population continues to increase in China.

Combined with the statistics of elderly violent crime, psychological factors are the main reasons for elderly violent crime. The gradual natural process of aging can escape from. As persons age and reach the elderly category, their spirit and body functions are gradually fading; especially the function of their sensory organs are weakened; they are not as capable of reasoning as in the past and often cannot control themselves as when they were younger. All of these factors impact their personality and psychological functioning; they often become irritable, extreme in reaction when they do not get what they ask for from others, and even aggressive, even toward the immediate members of the family. Such kinds of personalities bring communication problems. For example, even the smallest incident can result in assaultive behavior, and if a complaint is made, the behavior becomes a crime. Based on the statistics, the elderly violent crime usually happened among acquaintances and even relatives, since the disputes were generally between the offenders and the victims. On the one hand, this reflects that the elderly were not able to get along well with their families, friends, and neighbors; they even

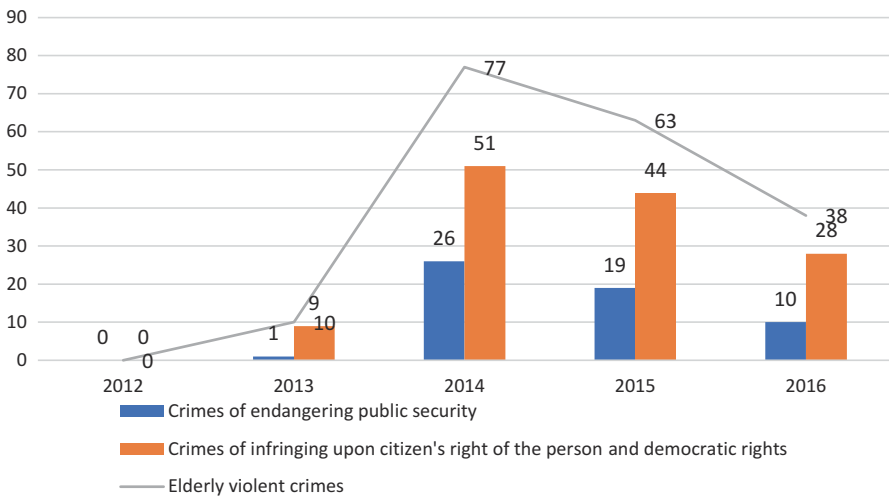


Chart 3.7 Elderly violent crime

cannot solve the relationship problems with those people who they interact with on a daily basis. However, another factor to consider is the majority of these elderly violent criminals were not educated, so they usually tended to use simple or violent resolutions to cope with problems. In other words, due to lack of education, they did not learn to cope with frustrations and conflicts in ways other than through violence.

Analyzing the gender ratio of elderly violent crime, there were 188 such crimes from 2012 to 2016, and only 21 crimes (11%) were committed by females. This fact shows that females either because of their emotions or the way they have learned to respond to conflict situations as a result of their cultural conditioning were more likely to be victims of violent crime than perpetrators of violent crime. For the older women of China, family life is their focus point. They spent more time with their families rather than with other people, and most of them have good stable personalities. These factors help explain why the number of violent crimes committed by elderly women is so small in China.

## Prevention Policy of Elderly Violent Crime

According to the analysis of the causes of elderly violent crime, some recommendations for prevention are proposed. They are:

- The legislation on the protection of elderly rights should be improved.
- The social community should spend more attention on the elderly, finding the clues about the problems of elderly in advance, and it should help the elderly solve their social relationship issues.
- Social and community agencies should work with the elderly to help them gain self-confidence, self-satisfaction, and feelings of worth and happiness to reduce the probability of elderly violent crime. These community agencies should organize more social events for the elderly, inviting them to join such social activities, and help them find confidence and satisfaction from their social life.

## The Causes and Prevention of Crime of Seeking Avaricious Profits

Crime of seeking avaricious profits is not a classification of criminal legislation in the Chinese Criminal Code; it is an academic criterion in line with whether the criminals intend to carry out crimes with gaining illegal benefits (Kuang & Zhangjing, 2016). In accordance with this standard, crimes of disrupting the order of the socialist market, crimes of property violation, and crimes of embezzlement and bribery were categorized into *crimes of seeking avaricious profits* in this chapter. As shown in the statistics previously presented, there were 326 cases in the category of *crimes of seeking avaricious profits*. These crimes constituted 48 percent of the total elderly crimes.



### The Causes of Elderly Crimes of Seeking Avaricious Profits

As shown in Chart 3.7, between 2012 and 2016, there were 3 in 2012, 40 in 2013, 138 in 2014, 100 in 2015, and 45 in 2016 elderly crimes of seeking avaricious profits, with the sum of these crimes being 326. The first type of crime of seeking avaricious profit, crimes of disrupting the order of the socialist market, had 0 offenders in 2012, 6 offenders in 2013, 58 offenders in 2014, 37 offenders in 2015, and 15 offenders in 2016. The second subclassification, crimes of property violation, had 2 offenders in 2012, 21 offenders in 2013, 70 offenders in 2014, 53 offenders in 2015, and 22 offenders in 2016 from 2012 to 2016. Crimes of embezzlement and bribery are the third subcategory of elderly crimes of seeking avaricious profits. There was 1 offender in this subcategory in 2012, 13 in 2013, 10 in 2014, and 10 in 2015, and there were 8 cases of elderly criminals in this category in 2016. Based on the statistics presented, a trend of the number of elderly crimes of seeking avaricious profits seems to increase up to the year 2014 and then decline for the following years. There may be explanations for the decline. Perhaps a change in laws, better enforcement of laws, harsher punishments for violators of the laws, and less opportunities for the elderly to commit these crimes might account for the decline (Chart 3.8).

In recent years, the majority of elderly were victims of the crime of property violation and some other economic crimes in the public media. But one fact should not be ignored, that is, the elderly as the offenders of crime of seeking profits increased during the past years; only a few of the elderly crimes of seeking avaricious profits were motivated by not having enough living materials; on the contrary, most of these crimes were committed because the elderly criminals were greedy for money or for other material profits. Since the majority of elderly did not have good healthy condition, most of such elderly crimes were not violent; the elderly committed these kinds of crimes secretly with their social status and intelligence. Based on the statistics and analysis on these cases of such type of crimes, the causes can be concluded as the following:

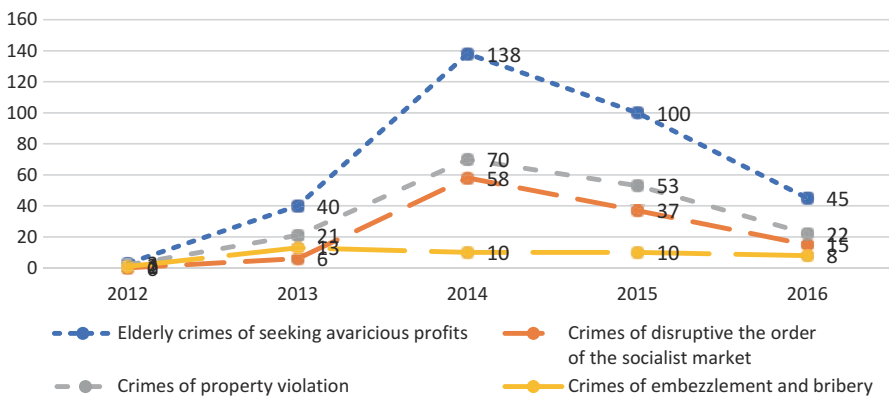


Chart 3.8 Elderly crime of seeking avaricious profits

- a. Poor living conditions: Some elderly had low incomes after retirement, they do not have as much income as they had before retirement, and for the sake of improving their living conditions, they carried out such crimes to gain more material benefits.
- b. Striving for material profits: Greediness is a common characteristic among human beings, even among the elderly who are keen on money and material benefits. Thus gaining more material profits drives the elderly to commit crimes, particularly in the area of crimes relating to disrupting the order of the socialist market.
- c. Elderly criminals often had the occupational status of a national civil servant. In particular, this is true for carrying out the crimes of embezzlement and bribery as national civil servants; they had the opportunity to commit these crimes to obtain more material profits.

### **Prevention Strategy Crimes of Seeking Avaricious Profits**

Since the motivations of elderly crimes of seeking avaricious profits are different than that for violent crimes, the prevention strategy should be set in line with the elderly motivations for committing such crimes. Several recommendations are given below:

- a. To prevent the elderly of committing crimes of seeking avaricious profits due to their poor living conditions, relative legislation and regulations should be improved or established to protect or guarantee that the living conditions of elderly who live in poverty will be sufficient for the elderly.
- b. Prevention strategy of the elderly crimes of seeking avaricious profits for gaining more material benefits should include education to assure that the elderly's consciousness of abiding law and moral compass will be enhanced.

Also official organs and organizations should regularly hold some legal knowledge lectures or activities and promote elderly participation in these activities to improve their self-consciousness of abiding law and ethical standards. Improving and establishing the regulations concerning elderly crime in the Chinese Criminal Code, to some extent, enhance the fear of punishment and thus serve as a deterrence to keep the elderly from committing crimes.

### **The Causes and Prevention of Elderly Crime of Obstruction of the Administration of Public Order**

In the Chinese Criminal Code, the crime of obstruction of the administration of public order is defined as violating the administrative activities of state organs and jeopardizing the public order, public sanitary order and public health, historical and cultural heritage, environmental and natural resources, and good social customs.



**Chart 3.9** Elderly crimes of obstruction of the administration of public order

As shown in graph 3.6, 160 (24%) of the crimes of obstruction of the administration of public order were committed by the elderly from 2012 to 2016 inclusively. These were 24% of all of the crimes committed by the elderly in that time span. This was the second category of elderly crimes. A more detailed analysis reveals that there were 0 crimes in this category committed in 2012, 7 in 2013, 72 in 2014, 65 in 2015, and 16 in 2016. Combining with the economic situation and reality of Chinese society, all aspects of Chinese society are experiencing profound and enormous reform; the trend of this type of elderly crimes can be inferred that they will keep rising in the following years.

As shown in Chart 3.9, the majority of the cases of elderly crimes of obstruction of the administration of public order were crimes of endangering public affairs, crimes of disturbing order at public places, and crimes of picking quarrels and provoking troubles; these three types of crime are categorized as subcategories of the crimes of obstruction of the administration of public order in the Chinese Criminal Code. The possible motivations for older offenders to commit the crimes in this category include:

- a. The weakness of body function results in the change of mentality and personality of elderly, so the elderly could not well control themselves when they had problems with official organs; once they carried out some serious behavior that interferes the public functions of official organs, that means they committed crimes of endangering public affairs.
- b. Dissatisfaction with the results that were handled by official organs or organizations about their problems with other citizens. It is well known that the majority of Chinese families have only one child since the 1980s. The parents at that time now are becoming elderly, which means each young couple should support four elderly people. As a matter of fact, the young couples do not have enough time to care for their parents. A sense of loneliness is a common feeling among the elderly. When the elderly had problems with the outside and they could not

handle them by themselves or get help from their children, the obvious answer was to try to get help or resolutions from some relative, official organ, or other organizations as the last resort to solve their problems. But if their problems were not resolved in a way that satisfied them, these elderly would blame the officials and organizations, and they even disturbed orders at the public place or picked quarrels or provoked troubles in public to try to find a way of solving their problems.

- c. Reform of economy and society in China. As we know, even though China should still improve its varieties of social problems, it cannot be denied that China has made great improvements in all aspects of life, particularly in the economy. However, economic and social reform is a double-edged sword. The negative side is that it creates conflicts and problems among citizens, all sorts of social organizations, and official organs. When there were no well-balanced resolutions to solve these conflicts, some other substitutes, such as crimes against official organs or organizations, will be conducted. So it can be said that elderly crime of obstruction of the administration of public order was an alternative way to handle the issues between the elderly and public organs.

## **The Prevention of Elderly Crime of Obstruction of the Administration of Public Order**

On the basis of the cause of elderly crime of obstruction of the administration of public order, the prevention policies and several suggestions can be proposed. They are:

- a. Encouraging and educating elderly to participate more social or communicative activities. By this way, the negative side of changes in the elderly mentality and personality can be avoided to some extent. More contacts and communications with the outside and the others would exert more positive influences on the mentality and personality of elderly. Even those who had problems with public organs could find some legal ways to resolve their rights issue without committing crimes of obstruction of the administration of public order.
- b. Establishing and improving all sorts of regulations and legislations to protect the legal rights of elderly. Considering that the majority of Chinese families are one-child families, the pension and medical system should be vigorously improved. This protection mechanism can promote the satisfaction of elderly when they resort on official organs to help them solve the problems related to quality of life such as food, housing, and medical care.
- c. Reducing the violations of the legal rights of elderly during the process of reforming the economy and the society. As analyzed, the phenomenon of infringing the legal rights of citizens is perhaps normal in times of reform. However, the public organs and governmental agencies themselves should not violate the legal rights of elderly; as they deal with the issues between elderly and the others, they should try to find some tender and well-balanced resolutions to avoid stimulating the elderly to anger and despair.

## The Causes and Prevention of Female Elderly Crime

As shown in part 2 categories of crime, the increasing number of crimes by elderly females is a noticeable phenomenon. Female criminals committed seven types of crimes, and there were five of these types that had meaningful statistics, namely, female crimes of disrupting the order of the socialist market, female crimes of infringing upon citizen’s rights of the person and democratic rights, female crimes of property violation, female crimes of obstruction of the administrative of public order, and female duty crimes. During the years from 2012 to 2016, the sums of female crimes of disrupting the order of the socialist market per year were 0 in 2012, 3 in 2013, 13 in 2014, 13 in 2015, and 3 in 2016. The number of female crimes of infringing upon citizen’s rights of the person and democratic rights was 3 in 2012, 0 in 2013, 2 in 2014, 11 in 2015, and 10 in 2016. Crimes of property violation committed by elderly females were 0 in 2012, 2 in 2013, 11 in 2014, 10 in 2015, and 6 in 2016. And elderly female crimes of obstruction of the administrative of public order were 0 in 2012, 2 in 2013, 21 in 2014, 19 in 2015, and 1 in 2016. There were five crimes related to female duty committed during the 5 years of analysis. As shown in Chart 3.10, the trends in the types of female crimes are illustrated.

### The Cause of Female Elderly Crimes

In analyzing the female elderly crimes, the causes can be concluded as:

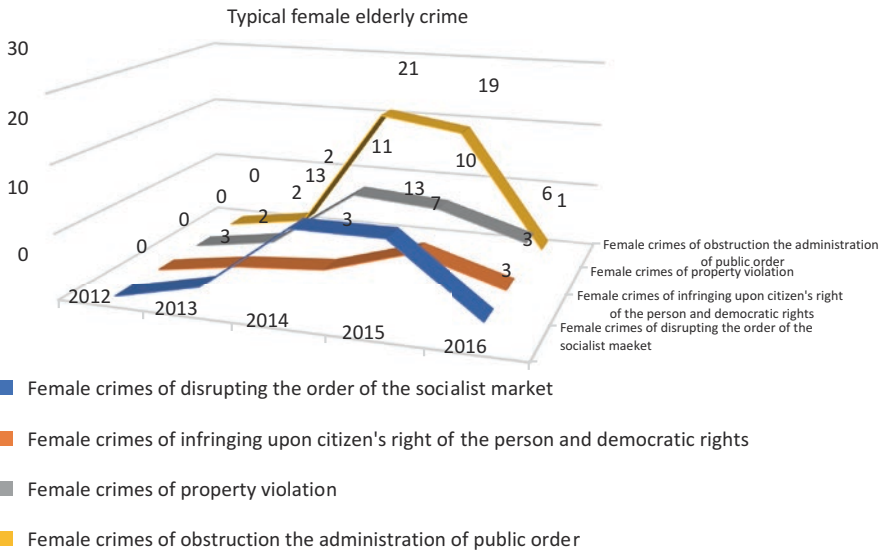


Chart 3.10 Crimes by elderly females (2012–2016)

- a. Older females are easily tempted to commit crimes because of material profits or external factors. Most of the female elderly criminals had low levels of education and low awareness of legal matters.
- b. Females tend to be more emotional than males. The emotional problems played a large part in the daily lives of the older female offenders. When the females had emotional problems and could not solve them in a proper way, they engaged in extreme behaviors to complete their aims, such as murder, willful and malicious injury, slander, theft, and drug-related crimes.
- c. The enhanced social status of females is related to crime. Compared with decades ago, the social status of female had been enormously improved due to their well-educated backgrounds; they go out and run businesses or establish careers as well as men in the present society. A few of them even get to the top positions of their professions. The social status and professional position provided them with chance to commit crimes that were not available to them when they were confined predominantly to the home, in particular in the areas of financial crimes, economic crimes, crimes of property violation, and duty crimes. According to a survey, between 1997 and 2002, the female criminals with postgraduate degrees have increased 56.3% (Xiaoxiu & Hui, 2012). In accordance with the statistics of this article, the female elderly crime in these seven types, especially in the five types, female crimes of disrupting the order of the socialist market, female crimes of infringing upon citizen's rights of the person and democratic rights, female crimes of property violation, female crimes of obstruction of the administrative of public order, and female duty crimes, has increased significantly as illustrated in this survey.

## The Prevention of Female Elderly Crime

In order to effectively prevent female elderly crimes, some measures from the following perspectives were proposed:

- a. Improving females' sense of value, especially the female elderly who have lower education level. They should be taught how to recognize right and wrong.
- b. Emphasizing the legal rights of female elderly in some particular laws which aim to protect the rights of women. The relative public organs should conduct propaganda about these laws and regulations among the female elderly; this can help them to utilize law to protect their legal rights rather than committing crimes.
- c. Creating more well-beings and fair living atmosphere for the retired elderly females. Especially the primary organizations should know the recent living situation and thoughts of the female elderly who live in their community and then help the female elderly to solve their problems with their families or with others.
- d. Improving the whole social environment. The economic and social reform of China is an enormous incentive for all of the crimes, both of male elderly crimes and female elderly crimes. A fair social environment with favorable sense of values and sound laws and regulations can help to prevent crimes. Particularly,

elderly females commonly commit crimes since they are easily affected by the outside environment and psychological factors. Thus a fair social environment is important to prevent female elderly crimes.

## The Elderly Crime in Chinese Criminal Code

Just as with the juvenile delinquency, the elderly crime code takes age as a consideration. The features of crimes were revealed by the age standard of such crimes' concept; in light of the age criteria, the Germany Criminal and Criminology (Kang & Shi Fang, 2004) calls these crimes as developing crimes (die Entwicklungskriminalität). Generally speaking, in the past centuries, the number of crimes has gradually decreased with older age. However, in recent years, the fact about elderly crime is being changed by the aged tendency of population in China. In the media we hear and watch that more and more elderly carry out crimes; it is also proved by the change of the quantity of elderly crime between 2012 and 2016. Compared with the scale of crimes that were committed by the other ages, the elderly crime is not at the same level at the aspect of quantity and the harmfulness. According to this factor, the criminal legislation of many countries has the provisions that elderly offenders should be sentenced with mitigated punishment. In 2011 the 8th Criminal Amendment of the Chinese Criminal Code was passed, and the punishment about the penalty of elderly crime was added (Chinese Criminal Codes 17, 49, and 72). The supplements are:

- a. The third item of article 17 "if a criminal is 75 or elder than 75 years old, with guilt intent who can be given a lesser punishment or a mitigated punishment, with negligence who should be given a lesser punishment or a mitigated punishment."
- b. The item 2 of article 49 "the elderly criminals should be not sentenced to death when they were bring to trial except that they murder someone with extremely cruel methods."
- c. Article 72, the conditions of probation, sets "if the criminals were 75 years old or even elder should be declared with probation, when they would be sentenced to a detention or a fixed-term imprisonment of no more than 3 years, meanwhile, some requirements should be fulfilled as well, namely: (1) slender criminal context; (2) with demonstration of repentence; (3) No risk of recidivism;(4) would not seriously influence the community where the criminal lives when he/she be declared with probation."
- d. There are no provisions on the concept of elderly crime in the Chinese Criminal Code. Except the above three articles on the punishment of elderly criminals who are 75 years old or older than 75, no further provisions clarify the exact definition of elderly crime in the Chinese Criminal Code. And obviously, the criterion about the punishment of elderly criminals is different from this article (60 years old or older than 60 years).

Actually, on the one hand, these provisions about the penalty of elderly criminals in the Chinese Criminal Law were adjusted to meet the trend of mitigated penalty on elderly crimes worldwide. On the other hand, they are in line with the Chinese traditional culture and international trend.

## **Analysis on the Principle of Mitigated Penalty on Elderly Crimes**

There are no particular elderly crimes in the Chinese Criminal Code; the *actus reus* of elderly would be convicted as the other offenders. However, how to punish elderly criminals is a matter of the traditional views of criminal law, criminal policies, punishment of provisions in criminal code, and law enforcement. The Chinese society has the views of respecting the elderly since ancient time. This traditional value has affected the Chinese society for thousands of years, which is reflected by the third item of article 17 in the Chinese Criminal Code.

## **Different Sentencing Principles for Elderly Criminals**

According to the third item of article 17 “if a criminal is 75 or elder than 75 years old, with guilt intent who can be given a lesser punishment or a mitigated punishment, with negligence who should be given a lesser punishment or a mitigated punishment.” Article 17 is the provision about the age of criminal responsibility. Criminals between four age groups are set special sentence criteria, and the criminals who were 75 years old or older than 75 are one group of them. This item separates this age group with the aim of mitigating the punishment of elderly criminals. Secondly, according to different subjective factors related to elderly crimes, intention or negligence, the extent of mitigation is different. That reflects the different attitudes on elderly crimes with criminal intention or negligence. Normally, elderly crimes with intention are more harmful than those with negligence.

## **Restriction on Death Penalty**

Item 2 of article 49 provision on the punishment of elderly criminals pertains to restriction on the death penalty which can be applied on elderly criminals. As well-known death penalty is one kind of principal penalty in China, it has not been abolished from the Chinese Criminal Code. However, the legislative branch is devoting itself to reduce the types of crimes that would make a convicted criminal eligible for the death penalty. This item can be said a reflection of the restriction on death penalty. However, there is an exception about the restriction on death penalty of elderly criminals, namely, the elderly criminal may be sentenced to a death penalty if he/she murders someone using a very cruel method. But the exact standard of what is cruel should be determined by the judicial organs according to the detail of each individual case.



## The Application of Probation

Article 72 states the conditions of probation on elderly criminals who are 75 years old or older than 75. According to part 4 of the Code, five conditions are set on how to apply probation to elderly criminals. Only if all these five conditions were fulfilled at the same time would elderly criminals be declared eligible for probation. In fact, these five conditions can be divided into two categories, one is classification of criminal penalties and term of imprisonment and another is personal danger of elderly criminals to the community. Compared with the probation of the other criminals in other age groups (the application of probation on criminals under 18 years old and pregnant women is same as on elderly criminals in the Chinese Criminal Code, so both of these two types of criminals are excluded), when all these five conditions were fulfilled, they may be declared with probation. In other words, the elderly criminals must be declared with probation when these five conditions were fulfilled. This difference reflects the value of mitigation on elderly criminals. Since majority of elderly criminals who are 75 years old or beyond 75 have no ability to continue working in prison, as a matter of fact, granting probation saves judicial resources as well as resources in the prisons.

## Conclusion

According to the above analysis, the increasing trend of elderly crime in China has been shown by the statistics presented in the chapter. There are several reasons for the increase, particularly the increase in the older population of China. In other words, there are more elderly in Chinese society. Their ratio among Chinese population is becoming higher year by year.

At the end of this article, there were two conclusions worth repeating. They are:

Effective prevention of elderly crimes requires a collaboration and cooperation of justice and political and community organizations. Almost half of the entire elderly criminals committed crimes related to seeking avaricious profits. It means that material benefits were the incentive for almost half of the elderly committing crimes.

In accordance with these causes of elderly crimes, it is impossible to get rid of the phenomenon of elderly crimes. However, we can prevent some crimes and gradually slow down the pace of the aging tendency of the population in China (China has adjusted the one-child policy), by through legislation granting the rights of elderly to a decent standard of living, educating the elderly on how to improve their morality, enhancing the elderly legal sense of morality, and clarifying the bottom age line of mitigation of punishment on elderly criminals. This chapter used age 60 as the bottom age line of elderly crimes. In the Chinese Criminal Code, the bottom age line of mitigation of punishment on elderly criminals was set as 75 years old and older than 75 years old. Obviously, these are different criteria: it means the Chinese

legislative agency did not consider 60 years old, the bottom age line of elderly crimes, as the bottom age line of mitigation of punishment on elderly criminals in the Chinese Criminal Code. Actually, the gap between these two standards reveals a deliberation, which tried to find a balance between the mitigation of punishment on elderly criminals and the criminal responsibility of elderly criminals.

Some Chinese scholars (Wang et al., 2012) doubted that 75 years old is a reasonable age for the bottom line of mitigation of punishment on elderly criminals since it means that the principle of mitigation of punishment on elderly criminals makes no sense for the prevention of elderly crimes. The age of mitigation of punishment on elderly criminals needs further study.

## Discussion Questions

1. Discuss the reasons for the increase in crime among the elderly in China.
2. Discuss the age standard of elderly crime in China.
3. Discuss the quantity gap of elderly crime in reality and official statistics in China.
4. Since there is a difference in the “dark side of elderly crime” (existence of quantity gap) and the official statistics on elderly crime in China, how should legislators and policy planners proceed in determining the real situation of elderly crime in China?
5. How should we consider the differences of elderly crime in rural area and cities in China?
6. Discuss the differences of the types of elderly crime and the other crimes in China.
7. Discuss the reasons of elderly crime in China.
8. Discuss why the female elderly crimes have increased in China in recent years.
9. Discuss why the age of mitigated punishment of elderly criminals in the Chinese Criminal Code was set as 75 and older than 75.
10. Discuss the prevention strategies on elderly crimes in China.

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# Chapter 4

## The Elderly and Crime in England and Wales



Rory Field

### Introduction

When considering the topic of the elderly and crime, one tends to concentrate on the elderly as victims of crime and to forget that some of the elderly commit the same types of crime as those committed by younger age groups. As in most countries throughout the world, the elderly, defined here as 65 years of age and older, commit only a small proportion of the total number of crimes committed in England and Wales.<sup>1</sup> Nevertheless, those older persons who are criminal offenders are subject to being processed in the justice system in generally the same manner as those offenders in other age groups accused of crime and also have essentially the same rights as any other person accused of a crime. Although elderly persons are more likely to be the victims of crimes rather than those who commit crimes, there are many examples of the elderly being the perpetrators of crime. The older population is increasing in both England and Wales. The changes in the demographics of the population present challenges for the government in terms of the economic and social costs these changes present.

### *The Elderly as Offenders*

The challenges presented by the elderly as perpetrators of crime can be viewed through the prism of a large, highly publicized case which occurred recently in England, the Hatton Garden Safe Deposit Case. The issues that the case brought into focus include the elderly as the perpetrators of crime, their motivation for committing the crime, the way that the criminal justice system processes older

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**Box 4.1 The Hatton Garden Safe Deposit Burglary**

A high-profile case arose in London when a group of predominately elderly criminals broke into a safe deposit room in the diamond district of Hatton Garden and stole a huge sum of valuables in various forms. By its nature, it is impossible to accurately assess what was taken from the boxes, as many owners will not divulge the accurate contents stored in their safety deposit box. However, the amount stolen was estimated as at least GBP 14 million of gems and other valuables.

The ringleaders, Terry Perkins, age 67; John “Kenny” Collins, age 75, who happened to have hearing problems; and Daniel Jones, age 61, were tried and convicted and received 7-year sentences. Quartermaster William “Billy the Fish” Lincoln, age 60, also received 7 years, while Carl Wood, age 59, who quit the gang before the burglary was completed, was given 6 years. Hugh Doyle, age 49, allowed the group to use his office, and he was given a suspended sentence. Brian Reader, age 77, was the oldest member of the group of thieves, had a stroke while in prison, and after recovery was sentenced to 6 years and 3 months in prison. During the sentencing, Judge Christopher Kinch, Queens Counsel (QC) stated, “The burglary of the Hatton Garden Safe Deposit vault in April, 2015 has been labeled by many“ ... ”as the biggest burglary in English legal history.”

offenders, the sentencing of the elderly, and the challenges associated with holding the elderly offenders in custody. Finally, there was the issue of what to do with the elderly offenders after their release back into the community.

It is clear that this was a massive burglary and that it stands in a class of its own in regard to the scale of ambition of the thieves, the details of the planning, the level of preparation, and the organization of the team carrying it out, as well as the value of the property stolen.

Despite the comments of the judge, who seemed to imply that the older offenders were receiving severe sentences because of the factors mentioned regarding motivation, planning, preparation, and the value of the property stolen, in reality those given the longest sentences would be eligible to be free from prison in less than 4 years. Although the sentences may seem to be far below the level normally to be expected for a conviction of a crime of the gravity of the Hatton Garden Safety Deposit case, the reality is that burglary carries a 10 year maximum sentence and there is normally a discount of around a third for a guilty plea, so the sentences were well within expectations. If it had been younger men who had committed the crime, perhaps the prosecution would have been more successful with their argument that this was a special case requiring sentencing outside the usual range and perhaps the sentences would have been much longer, particularly since the men were career criminals and two-thirds of the value of the property stolen was still missing at the time of the sentencing.

### *The Criminal Justice Process in England and Wales: Processing the Older Offender*

The beginning of the criminal justice process against a perpetrator of a crime starts with the police investigation. The prosecution service can assist in this investigatory stage, but generally does not get involved until later in the process, except in high-level special and complex cases where early legal advice can be critical.

Before there is an investigation of an alleged crime, the relevant authorities, who are generally the police, have to recognize that the alleged offense has actually occurred. Many crimes are never detected or known to the police. Often, in cases of theft of property, the victim may not realize that the property was stolen. For example, in cases of missing jewelry, the victim may think it was misplaced, or the owner of a missing wallet may think it was lost. At times the victim, particularly an elderly person, might not report a crime out of fear of retaliation from the offender. The offender may be a family member, and the victim might not want to see the person get into trouble. In cases of abuse and violent crime, if the older person has mental issues, that person may not realize that any abuse has occurred. Even the most serious crimes are sometimes not reported out of embarrassment mixed with fear of re-victimization through the investigation and court process. Rape has traditionally been such a crime. In short, if the offense was not detected or reported, there is as far as the criminal justice system is concerned no crime nor any victim. This “dark side” of crime and victimization makes it difficult to know the real extent of crime as well as precisely who are the victims of crime. If an elderly person becomes a suspect, that person may be questioned either under arrest or pre-arrest. At that point, specific issues relating to the elderly begin to come into play.

When someone becomes a suspect and is dealt with by the police, a carefully balanced set of procedures must be followed. These procedures are spelled out in the Police and Criminal Evidence Act of 1984 (PACE).<sup>2</sup> This Act was established partly as a reaction to improper actions of some police who were insufficiently regulated in fulfilling their functions by previous legislation. Under PACE, there are strict regulations on police powers in regard to the treatment of suspects. These regulations are spelled out in the Code of Practice section of PACE. There are eight extant codes given in the law. They are:

- Code A pertaining to stop and search
- Code B pertaining to search and seizure
- Code C pertaining to detention and questioning and treatment of suspects
- Code D pertaining to the identification process
- Code E pertaining to the tape recording of interviews
- Code F pertaining to visual recording of interviews
- Code G pertaining to the arrest process
- Code H pertaining to detention, treatment, and questioning of persons under Section 41 and Schedule 8 of the Terrorism Act of 2000<sup>3</sup>

Elderly suspects accused of a crime may have a particular need of the protections provided by the Codes in that they may not fully understand the pre-prosecution process. The law requires that they be carefully given legal advice about their rights, so that they can fully understand these rights before making any statement that might be potentially harmful for their case. When a suspect is brought to a police station for the purpose of questioning that person about a crime, a careful assessment must be made of the suspect's physical and mental state. A suspect should only be interviewed if they are fit to be interviewed. The Codes were set up to find a balance between the police's duty to investigate the alleged crime and the rights of the suspect to fair treatment under the law giving full regard to their human rights. Code C, dealing with the questioning and treatment of detainees and those being interviewed by the police, has been of particular importance as a protection to defendants from being bullied into giving statements against their interest.

In some cases, the trial process has shown that there has been a serious breach or breaches of the Codes. In such cases, the judge may exclude evidence so obtained. This is particularly true in cases when the nature of the breach or breaches might render the evidence obtained as being unreliable.

Code C1.4 states, "If an officer has any suspicion, or is told in good faith, that a person of any age may be mentally disordered or otherwise mentally vulnerable, in the absence of clear evidence to dispel that suspicion, the person shall be treated as such for the purposes of the Code." This provision of the Code would require the presence of an appropriate adult to ensure the proper treatment of the person if mentally disordered or mentally vulnerable.

The protections provided in the various Codes of Practice (PACE) are important because experience shows that those in custody can give statements which are self-incriminating, even though the person giving the self-incriminating statements may be innocent of any wrongdoing. Furthermore, even if technically guilty of a crime, in the criminal legal system of England and Wales, a defendant has a strong collection of rights that serve as protection from mistreatment by the police and other functionaries of the criminal justice system. The assurances of these rights for some older persons suspected of crimes, particularly those who may not have full mental capacity, are considered to be very important.

## **Diversion (Alternatives to Prosecution)**

*Cautioning* is an increasingly important method used for diverting offenders out of close engagement with the criminal justice system. There are two types of caution, the simple caution for adult offenders and the conditional caution. First-time offenders who have committed a low-level crime are often given a simple caution, which means no further justice system involvement. A caution can often be offered if it is a low-level crime and the first offense. There must be consistency followed in the use of cautioning. The same procedures for granting the caution must be followed regardless of the characteristics of the person being cautioned. The offender must

also admit to having committed the criminal act. The Conditional Cautioning Code of Practice (Part 3, Criminal Justice Act 2003) allows a caution with conditions. The offender who is cautioned with conditions is expected to complete the conditions set by the court (a type of informal probation), and if the person does not violate the conditions, there is no record of the conviction.

Having the opportunity to be diverted from the justice process through *the cautioning process* is an important alternative benefit for older offenders, especially the first-time offender. The elderly commit crimes for a variety of reasons. At times, older offenders might commit crimes out of need, as in cases where they steal food because they are hungry. At other times, the offense might be something like a simple assault where no injury occurs, perhaps as a result of a petty argument. Some older persons lose their ability to control their emotions or overreact if they are experiencing mental health issues and as a result may commit an assault against a family member, caregiver, or close friend that they might never have even considered during the period of time of their life when they were fully mentally competent. Older offenders might also commit crime out of ignorance of changes in the law. As society changes, social norms of behavior change, and new laws and regulations are added to regulate the behavior of the citizens. The elderly often may not keep up with the changing social mores and the attendant regulations and may continue to engage in behavior that was not necessarily a violation or a criminal act in the past. Thus having an opportunity to adjust their behavior without receiving a criminal record is likely to be important to elderly persons particularly those who pride themselves as being law abiding citizens.

When the Crown Prosecution Service is balancing the arguments for and against *a caution* disposition, they will typically consider the advanced age and physical or mental conditions of the offender as factors to be used in favor of the caution disposition of the case. In cases where the crime is too serious for a caution or for other reasons a caution is not appropriate, or where there is a degree of mental disorder and the offender is elderly, it is in the best interests of justice to consider alternatives to imprisonment such as probation and other community-based treatments that make use of the community health services and counseling provided in the community.

### ***Decision to Prosecute the Elderly Suspect***

The decision to prosecute is one for the Crown Prosecution Service (CPS) headed by the Director of Public Prosecution (DPP). The decision to prosecute or not to prosecute will be based on the Code for Crown Prosecutors (the Code). The Crown Prosecution Service is a separate institution from the police, and the two institutions function differently. The police focus on investigating cases, whereas the CPS focus on taking the results of the investigations and making the decision whether to prosecute and, where the decision is to prosecute, then preparing the legal case for court. There are two hurdles to pass before the CPS allows a prosecution to



proceed, the evidential test and the public interest test. The first test asks whether on the basis of the evidence, if the case was brought to a trial, is there more of a likelihood that there would be a conviction than a likelihood that there would be an acquittal. The second hurdle pertains to the public interest, namely, is the proposed prosecution in the public interest. This second test may be very relevant if, for example, the suspect is very old or infirm or if the crime, in the sense of the extent of the harm done to the public, does not have much of an impact on the community or the victim of the crime.

A broad range of factors pertaining to the extent of the harm done to society and to the victim of the crime are taken into consideration when the decision whether to prosecute is made. As previously mentioned, if the severity of the offense is low, it may not be in the public's interest for the CPS to prosecute. This might, however, not be the case if, for instance, the elderly person was of sound mind and had a history of repetitively committing the minor offense, for instance, repetitively stealing small amounts of money. In that situation, the offender would probably have had the opportunity for diversion on previous occasions and not taken the opportunity to change the offending behavior. The small amounts taken with each theft may be objectively insignificant and lead one to believe that it is not in the public interest to prosecute the offender, but in such a case, the reasoning of the CPS may be that if some punitive action is not taken, the offender is not going to stop the course of criminal behavior, and the harm to society might become more extensive.

Mens rea, meaning "mind of the defendant" in law, refers to whether the defendant has a guilty mind. To have mens rea, a person needs the mental capacity to commit an offense. Proving mens rea is one of the two key elements to proving a criminal offense in England and Wales. In cases involving the elderly, the presence of mens rea may be unclear due to the older person being mentally ill or confused about the act committed. In cases pertaining to dishonesty heard before a jury, it can be very difficult to prove what was the mental state of a defendant at the point when a crime occurred. Thus it can be difficult for a jury to determine if the prosecutor's case is clear enough to prove that the mens rea element was proven. The prosecutors have to prove their case so that the jury members are sure of each element of the case or satisfied beyond reasonable doubt, and this is a high standard of proof.

Prosecutions can also be carried out by the Serious Fraud Office (SFO). Some of the elderly defendants charged with crimes related to fraud are very rich, having made their money through complex frauds. In these cases, the SFO has several powers<sup>5</sup> to prosecute which are not available to the CPS.

### *Pretrial Detention of the Elderly*

The initial detention of a suspect occurs at a cell located in the police station. However, if a person is charged with a crime that can result in imprisonment and the suspect is not bailed, the defendant is removed from the police lockup to a prison. Depending on the nature and seriousness of the crime and the

circumstances, the person could be imprisoned for several months or longer before being brought to trial. As soon as a person goes into police custody, issues may arise about the physical and mental health of the accused and the overall suitability of detention. In those cases in which an elderly suspect is accused of committing a serious crime and it has been demonstrated that the older defendant has been convicted of serious crimes in the past, the person may be held in prison on the basis of being a threat to the welfare of society, even though some of the conditions that apply to a person being bailable, such as old age and mental or physical disabilities, are shown to be relevant to the case.

A significant number of the elderly held in jails and prison have physical health problems. For example, one of the defendants in the Hatton Garden case who was 77 years old not only had a stroke while being held in pretrial detention but he also had hearing and sight problems, was suffering from prostate cancer and had been admitted to hospital for septicaemia.

### *Trial of Elderly Defendants*

Given that a considerable amount of time is likely to pass between the initial arrest of an elderly defendant and the trial, there is a danger that the physical or mental health of the defendant will deteriorate. This deterioration is a risk, even when the trial occurs quickly after the initial arrest.

Another scenario particularly relevant to the elderly is when the crime was committed years before the defendant became old. There are many examples where, for some reason, the crime was never dealt with for years, even decades. However, the suspect is finally arrested, and since there is no statute of limitations in criminal cases in England and Wales, the defendant who committed the crime when relatively young is now old and potentially facing a serious trial. Some types of crimes by their very nature can generate very long delays. Perhaps the best examples are of concentration camp guards and administrators who are accused of committing war crimes during World War II but have only recently been discovered and brought to trial. Other cases consist of young children who were sexually molested by a parent, guardian, or caretaker who do not report the crime until they are in adulthood. Other cases involve money laundering or corruption that often takes years of investigation before the prosecutor believes there is enough evidence to win the case. Even a murder trial would usually have to wait until a body was found. For some cases, the tools needed to prove the guilt of the defendant were not available, but after recent developments in the use of DNA and other sophisticated forensic techniques, it is now possible to bring forth a strong case against the accused even though the offenses occurred many years prior to the trial.

Some lengthy delays are the fault of the prosecution and may result in an abuse of process hearing, when the judge can rule that the case cannot proceed because of the violations of the rights of the defendant, which include unreasonable delays.

In addition, there may be an issue around the fitness of an elderly defendant to make a plea. In some cases, the person may have been mentally capable of knowing right from wrong at the time the crime was committed, but if many years had passed, the mental capacities of the elderly defendant may have deteriorated to the extent that they do not have the capacity to put in a proper plea.

Another possible reason for not holding a trial is on the basis of insanity. If insanity is established, the judge will usually order that the defendant must undergo some form of medical supervision.

If a trial of an elderly person goes ahead, there may be problems around their hearing, vision or even ability to sit and concentrate in Court during the normal court day. Hearing issues may affect their ability to hear questions. Vision issues may affect their ability to see evidence in the form of photographs, plans, videos and other forms of evidence, as well as being able to see the demeanour of witnesses in Court. Many of these issues are dealt with by courts when dealing with deaf, dumb or blind defendants. They can be overcome but do present extensive challenges.

### *Sentencing of the Elderly Offender*

When sentencing the elderly offender convicted of a crime, the sentencing judge or magistrate will have to consider factors which apply to the elderly as well as bearing in mind the factors which apply to offenders of other age groups.

If an elderly offender is sentenced, similar factors as those that pertain to the decision to caution or not may come into play when the judge is considering the severity and length of sentence, such as the extent of the harm done to society and to the victim of the crime. As previously mentioned, if the severity of the offense is low, it may not be in the public's interest for the judge to impose a heavy sentence. This might, however, not be the case if, for instance, taking the earlier example, the elderly person was of sound mind and had a history of stealing small amounts of money. In that situation, the offender would probably have had the opportunity for diversion on previous occasions and not taken the opportunity to change the offending behavior. The small amounts taken with each theft may be objectively insignificant and lead one to believe that it is not in the public interest to impose a heavy sentence. However, in such a case, the reasoning of the judge may be that if some punitive action is not taken, the offender is not going to stop the course of criminal behavior, and continuation of such behavior cannot be tolerated. Another risk is that the offending could worsen and the harm to society might become more extensive.

There is a concept in the justice system referred to as "Doli Incapax"<sup>6</sup> that is used in the legal system when dealing with children. It means that a child below a certain age is considered unable to understand the difference between right from wrong and thus cannot be held responsible for his or her actions. This legal practice applies in England and Wales in cases in which the defendant is below 10 years of age. Interestingly, principles which are the same as the *Doli Incapax* principle are used

in various European countries, and in a number of these countries, a child can be considerably older than 10 and still not be considered criminally liable. It is by nature an arbitrary concept and focused on the age of the individual and not on the specific subjective understanding of an individual child. Accordingly, an argument could be made that such blanket treatment should be given to elderly defendants who reach an age when there is almost no chance a prosecution would ever be carried out.

### ***Challenges Around Enforcing Sentences on Elderly Offenders***

There are many unique challenges related to the enforcement of sentences given to the elderly convicted of crimes. The elderly may have mental, physical, or mobility problems which make them ill-suited for imprisonment, particularly given that the infrastructure of many outdated prisons in England and Wales is not constructed to provide the type of living quarters and other facilities they need for their daily functioning. Medical and mental health facilities in a prison will probably be wholly inadequate to treat and support an elderly person with medical or mental issues. Considerable thought has gone into the challenges around imprisonment of older criminals.<sup>7</sup> The Ministry of Justice acknowledged the fact that “Older prisoners are the fastest growing age group of our prison population.” The Lord Chancellor accepted that “the fabric of some of our prisons and approved premises present particular challenges” and went on to state that “The needs of older prisoners should be addressed by prisons as a part of a wider approach to supporting all those with health and social care needs.” The Lord Chancellor stated that the Ministry of Justice accept the challenge that it “should produce a national strategy for the care and appropriate regime for older prisoners to provide for minimum standards that produce effective and equitable care.”

### ***Treatment of Older Offenders Post Serving Sentence***

The Ministry of Justice also accepts some responsibility for the welfare of elderly prisoners post release from prison. The responsibilities include resettlement and providing continuity for healthcare if special care is needed. It is recognized that a “failure to connect the community healthcare and the prison healthcare systems has a tangible and negative impact on the healthcare outcomes of older offenders when they enter prison and also when they leave prison.” If the community healthcare system and the prison healthcare system are not connected, the continuity of older person’s healthcare program will be disrupted.

People of any age coming out of prison often do not have a good support network of family and friends, particularly if they have experienced a lengthy period of incarceration. Thus it is the responsibility of the welfare system and healthcare

services to provide some assistance in the reintegration of inmates to the community, particularly in those cases in which the support system from family and friends is nonexistent. A lack of family and community support networks is especially challenging for elderly persons released from prisons. Often they are homeless, not capable of finding employment, and have limited financial resources. In addition, a large number may have physical or mental issues. If they have been in prison for any length of time, the community support system will probably have weakened or totally disappeared.

### ***The Elderly as Victims of Crime in England and Wales***

The elderly often hold considerable assets in England and Wales. Thus, one of the reasons the elderly are targeted by criminals is because the criminals believe that they have something to steal. Another reason is that they are considered vulnerable. They often live alone and often are not up to date with communications technology, and they may suffer from physical or mental handicaps. All of these factors make them an attractive target for predatory criminals.

In the past, the most common types of crimes committed against the elderly outside the home were street crimes such as muggings. The criminal knew the elderly person was probably not as fast or as strong as younger persons and thus not as likely to fight back, resist, or give chase. Burglary of the homes of the elderly was also considered relatively safe for the criminals.

Currently, as technology has speeded up the process, the elderly outside the home have become prime candidates for cybercrime. Criminals are tapping into their mobile phones and computers resulting in them becoming victims of identity theft and many other scams and frauds.

### ***The Effects of Being a Victim of Crime***

When the elderly become victims of crime, several effects may occur that are more likely to relate to the elderly than to other victims of crime in other age groups. These include:

- They may not understand that a crime has occurred.
- They may not report the crime.
- They may not give sufficiently detailed and accurate evidence to the police investigating the crime. As an example, poor eyesight will affect the quality of identification evidence.
- They may have a poor memory or become confused about the events relating to the crime.
- They may be afraid the offenders will retaliate and be unwilling to give evidence.

Because of this:

- They may be afraid of the court process. Depression resulting from the victimization, anxiety, and even mental illness may be factors among the elderly victims that contribute to a reluctance to give evidence in court. If an older person is muddled or confused, they are unlikely to give convincing evidence in the depth necessary for the trial process.

### *Susceptibility of the Elderly to Being Targets of Crime*

Criminals committing crimes for profit will usually tend to look for easy targets. Those criminals who are financially motivated will tend to look for maximum profits while exerting minimum efforts and taking low risks. Certain crimes may appeal to a criminal as they may seem to be easier to carry out against the elderly. This first group includes crimes such as robbery. The elderly may be targeted even in those cases in which the victim appears to be healthy and of sound mind because they are perceived to have less physical ability and to be less likely to be able to defend themselves than those potential victims who are of a younger age category. Another second group of crimes may be targeted on the elderly because they are perceived as not having the ability to understand modern technology, especially those aspects that deal with digital technology and complex financial transactions. These types of crime often do not require face-to-face contact between the offender and victim and only require that the perpetrator use trickery or deception to carry out the crimes, such as Internet scams.

The first groups of crimes mentioned include street robberies, handbag snatches, and “muggings” in which the offender may target persons on the basis of thinking that they are easy targets. An elderly person may be unable to fight back with the vigor of a younger person. The victim may be frightened by the attack or may be unable to chase the offender after being robbed or having a handbag snatched. There are examples of criminals receiving a nasty surprise when they had tried to “mug” an elderly person and when the potential victim was able to defend himself and in some cases subdue the criminal. However, in the large majority of cases, the elderly are likely to be relatively easy targets.

Knowing that they are vulnerable, many elderly become afraid to leave their houses even in the daytime. Thus they become victims as a result of their fear of becoming a victim. The more crime ridden their neighborhood is, the more likely it is that they will be afraid to go out of the safety of their homes, particularly after dark.

The second group of crimes mentioned includes more sophisticated crimes such as fraud and cybercrime and when targeted are based on the perception that the elderly person may not fully understand how to operate in the high-tech Internet age. Cybercriminals will target the elderly because they think the elderly are more likely to fall for the trickery and deception associated with Internet scams and various frauds. Examples of such frauds include a cybercriminal contacting a

potential victim online and claiming to represent a bank and requesting private information such as bank accounts which can be financially plundered. Other examples include when the potential victim is contacted and tempted by being informed that a sizable amount of money has been granted, inherited, or won in a lottery and the money will be transferred to the victim's bank account. For this crime to be successful, the victim must be cooperative and provide the personal information requested by the criminal, who believes that older persons will not be able to understand that they are being tricked or that their desire to get something for nothing will motivate them to cooperate.

One of the oldest types of scams for which elderly persons are often victimized is related to home repair scams. These scams usually involve criminals posing as builders going to elderly person's homes and saying they need work done, typically on their roof when in actuality there is no need to repair the roof. The phony home repair person is depending on the vulnerability of the older person to go along with making the repairs out of lack of confidence and lack of information about the type of repairs needed or merely on the impression that the repair person "looks honest." This type of crime is even worse when the person has gained entry into the inside of the house and has the opportunity to steal items from the house. The phony repair person may give several reasons for going inside the house, such as a request to use the toilet or to get a glass of water. Sometimes the repair person will deliberately damage the roof to show the person that the work is needed. At times, the criminal may ask for an advance to buy the needed materials and never show up again. If some repair work is completed, the perpetrator of the scam will often grossly overcharge the victim by submitting a bill that exceeds the estimated cost of the work. If the victim complains, the phony repair person will threaten the victim. The criminals expect this type of scam to work with the elderly because they think the elderly victims will be confused, embarrassed, or afraid. Furthermore the criminals may think that even if the crime is reported to the police it is unlikely that the perpetrators will be arrested and prosecuted because of the difficulties in proving dishonesty as well as the reluctance of the victim to give evidence.

### ***Crime Against the Very Old and Infirm***

Those persons who are very old and no longer can care for themselves and are thus either in care homes or living at home and being cared for by a family member or a caretaker are often vulnerable to a different form of victimization than that previously described. It is very likely that such persons will suffer from serious physical incapacity or mental degeneration or from other mental challenges such as Alzheimer's and dementia.<sup>8</sup> As the number of persons falling into this category increases, the number of cases of elder abuse will be likely to increase unless there is proactive action taken to ensure the proper treatment of those who can no longer take care of themselves.

The way a society looks after its most vulnerable members should be a measure of the merit of that society. On that basis any abuse of the elderly in care homes or at home should be dealt with in a firm manner. Well-crafted laws need to be enacted to prevent the type of victimization relating to both physical and psychological abuse and theft of property that too often occurs in care homes in which the elderly reside. In addition administrative measures and systems for the careful screening of personnel should be closely scrutinized and improved to assure that victimization does not occur. The victimization of the elderly who live in their own homes and are cared for by family members or professional caregivers is more difficult to detect and counter. However, those Doctors and Nurses who administer healthcare to the elderly can be trained to be more aware of signs of abuse, and be trained in understanding and implementing the appropriate options available to them should they suspect abuse.

Private care homes exist primarily for profit so there needs to be the likelihood of serious consequences to the owners of the care home if cases of abuse or property theft are discovered. These options should include heavy fines as well as custodial options. If their business model is threatened, then the private care homes will become better at policing themselves. However, there are problems around prosecuting the offender if a criminal act in a care home has occurred. The victim may suffer from debilitating physical or mental illness making it difficult for the victim to provide a reliable account of the incidents and potentially providing excuses for the signs of physical abuse which could be blamed on the person falling or some other accidental occurrence being the cause of the harm to the victim.

## **The Elderly Fulfilling other Functions in the Criminal Justice System**

### *The Elderly Witness*

The elderly most often appear in Court as witnesses to a crime or as a result of their being victims of crime. As a witness giving testimony, the same problems relating to giving of evidence and the quality of the evidence as mentioned above arise. The elderly person may have poor memory, poor eyesight or poor hearing. It has been noted, however, that when an elderly person gives evidence, that evidence can be powerful evidence and critical to obtaining a conviction. If the elderly witness gives his or her evidence confidently and clearly and is not confused by cross examination, the fact that an elderly person is there in person to provide the testimony is often very persuasive.

However, the mental state of the witness must also be considered. For example, in cases where the witness is an elderly person and the offense occurred in a care home, there may be a question of the mental competence of the witness and even though the witness gives quality testimony, the offender might not be convicted.



### ***The Elderly Juror***

In England and Wales, the upper age limit to be eligible for jury duty is 75. Until recently it was 70, but since so many people over the age of 75 are fully physically and mentally capable, even the 75 age limit may seem arbitrary. Jury duty is one of the few responsibilities of a person on the electoral register. Given that the value of a jury is related to the knowledge, wisdom, and shared experiences of the combined jurors, it may be disappointing that so many people, who could help in a jury and probably have the time available, since they are probably retired, are essentially disallowed from taking on the responsibility on the basis of their age.

A juror needs to stay healthy for the length of a trial which, although averaging 2–3 days in length, may take several weeks. The courts in England and Wales normally sit from 10:30 a.m. to 1:00 p.m. and from 2:00 p.m. to 4:30 p.m., so the juror must be able to sit still and concentrate for a period of up to 2 and a half hours. As long as someone over 75 years of age can do the above, there seems no good reason to bar them from sitting on a jury.

### ***The Elderly Prosecutor***

Most of the serious prosecution work is carried out by a member of the private Bar under instruction from the Crown Prosecution Service. There is no age limit on a barrister. Of course, the CPS would only brief a barrister who they considered extremely well qualified to conduct the trial in question and they are constantly updating their assessment of senior barristers who they brief.

Conversely if the CPS were to use a qualified inhouse lawyer to prosecute the case, the maximum age of such a lawyer would be controlled by CPS retirement rules. These have become somewhat vague recently, due to developing legislation including human rights arguments but at this time 65 is likely to be the retirement age in most cases.

### ***The Elderly Judge***

In contrast to the change made for serving on juries in which the age was increased from 70 to 75, the upper age for serving as a judge was recently lowered from 75 to 70. This discrepancy may seem somewhat illogical. The reasoning behind the change in age for judicial retirement was the possibility that the judges would become infirm in body and mind after the age of 70. Lord Neuberger, at that time President of the Supreme Court and the most senior judge in England and Wales,

lobbied to have the age of judicial retirement remain at 75. He pointed out that lowering the age at a time when general retirement ages were increasing seemed to be a “bit odd.”

## Conclusion

It is noticeable how little information has been written on crime and the elderly in England and Wales. This is quite inappropriate, given the growing size and nature of the challenge. It may reflect on issues relating to elderly studies generally that not enough attention is given to the issues of the elderly population. Much is written about the vulnerable young, and I would argue that the elderly as a group are just as deserving of academic and political attention as are the young.

There can be a perception that at the time that a convicted offender is being sentenced, the victim has almost been forgotten. This is unfortunate. If the victim is elderly, the physical or mental effects of being a victim of crime can be particularly serious. Many members of the public believe that the victim of the crime should have more input on the sentencing process. More attention should be given to the victims of crime and the suffering caused by the crime instead of almost all the attention seemingly being focused on the rights of the criminal. Thus, while sentencing hearings now regularly hear victim impact statements and while it is clear that this progressive advance helps the victims to express the damage done to them, it is less clear what difference the impact statements make in the actual sentence given to the convicted criminals. It often appears that, due to cost and capacity issues, all of the pressure is to find ways to shorten or reduce the sentences, regardless of the damage done to the victim. Research should be done to determine what real effect the victims' impact statements have on the sentencing of criminals. This should include focus on instances where the elderly have the quality of their remaining life permanently damaged due to the physical or mental effects of being a victim of crime.

In cases in which the victim is an elderly person, the vulnerability of the victim should be considered, together with an assessment of the degree of malfeasance in targeting them and the overall effect the crime had on the victim. This needs to be in addition to assessment of the actual facts around the event. Such long-lasting effects include the fear of going outside or depression, and the long-range physical effects on the elderly persons in cases which include assault and abuse. While a just society must treat those accused and convicted of crime fairly, it must also protect and compensate those who are the victims of crime. An estimated 1.2 million persons live in England and Wales,<sup>9</sup> who are lonely and perhaps alienated, and any one of them can have their life greatly worsened by becoming a victim of crime. The Criminal Justice System in England and Wales has a proud tradition of fairness, and it should do more to improve the position and treatment of elderly persons.

## Discussion Questions

1. Discuss the reasons why a large number of crimes against the elderly are never detected or reported to the police.
2. What are the benefits of diverting older offenders out of the system rather than having them processed through the formal criminal justice system?
3. What are some of the major roles an older person can perform in the criminal justice system? What factors must be considered in determining if an elderly person can serve as a judge? Jury member? Prosecutor? Witness?
4. Discuss the pre-prosecution process in England and Wales. How might the process differ when an elderly person is the defendant rather than a younger person is the defendant?
5. What are the differences in the “career” habitual offender and the “situational” offender in regard to older criminal offenders? Should the habitual offender be treated differently than the situational offender?
6. The trials of older offenders accused of serious crimes (murder, rape, corruption) may be very complicated and time consuming. Discuss some of the reasons why such trials may be more complicated when the defendant is an elderly person.
7. Discuss the major reasons for the increase in the amount of crimes committed by the elderly in England and Wales.
8. Discuss the reasons why older persons are targeted for crime victimization.
9. Discuss the practice of *cautioning* used in the justice system of England and Wales. In what types of criminal offenses would cautioning be the most beneficial for the older offender as well as for the community?
10. Discuss the types of victimization of the elderly that is most likely to occur in nursing homes, hospitals, and residential facilities for the elderly.

## Notes

1. The law of England and Wales differs substantially from that in Scotland. Differences also exist in Northern Ireland. Accordingly, England and Wales are considered as a homogenous unit, whereas the United Kingdom as a whole is not.
2. The Police and Criminal Evidence Act 1984 (PACE) made provision for the issuing of Codes of Practice.
3. See—Archbold 2017. Appendix A.
4. Conditional Cautioning Code of Practice. Criminal Justice Act 2003. Sections 22-37.
5. Criminal Justice Act 1987 (CJA). Powers including the power to require persons to answer questions and produce documents.
6. In England and Wales, the age of criminal responsibility is 10. Below that age, it is assumed that children are *doli incapax* (incapable of crime) because they are

too young to understand right from wrong and cannot be held responsible for their actions.

7. Government response to the Justice Committee's Fifth report of Sessions 2013-2014.
8. *Mental Disorders in Old Age*. By Eva Hilger, Peter Fischer.
9. Age UK Registered charity number 1128267.

# Chapter 5

## The Elderly Offender and the Elderly Victim of Crime: A South African Overview



Christiaan Bezuidenhout and Karen Booyens

### Introduction

In this contribution we will sketch an overview of the elderly offender as well as the elderly victim in South Africa. In short very little is written about elderly offenders in South Africa as a very insignificant portion of the prison population is senior citizens. In 2015 only 861 sentenced elderly inmates aged 61 years and older reflected in the South African prison population of 161,984. If one consider gender of the elderly prison population, 822 were male offenders, and only 39 were female offenders in 2015 (Sihlangu, 2016).

In South Africa an “older person” means a person who in the case of a male is 65 years of age or older and in the case of a female is 60 years of age or older (Older Persons Act 13 of 2006). If we consider this legal age demarcation, the elder prison population as stipulated above will be even lesser. The fact of the matter is that when an older person of this age group commits a crime it usually intrigues people as crimes by older people are significantly less compared to the extent of crimes committed by the general population. It is seen as untoward or even impossible for an aged person to commit a crime. If a crime by an elder is reported, it is often believed to be a publicity stunt or even referred to “tongue in cheek”. It is almost seen as an a-typical event. In this regard Bartol and Bartol (2017) also concur that only a very small proportion of elders commit crime. Against this backdrop one should look at the general population profile and statistics regarding the elderly of South Africa to grasp the miniscule portion of crimes they commit. In general the elderly population roughly account for 8.1% of South Africa’s population of 55.91 million (StatsSA, 2017).

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According to Statistics South Africa, between 2002 and 2016, the life expectancy of males in South Africa increased from 53.6 to 59.7 years and for females from 56.6 to 65.1 years. The percentage of persons aged 60 years and older who lived below the upper-bound poverty line decreased from 84.8% in 2009 to 80.9% in 2011 and from 83.4% to 76.2% in the lower-bound poverty line. Many of the aged population currently receive an income (usually a grant) of R1600 [ $\pm$  \$120] or less per month. Only 22.9% of the elderly in South Africa were members of medical aid schemes in 2015. The percentage of persons aged 60 years and older who were covered by a medical aid or medical benefit scheme or other private health insurance was highest among elderly white (73.5%) and Indian/Asian (33.9%) persons. Although black Africans make out a significant majority of the South African population, only 6% of black African elderly persons and 16.6% of coloured elderly persons were members of medical aid schemes. The elderly who are deemed to be in the lower income group has access to a regular social pension income and pensioners are entitled to free treatment at public health-care facilities. However, health care is often unsatisfactory due to poor access and huge demand (Theron, 2014). The elderly in South Africa were more likely to be females than males (60.3–39.7% in 2011 and 59.9–40.1% in 2016).

The Department of Health revealed that a very small number of aged persons (about 4%) live in institutional homes for the aged, which are mostly situated in urban areas. This means that the vast majority of aged persons are living with family or on their own and therefore are not receiving professional geriatric daily care. At the time of writing this chapter, the majority of aged individuals over the age of 85 years have had no formal schooling in their lives. About 23% of the aged community are living with one or more disabilities, which could include loss of sight, loss of hearing, loss of mobility and mental disability (Papp, 2011). Another alarming issue in elderly households where both partners are still alive is intimate partner violence (IPV). Bartol and Bartol (2017) feel that IPV does not suddenly start in old age and that abusing partners often started at a younger age and the IPV continued into old age. The irony of this type of abuse is that it takes place in private settings and usually never comes to the attention of the authorities.

With regard to general fear of crime, elderly headed households compared to general population households in South Africa felt less safe in 2015/2016 when walking around in their areas at night or during the day than in 2011. The media in South Africa is inundated with horror stories of the victimisation of elderly persons which support the reason for this increase in their fear levels. We often hear or read of an elderly couple who have been brutally murdered or tortured during a house invasion or farm attack. It is also not uncommon to hear that an elderly black African woman has been brutally tortured because she was believed to be a witch. In addition, we find that elderly women are represented more often in the rape statistics in recent years. These types of victimisation will be highlighted elsewhere in this chapter.

Stories of the elderly offender are few and far between. The most recent story of an elderly who committed a serious offence in South Africa was reported on 15 August 2017. The newspaper headline read: *Granny set fire to shack in a rage*. The 82-year-old woman, Chuthiwe Dlamini Blom, was arrested after allegedly setting

alight a four-room shack (unauthorised unrefined cabin) erected in the backyard of her property and apparently killing her grandson. She allegedly started the blaze because she believed one of the people living in the shack had stolen her food (Chetty, 2017). In the next section we will take a closer look at the elderly offender population in South African correctional facilities and how the elderly offender eventually becomes vulnerable in prison.

## The Elderly in South African Corrections: From Offender to Victim

Internationally there is a rise in the elderly inmate population, also known as the “greying” offender population. Furthermore, older inmates are regarded as the fastest growing prison cohort (Fazel, Hope, O’Donnell, Piper, & Jacoby, 2001; Williams, 2012; Yates & Gillespie, 2000). South African corrections have also experienced a slight increase in the elderly offender population. In 2010 a total number of 722 inmates (sentenced offenders *and* remand detainees) older than 61 years were incarcerated; this number increased to 744 in 2011, 778 in 2012, 862 in 2013 and 996 in 2014, and in the year 2015, the total number of incarcerated elderly offenders (sentenced offenders and remand detainees) was 1065 (Sihlangu, 2016).

This increase in the elderly inmate population can be ascribed to two factors. Firstly, there is an increase in the general South African elderly population. It is estimated that this population group will double by 2025 from 7.7% in 2015 to 15.4% (World Health Organization, 2015). Another reason for the increase in the older inmate population is the mandatory sentencing practice. For example, in the United States the “Three Strikes and You’re Out” legislation was introduced in 1993. This policy entails that offenders convicted of three felony offenses serve a mandatory life term without parole (Siegel, 2016; Yorston & Taylor, 2006). Similarly, in South Africa the so-called minimum sentence legislation, in terms of the Criminal Law Amendment Act (Act 105 of 1997), was introduced. Accordingly, inmates have to serve a mandatory minimum sentence of imprisonment for serious offences before being considered for parole. This section will provide an overview of the crimes committed by the elderly but will also focus on how the elderly inmate becomes vulnerable to victimisation while being incarcerated.

## Profile of the Elderly Offender

Researchers (Collins & Bird, 2007; Crawley, 2005; Dawes, 2009; Lemieux, Dyeson, & Castiglione, 2002; Older Prisoners, 2009; Stojkovic, 2007; Yates & Gillespie, 2000) identify three typologies of elderly offenders. Firstly, inmates who aged while incarcerated. This group is the so-called lifers who received life or lengthy sentences for a serious crime(s). In South Africa, a life sentence implies serving a minimum sentence of 25 years before being considered for parole. As of 31 March 2015,

there were 128 lifers or 11% of sentenced inmates, in South African correctional centres (Annual Report of the Judicial Inspectorate for Correctional Services, 2014/2015). Between 2003 and 2016, the lifer's prison population increased by almost 400% (Gqirana, 2017). Life sentences are imposed according to the policy that mandates minimum sentences for crimes such as premeditated murder, the murder of a law enforcement official, serial rape, gang rape and child rape (Geldenhuys, 2017). Inmates serving such long sentences may become institutionalised, with the prison becoming their home, and they are likely to die while incarcerated. For these inmates family contact may become less frequent over the years. The second type comprises of career or chronic offenders and they can be regarded as ageing recidivists. They adjust well to prison life but may experience difficulties in resettlement after release. Lastly, those offenders that receive a prison sentence late in their lives with no prior experience of life inside a correctional centre. The transition to prison is challenging for this group, and they are at high risk for self-harm and suicide. This offender group is likely to be victimised by other inmates. An example of such a type of sentenced elderly is Bob Hewitt who was sentenced to 6 years' imprisonment at the age of 75 years. Hewitt, a former Grand Slam tennis champion, was found guilty in 2015 of two counts of rape and one count of sexual assault by the South Gauteng High Court. These sexual offences occurred when he was a tennis coach during the 1980s and the 1990s. Prior to this sentence Hewitt has no previous arrests or convictions. The presiding officer, Judge Bam, commented as follows: "Justice must be seen to be done, even to ageing offenders and even after the expiration of many years after a crime" (Findley, 2015).

South Africa has the largest prison population in Africa and ranks number 9 in the world with 310 inmates for every 100,000 people (Booyens & Bezuidenhout, 2014). In 2015/2016 161,984 offenders were held in South African correctional facilities with a capacity for 119,134 offenders. This means that approximately 43,000 offenders were held in correctional centres without the necessary infrastructure such as toilets, showers and beds (Annual Report of the Department of Correctional Services, 2015/2016). There are currently 243 prisons, including 2 private prisons in South Africa. Of these prisons, 7 are closed for renovation, 9 are for female offenders, 14 are for youth offenders and 129 are for men only (Bezuidenhout & Booyens, 2017). There are currently no separate correctional facilities for elderly inmates.

Sentenced elderly offenders make out only a small percentage, less than 1%, of the total offender population. During 2015 there were 861 sentenced elderly offenders (aged 61 years and older) incarcerated nationally in South African correctional centres, with 822 being male offenders and only 39 female offenders (Sihlangu, 2016). According to the Directorate Offender Profiling from the Department of Correctional Services, the majority of elderly offenders are sentenced for *aggressive crimes* (assault, culpable homicide, murder, attempted murder, robbery), followed by *sexual crimes* (sexual assault, intercourse with a minor, rape, attempted rape), *economic crimes* (car theft, house breaking, fraud and forgery, livestock theft) and *narcotic-related crimes* (possession, distribution and manufacturing of illegal substances) (Sihlangu, 2016).



## The Vulnerability of the Incarcerated Elderly Offender

According to the White Paper on Corrections in South Africa (2005), older inmates are considered a special category of offenders with specific needs. The Department of Correctional Services identifies the needs of older offenders in terms of recreational activities suitable for older persons, facilities catering for physical demands placed on older persons and appropriate medical care. Elderly offenders are considered a vulnerable group due to physical and mental health issues, victimisation, the physical environment and issues concerning release, reintegration and dying inside a correctional facility. Older inmates are more likely to have health problems such as hypertension, diabetes, arthritis, cancer, kidney and heart problems and bladder and prostate problems. It is also postulated that elderly offenders may suffer from an average of three chronic illnesses while incarcerated (Aging Inmate Committee, 2012; Crawley, 2005; Lemieux et al., 2002; Maschi, Viola, & Sun, 2013, p. 545; Stal, 2012). A study conducted by Fazel, Hope, O'Donnell, and Jacoby (2004) found that the most commonly prescribed types of medication for the older offender population were for cardiovascular-, musculoskeletal- and gastrointestinal-related illnesses. Apart from chronic health problems, older offenders are also likely to require the use of reading glasses, hearing aids, wheelchairs, walkers and canes (Human Rights Watch, 2012). Regarding mental health issues, research indicates that older inmates suffer from depression, anxiety, senility and dementia. Accordingly, depression among elderly offenders was found to be three times higher than in younger inmates or elderly in the community (Collins & Bird, 2007; Dawes, 2009; Lemieux et al., 2002; Maschi et al., 2013; Williams, 2012; Yorston & Taylor, 2006).

In the United States, elderly offenders, who are in need of constant medical care, are physically or mentally debilitated from age or illness, are not considered a threat to society, have served half of his or her sentence and are considered to be released on compassionate parole (McCarthy, 2013; Older Prisoners, 2009). In South Africa, Section 79 of the Correctional Matters Amendment Act (5 of 2011) provides for the release of sentenced offenders on medical parole. Accordingly any offender may be considered for placement on medical parole if such an offender is suffering from a terminal illness or condition or if such an offender is rendered physically incapacitated as a result of injury, disease or illness that severely limits daily activity or inmate self-care. Furthermore, medical parole will be considered if the risk of reoffending is low and there are arrangements for the offender's supervision, care and treatment within the community once the inmate is released. An application for medical parole can be lodged by a medical practitioner, a sentenced offender or a person acting on his or her behalf, provided that a written medical report recommend placement on medical parole. Although this particular Section of the Correctional Matters Amendment Act (5 of 2011) does not specifically make provision for the elderly inmate, it can be argued that an elderly inmate with Alzheimer's disease will probably, according to the Act, qualify for medical parole. This interpretation of the law has however never been tested in South Africa. Regarding the risk of reoffending, it is reported that

recidivism, rearrest and reconviction rates decrease as age increases (Maschi et al., 2013; Older Prisoners, 2009).

The Department of Correctional Services is responsible for the provision of a safe and secure environment to all offenders under their care as well as the establishment of an environment aimed at correcting offending behaviour (Annual Report of the Department of Correctional Services, 2014/2015). In South Africa, victimisation of the elderly may be the result of prison overcrowding and custodial staff shortages. If prisons are severely overcrowded and function with only “skeleton staff”, then the safety of inmates becomes compromised and essential services, such as medical treatment, become very difficult (Annual Report of the Judicial Inspectorate for Correctional Services, 2015/2016). Older offenders may be the victims of intimidation and bullying by younger, stronger and more aggressive offenders that deprive the elderly of their physical safety and security (Stinchcomb, 2011). The Aging Inmate Committee (2012) refers to this as the “wolf-prey” syndrome, where the elderly become easy prey to younger inmates. Kerbs and Jolley (2007) completed face-to-face surveys with 65 male prisoners (50 years of age and older) and found that elderly inmates are subjected to psychological victimisation (fake punches, verbal threats), property victimisation (losing money and property by means of extortion or robbery), physical victimisation and sexual victimisation (ranging from sexual harassment to rape). The vulnerability of elderly inmates is also compromised by the physical structure of and conditions inside the prison. South African prisons were designed and built to accommodate young offenders. As a result the elderly offender must learn to adapt and cope with the physical environment, such as climbing stairs to have access to various parts of the centre such as communal or single cells, kitchen or recreational area, slippery tiled shower cubicles without grab rails or antislip mats, no wheelchair ramps and not always being able to sleep on the lower bunk beds (Crawley, 2005; Older Prisoners, 2009; Williams, 2012). The authors argue that due to the costs of renovating or rebuilding existing prisons, to accommodate the unique needs of a small percentage of the prison population is not viable. The Department of Correctional Services should look into other options to accommodate this specific group such as segregating them from the younger general prison population or renovating dilapidated state buildings for this specific purpose. Different authors raise various arguments in favour of and against the separation of elderly inmates. Those in favour of separate units argue that older inmates may be protected from victimisation, special programmes can be developed and presented by specialised staff and separation may encourage identification with peers and stimulate social interaction. Housing medium offenders with maximum offenders in one cell may pose a security risk and that elderly inmates may become further isolated and marginalised making adjustment upon release more difficult. Those against separate units argue that older inmates have a calming effect on other inmates (Older Prisoners, 2009; Williams, Stern, Mellow, Safer, & Greifinger, 2012).

The current dilapidated state of prison infrastructure in South Africa is not beneficial for the health and well-being of the older inmate. It is reported that in many South African prisons the showers and toilets are broken, there is limited or no hot water and there is a dampness in the cells as well as broken window panes which contributes to very cold prison cells especially during winter (Annual Report of the Judicial Inspectorate for Correctional Services, 2015/2016). The overpopulation of prison cells, which is a reality in many South African prisons, dehumanises inmates and contributes to the spread of communicable diseases, prevents adequate supervision of inmates which exacerbates safety concerns such as escapes and violence, encourages sexual relations, leads to frustration and contributes to the transfer of criminal skills (Du Preez, Steyn, & Booyens, 2015). All of these factors impact negatively on the prison experience of the elderly inmate.

Lastly, elderly offenders have unique needs in terms of release and reintegration, such as adjustment to family, housing, employment and health (Stojkovic, 2007). Of special concern is that elderly offenders fear that they have nowhere to go once released from prison as offenders may outlive relatives and friends. Many elderly offenders have used up their savings and do not receive pension (an old age wage) as a result of their incarceration (Stinchcomb, 2011). Individualised preparation, planning and reintegration are important as suicide rates are high among recently released older inmates (Collins & Bird, 2007). A specific fear among older offenders is dying inside a correctional centre, and death anxiety is more commonly reported among older than younger inmates (Maschi et al., 2013).

The elderly offender population is diverse in terms of their socio-economic background, health, crime history, motivations for committing crime, adjusting to prison life and coping with reintegration and release. As a result of this diversity, the Department of Correctional Services must focus on the individualised assessment, rehabilitation and monitoring of this unique inmate population.

## **Elder Abuse in South Africa and the Law**

Although the elderly population only represents a small section of the general population, the elderly population growth is in an upward curve. This implies more elders will be in need of health care and basic services. In addition more elders will need protection. Sadly abuse and neglect of the elderly is also in an upward trend in South Africa. In a report by the South African Human Rights Commission (SAHRC): *Investigative Hearing into Systemic Complaints Relating to the Treatment of Older Persons*, it was stated that physical abuse against the elderly is increasing in South Africa (Mashego, 2015). This sentiment is echoed by Bigala and Ayiga (2014) who insist that elder abuse in South Africa is widespread and must be deemed a serious public health problem. It is also evident that the abuse of the elderly is poorly researched and a global issue. In South Africa it is often treated as an unspoken problem (Kempen, 2012). One reason for this is that knowledge of the prevalence of

elder abuse and its predictors in South Africa is still low mostly because of the stigma associated with the phenomenon and its hidden nature and lack of consensus on the age at which old age begins between different black African cultural and ethnic groups (Ferreira & Lindgren, 2008). In recent years however public campaigns have contributed to an increase in public awareness and people are becoming more aware of this societal ill. Recognition of elder abuse and neglect has increased in recent times and internationally is now deemed so serious that a world elder abuse awareness day has been proclaimed annually on 15 June. The day is in support of the United Nations' International Plan of Action to recognise the significance of the abuse and neglect of older adults as a health and human rights issue. Also the scant criminological interest in the elderly has largely been focussing on the victim and not the elderly offender supporting the awareness in recent times of elder abuse as a growing societal evil (Bartol & Bartol, 2017).

South Africa has one of the most recognised constitutions in the world. It is also deemed as one of the most all-encompassing constitutions in the world to ensure human rights to all the different ethnic and diverse language groups in South Africa. The South African Constitution declares that every South African has the right to dignity and the right to have that dignity respected and protected. Section 9 of the Constitution of South Africa guarantees equality before the law and freedom from discrimination to the people of South Africa (Albertyn & Goldblatt, 2006).

Under the heading "Equality", in Section 9 of the Constitution, the following is proposed:

- (a) Everyone is equal before the law and has the right to equal protection and benefit of the law.
- (b) Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons or categories of persons, disadvantaged by unfair discrimination, may be taken.
- (c) The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.
- (d) No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3). National legislation must be enacted to prevent or prohibit unfair discrimination.
- (e) Discrimination on one or more of the grounds listed in subsection (3) is unfair unless it is established that the discrimination is fair.

The above Section 9 of the Constitution is aimed at ensuring that the elderly participate in community life and take part in societal programmes, structures and associations for older persons. It also allows for them to live in an environment suitable to their changing abilities and needs and grant them access to opportunities that promote their social, physical, mental and emotional well-being. Against this background the Older Persons Act 13 of 2006 was formulated to alleviate the plight of older citizens in South Africa by setting up a framework for their empowerment and

protection. The Act promotes and maintains the rights, status, well-being and safety and security of older persons. On 1 April 2010 the long-awaited Older Persons Act was promulgated (Gazette No. 33075—Regulation 260) (Papp, 2011; Theron, 2014). This piece of legislation aims to give greater protection to the elderly. It is in line with the Bill of Rights enshrined in the South African Constitution and a direct result of a national outcry against elderly abuse that was brought about by the release of shocking video and media footage of elderly persons being abused in homes for the aged. The act in essence aims to:

- Maintain and promote the status, well-being and safety and security of older persons
- Maintain and protect the rights of older persons
- Help older persons to stay in their homes in the community for as long as possible
- Regulate services and residential facilities for older persons
- Combat abuse of older persons

In addition, in Section 25 of the Older Persons Act 13 of 2006, very specific care and protection is stipulated for the elderly. It stipulates that a person who is involved with an older person in a professional capacity and who, on personal observation, concludes that the older person is in need of care and protection must report such conclusion to the Director-General. Those who are not in a professional capacity must report it to a social worker. In terms of Section 25(3) of this Act, the Director-General or the social worker to whom a report has been made must investigate the matter (Kempen, 2012). If such a report is substantiated by a resulting investigation, one of the following action steps may be taken:

- Facilitating the removal of the older person concerned to a hospital, in case of injury, or to a shelter if needed.
- Reporting the abuse to a police official requesting the police officer to act in terms of Section 27 of the Act to ensure the safety of the elderly abused person.
- Also taking additional steps as may be prescribed to ensure adequate provision for the basic needs and protection of the older person concerned.
- If the older person concerned is the victim of an offence or crime, the person must be assisted to see a police official in order to lay a complaint.

It is equally important to know when an older person is in need of care or protection, and this is explained in Section 25(5) of the Act, namely, when he/she:

- Has his/her income, assets or old age social grant taken against his/her wishes or suffers any other economic abuse
- Has been removed from his/her property against his/her wishes or has been unlawfully evicted from any property occupied by him/her
- Has been neglected or abandoned without any visible means of support
- Lives or works on the streets or begs for a living
- Abuses or is addicted to a substance and has no support or treatment for such substance abuse or addiction
- Lives in circumstances likely to cause or to be conducive to seduction, abduction or sexual exploitation

- Lives in or is exposed to circumstances which may harm that older person physically or mentally
- Is in a state of physical, mental or social neglect

In addition, Section 26 of the Older Persons Act places an obligation on anyone who knows about, or suspects, abuse of an older person to report it to the Director-General, social worker or a police official. If anyone fails to do so, it could constitute an offence. Elderly abuse is usually characterised by the infliction of emotional, psychological or physical harm.

According to Action on Elder Abuse South Africa (AEASA) (2017), a non-government organisation, elder abuse can manifest as a single or repeated action or lack of appropriate action that occurs within a relationship where there is an expectation of trust and that causes harm or distress to an older person (Kempen, 2012). AEASA is national organisation who aims to create, raise and sustain awareness of elder abuse in South Africa (Papp, 2011).

## The Nature of Elderly Abuse in South Africa

Although elderly abuse can take a variety of forms, the Older Persons Act 13 of 2006 acknowledges several types of abuse to which the elderly are vulnerable. The Protocol on Management of Elder Abuse (2010) categorises the abuses as follows:

*Physical abuse:* Any physical act that result in injury or even death (e.g. hitting, pushing, physical restraints, administering incorrect or excessive medication or any act that causes injury, physical discomfort, over-sedation or death).

*Sexual abuse:* Any act that result in exploitation for the purposes of sexual or erotic gratification without consent.

*Psychological, emotional and verbal abuse:* A pattern of degrading or humiliating conduct (verbal or non-verbal) which results in impaired psychological and/or emotional functioning (e.g. name-calling or ridicule, rejection, isolation or oppression, deprivation of affection and cognitive stimulation).

*Neglect:* Not providing or reserving care and basic necessities (e.g. no or small portions of food, limited or no shelter, clothing, medication, emotional support and stimulation).

*Financial abuse or exploitation:* Using of elder person's money, stipend, grant, property, valuables and assets without their consent (Alexander, 2004). Financial abuse takes the form of extortion and stealing of possessions and grant or pension money. This also seems to be the most prevalent form of abuse in a domestic setup as well as in institutions in South Africa (Papp, 2011).

*Violation of human rights:* Denying the older person fundamental rights such as dignity, personal privacy, own belief, opinions, speech and movement.

The Elder Abuse Protocol (2012) also refers to self-neglect or *Diogenes syndrome* as a risk factor in abuse. This level of self-neglect is also known as senile

breakdown or senile squalor syndrome. In this situation the elderly refuses to or have the inability to attend to their own health, nutrition, hygiene or social needs. The disorder is characterised by extreme self-neglect, domestic squalor and social withdrawal; shows signs of apathy, compulsive hoarding of garbage or keeping of many animals; and shows a total lack of shame. Sufferers may also display symptoms of catatonia. The person may not have the knowledge or information to improve on their own self-care. Although this is not a form of elder abuse it could rapidly become a risk factor for abuse of an elderly family member. Furthermore, a caretaker at an old age home may not recognise the self-neglect and “punish” the aged person for their “unwillingness” or “stubbornness” to live under conditions that may be deemed inappropriate or unsafe to others (e.g. compulsive gathering of garbage and being messy).

The above forms of abuse are regularly highlighted in the media. The investigative television programme in South Africa *Carte Blanche* has aired several programmes on the abovementioned types of abuse of the elderly in South Africa which confirms the increasing awareness of this growing ill. However certain unique unsettling types of abuse also exist in South Africa.

## **Unsettling Forms of Elder Abuse in South Africa**

In this section the unique types of elder abuse that occur in South Africa will be highlighted. These include the raping of elderly women, the killing of elderly women because they are accused of witchcraft and the attack, assault or murder of elderly people during house invasions or farm attacks.

### **Raping of Elderly Woman**

According to Ferreira and Lindgren (Ferreira & Lindgren, 2008), the rape of older women by sons and grandsons in the home is common in South Africa. This type of abuse is usually done in order to extort the elderly woman’s pension or grant money or as a form of torture or revenge. Warning signs are bruising, bleeding, pain or injury in the abdominal, anal and genital areas, recurrent bouts of cystitis or venereal disease and symptoms of emotional abuse (Alexander, 2004). Some older people are unable to speak out about sexual abuse due to their subordinate position in a household, or a mental disability is often the ones most likely to be targeted.

Also the elderly women who live alone are increasingly in danger (Theron, 2014). In Box 5.1, a topical case of elderly rape in South Africa is featured.



### **Box 5.1 A Youth Raping an Older Woman**

Youth in court for alleged rape of gogo (gogo is a term used in South Africa to refer to an old lady) 25 July 2013.

Ingrid Oellermann [<http://www.news24.com/Archives/Witness/Youth-in-court-for-alleged-rape-of-gogo-20150430>].

An 18-year-old appeared briefly in the Pietermaritzburg Magistrate's Court yesterday in connection with the rape of an 80-year-old woman at Esigodini on Monday. The victim's grandson, who was also arrested in connection with the rape, was released after it was established he was not involved. The youth, who cannot be named until he has pleaded to the charge, was remanded until 31 July, pending arrangements for legal aid and a possible bail hearing.

## **Witchcraft and the Murdering of Elderly *Witches***

South Africa possesses a multi-cultural society also referred to as the rainbow nation where Western and traditional (African) cultures co-exist. One of the most significant challenges facing the post-apartheid government is the tension between the modern world and traditionalism. In the black African ethnic groups, elderly women are mostly accused of witchcraft. People by default take the law into their own hands, and in the majority of cases of witchcraft-related violence, alleged witches have been killed in brutal fashion. In this regard Fuzile (2016) states that many of the women are raped before being shot, strangled, stoned, burnt or hacked to death. Although a man can also be blamed for acts of witchcraft, elderly women are mostly accused of witchcraft, often because people regard older women as unappealing. This can be attributed to their skin complexion, age and looks and because they are more prone to emotional outbursts. These aged women consequently say things that others do not like. It implies that they are more likely to say things that could be interpreted as curses. Widows or women, whose children have died, have also historically been suspected of using witchcraft to kill their husbands and children (Bezuidenhout & Klopper, 2011; Geldenhuys, 2016). Various reasons for witch killings have been put forward and why a community were involved in attacks against witches. Sometimes a bad harvest after a dry season or the death of several individuals (e.g. a bush crash) is enough "proof" that a witch in the village caused this bad luck (a spell) in this village. If a member in a family is suffering, they often look to blame others for their misfortune and unfortunately old women (referred to as "gogos" in South Africa) in rural villages will become soft targets. Youths often get involved in the killing of a witch as young people are often regarded as the main victims of witchcraft. This means that the untimely death of a young person is culturally interpreted as being the result of witchcraft (Geldenhuys, 2016; Petrus, 2009). Certain African cultures create complex problems which government has to deal with. These include issues such as traditional healers, traditional medicine, ritual animal slaughtering and witchcraft. Many African rituals intend to honour the



ancestors, and it is believed that traditional healers have special magical powers that are linked to ancestral spirits. Witchcraft and its meaning should also be acknowledged as being on the same cultural significance as all the other rituals (Petrus, 2009). The biggest challenge is that “witches” are mostly killed without any evidence being tested in a court or without proof. In Box 5.2, an example of witch killing is presented.

### **Box 5.2 Elderly Women and Witchcraft**

Elderly women targeted in Eastern Cape village over witchcraft claims 15 January 2017.

eNCA South Africa Sunday [<http://www.enca.com/south-africa/elderly-women-terrorised-in-escape-village-over-witchcraft-claims>].

Johannesburg: Elderly women in the Mqanduli area of the Eastern Cape are living in fear after two men allegedly killed a 70-year-old woman and injured another, accusing them of witchcraft. Friends and family said farewell to Nosithele Mkhumbini on Saturday after she was attacked by the armed men. The pair, carrying sticks and knives, confronted her while she was tending her garden and accused her of witchcraft. “Seeing this coffin in front of me, I don’t feel at peace at all. I wish it was me in that coffin instead of having to live in constant fear because they said when they’re released from prison they are going to come for me”, said a neighbour during Mkhumbini’s funeral service. The area’s chief, Dalintlanga Mfazwe, said such incidents were on the rise. “This is becoming a more frequent occurrence. Not far from here they killed another old woman, whom we buried three weeks ago”, Mfazwe said.

Social development MEC Nancy Sihlwayi explained the superstitions that some held about older women. “When she’s old she loses some complexion, she loses shape and because she has become disfigured there is a belief that she is now a person who kills under the science that is not known by many people [witchcraft]”. While two suspects have been arrested and face charges of murder, villagers said the men had threatened to come back and deal with other women they accuse of witchcraft.

### **Box 5.3 The Elderly as Victims of Home Invasions and Farm Attacks**

Farmer shot, in hospital after taking on five attackers 28 August 2017.

Hanti Otto [<http://www.news24.com/SouthAfrica/News/farmer-shot-in-hospital-after-taking-on-five-attackers-20170828>].

Mbombela: The 72-year-old farmer who managed to take on a gang of five attackers after a warning from one of his farm workers is in a serious but stable condition in the hospital. Hennie Gerber was shot in the stomach, but

(continued)

**Box 5.3** (continued)

according to police spokesperson Captain Carla Hartley, no vital organs were damaged, Netwerk24 reported. “According to Gerber’s family, his condition is stable”, she said on Sunday. It’s suspected that Gerber, who farms in the Sundra area in Mpumalanga, wounded at least two of the attackers. There was blood around his house and against the fence after they had fled. Hartley earlier said five attackers, two of whom were armed, overpowered 70-year-old farm worker Elias Skosana in his home at about 03:00 on Saturday. Skosana was forced at gunpoint to take them to Gerber’s house and knock on the door. When Gerber started opening the door, Skosana, in spite of the armed men, shouted: “Tsotsis!” A shootout followed. Gerber managed to fire a few shots but was hit in the stomach. Skosana was unhurt. “It isn’t certain who started the shooting, but we suspect that two or more of the attackers were also wounded. It seems as if they fled around the house and over the fence. There is a lot of blood at the scene where they ran [away]”, said Hartley. Gerber’s wife was in their bedroom during the incident. No arrests had been made by Sunday afternoon.

The concept “farm attack” is used to refer to a number of different crimes committed against persons specifically on farms or smallholdings. According to Geldenhuys (2010), most people know what is meant by a farm attack and that several crimes that belong to the different serious crime categories (assault, robbery, rape and murder) are usually committed during a farm attack. Also murders on farms or farm killings have come to haunt the rural communities of South Africa. Very often these attacks are accompanied by extreme violence and torture (gratuitous violence), similar to home invasions. It seems as if perpetrators not only focus on killing the victim but also on inflicting pain and bringing about suffering. In South Africa many farms are owned by elderly citizens. Because of the isolation of farms and the elderly’s frail physical position, they often become victims of farm attacks or murder as they are soft targets. It is also known that repeatedly during attacks on farms, criminals have more time to commit the crime and the perpetrators know no one will hear the agony during the torture and brutality (Bezuidenhout & Klopper, 2011).

During a home invasion the robbers will enter a house forcefully at a time the occupants least expect it. Home invasion differs from burglary since the occupants are at home during a home invasion, whereas the common burglar burglarises a house because of the absence of the occupants. In burglary, violent intent is usually absent, while a home invader usually has some violent intent. A home invasion therefore constitutes the burglarising of a dwelling with hostile intent while the residents are at home. A large portion of the elderly population in South Africa live in their own dwellings which make them extremely vulnerable to home invasions (Bezuidenhout & Klopper, 2011; Zinn, 2010). In Box 5.4 an example of the nature of the brutality during a home invasion is shared.

**Box 5.4 Elderly Couple Tortured with Boiling Water and Hot Oil (17 August 2017)**

*Susan Cilliers* (<http://www.news24.com/SouthAfrica/News/elderly-couple-tortured-with-boiling-water-and-hot-oil-20,170,817>).

Mahikeng: An elderly woman who was tortured with boiling water and hot oil during a robbery on Thursday morning was more concerned about her husband than herself, Netwerk 24 reports. Two robbers overpowered Gwen Cooks, 74, and her 75-year-old husband Vic on their smallholding near Potchefstroom, stripped them naked and assaulted and tortured them while demanding money. Both sustained burn wounds and Vic was stabbed in his hand with a knife. The robbers made off with a revolver and possibly a cell-phone. They hadn't been arrested by Thursday evening. The Cooks couple's son, Cyril, said on Thursday that "things look bad", but son Cyril on Thursday wouldn't elaborate. His parents are being treated in the Potchefstroom Provincial Hospital. They apparently do not belong to a medical aid. Suzette Oosthuizen, a neighbour of the Cooks who is involved in the local neighbourhood watch, said Vic's condition was more serious than Gwen's and he might be transferred to a bigger hospital. "Tannie Gwen [auntie Gwen] is okay, I spoke to her in hospital", said Oosthuizen. "She can talk, but is just very concerned and worried about her husband. The whole community is shocked—there aren't many attacks on the smallholdings. The Cooks are quiet people and have been living on the plot for more than 40 years". Police spokesperson Captain Mvula Chaka said the attack had taken place at about 07:30 on the Cooks' plot in the Haaskraal area. According to him, two young men had overpowered Vic outside the house. "It's suspected that he was stabbed when he tried to fend them off. He was assaulted after that and was forced into the house. They also stripped him. The elderly man lost a lot of blood because of the stab wound". The robbers took off Gwen's clothes in the house. Chaka said the attackers heated water and oil and poured it over the naked couple. The two robbers stole a revolver from a safe and ran away.

## Conclusion

From the preceding discussion it is evident that the elderly community represents a very insignificant sample of the prison population. Most of the elderly in prison eventually end up being victimised. The elderly in South Africa are more at risk of being victimised compared to becoming involved in a life of crime. Although South Africa has specialised legislation to protect the aged, many still fall prey to unscrupulous family members or care givers who treat them in a rough, indifferent and undignified manner. Many elders live a life of isolation and bear the brunt of abuse on their own. Some are sexually abused, while others are emotionally, psychologically or physically abused and neglected. They often suffer post-traumatic stress

and live in constant fear. In South Africa the highest risk for an elder is to be financially exploited by various means. In South Africa all people have a duty to report the abuse of older persons. If an older person is in need of care and protection, this should be brought to the attention of the Director-General; or, at a local level, the abuse should be reported to a social worker or a police official. If it is found that the older person is in need of help, the police officer or social worker must help the older person to gain access to a hospital or shelter, or they should facilitate the removal of an offender from the home of the older person if it is in the older person's best interest. In addition, a case of an abuse should be registered at the relevant police station. The Older Persons Act 13 of 2006 also instructs the Department of Social Development to keep a register of persons convicted of abuse or any crime pertaining to older persons. A person whose name appears in the register is not allowed to operate a residential facility or be employed at any residential facility or provide any community-based care and support service to an older person.

Furthermore increasing societal awareness is evident, and many organisations and individuals are standing up against elderly abuse. For example, in 1997 Paws for People® started with a therapy dog initiative. Paws for People® aims to have an impact on the lives of people who are lonely or suffering from trauma. Many older people have lost contact with their loved ones and are seldom touched or loved. This organisation would visit old age homes and allow the elderly to engage with the dogs. Many old age homes and hospitals in South Africa allow therapy dogs to enter their premises, and some hospitals allow the dogs into the intensive care unit as it is deemed in the best interest of the elderly patient. Many heart-warming stories have been shared about these human-animal encounters between the elderly and the dogs (Geldenhuys, 2015). The cumulative focus on the elderly in recent years has also ensured that many organisations and government departments are focussing on the position of the elderly. For example, the South African Human Rights Commission, the Action on Elder Abuse South Africa and the South African Gerontological Association (SAGA) work towards the prevention of elderly abuse. Also a dedicated Elderly Abuse National Hotline: Halt Elder Abuse Line—Action on Elder Abuse South Africa operates 24/7 in an effort to report and prevent elderly abuse. The question remains: Why are so many elderly discarded and mistreated during their so-called golden years?

## Discussion Questions

1. Discuss how the traditions and culture of South African can contribute to the victimisation of specific elderly women in South Africa.
2. Discuss the Diogenes syndrome as it relates to the victimisation of the elderly in South Africa.
3. Identify and give the characteristics of the different types of older offenders found in South Africa.
4. What does the authors mean by the phrase “The offenders become victims”?

5. Discuss the key provisions in the Older Persons Act 13 enacted in South Africa in 2006.
6. Discuss the victim offender relationships that are often found in the cases of the rapes of older women in South Africa.
7. What are some of the common financial scams offenders use to exploit elderly persons in South Africa?
8. Identify and discuss the several types of abuse of the elderly in South Africa.
9. Discuss the nature of *farm attacks* committed by offenders in South Africa.
10. Discuss the meaning of the *Diogenes syndrome*.

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# Part II

## Overview of Criminal Victimization of the Elderly

### Introduction

The chapters in Part II focus on elderly victims of crime. In Chap. 6, the author describes the characteristics of older offenders, the types of offenses they commit, and the relationship of older offenders with the older victims of crime. For violent crimes against the elderly when the offender is known, the relationship is predominately that of the victim and offender being either of the same family, related, or of close acquaintance. This fact is especially true in cases of homicide and nonfatal domestic violence. In cases of hate crimes, the victim-offender relationship is not so well known, since many older people are victimized as a result of being a member of a particular race, religious group, or ethnic group or holding a sexual preference that makes them the target for violence or property destruction because of prejudice or hatred toward that group. For other property crimes, the victim and offender are closely related, acquainted, or at least known to each other. In contrast, the offender-victim relationship is stranger to stranger for most property crimes of fraud or Internet scams.

In Chap. 7, the author analyzes the abuse of elderly people of color. There are a number of factors among the older people of color that make them easy targets for victimization. Many are receiving social security benefits, have limited incomes, and have caretakers who are not members of the immediate family. These factors and others make them vulnerable for abuse and criminal victimization.

In Chap. 8, the author uses several statistical reports to show how the changes in the structure of the family in Japan as well as the gradual aging of the population of Japan have resulted in significantly higher amounts of crime by the older population, as well as significant increases in the numbers of older persons who are victimized by crime. The reasons for crimes committed by the elderly are explored, as well as some measures that have been taken to prevent the victimization of the elderly.

In Chap. 9, the problems related to the victimization of the elderly through abuse and neglect are considered. The author identifies various types of abuse, including physical, psychological, and financial abuse, and describes the typical victim-offender



relationship for each type of abuse of the older victims. Several approaches used to prevent the abuse of the elderly, including the structured violence-focused approach and the victim-focused approach, are described and evaluated in terms of their effectiveness.

In Chap. 10, the authors focus on abuse and neglect of the elderly who are housed in hospitals, nursing homes, or other types of residential facilities used for those older persons who must reside in facilities other than their own homes. The types of abuse that occur, as well as the causes for the abuse, are explored. Several strategies that can be used to reduce the abuse of the elderly, who often are helpless in protecting themselves, are presented.

In Chap. 11, the causes of victimization of elderly women and specifically elderly widows living in various countries of Europe, Asia, and Africa are considered. The author uses United Nations reports, research reports, and case studies to illustrate how elderly women are vulnerable to all forms of physical violence, including torture in some cases, psychological punishment, and loss of property and inheritance rights as a result of adherence to traditions and cultural practices that, while prohibited by law, are nevertheless still adhered to in some sections of the countries included in the author's study.

# Chapter 6

## The Victim-Offender Relationship in the Criminal Victimization of the Elderly



Peter C. Kratcoski

### Introduction

For the past several decades, the interest in the effect an aging population has on the amount of crime in a society and determining what should be an appropriate response to those elderly offenders convicted of crimes has increased. As the population of the United States gradually changed from a young nation to a maturing nation, some of the emphasis that focused on the young criminal offender changed to a focus on the older criminal offender. The children born during the “baby boomers” era of the late 1940s and 1950s are now in the senior citizen category, or approaching the age of 60. Shichor (1984, p. 17) notes, “Since the early 1970s an increasing amount of attention has been paid to crime and the elderly.” Although the majority of interest and research has focused on the older victims of crime, Shichor (1984, p. 399) reported, “Recently there has been greater interest on the problems of the elderly offenders, the patterns of offenses in which they are involved, and their handling by the criminal justice system.” National statistics on the amount of crime and those arrested for a criminal act reveal that the proportion of total crimes committed by the elderly is relatively small, less than 5%, but has increased steadily year by year. Kratcoski and Walker (1988) contented, “The sheer number of elderly offenders will increase in future years even if the rate of elderly crime remains low as a consequence of the increasing elderly population”. Their prediction turned out to be correct. In 1974, slightly more than 10% of the population was 65 years of age and older. In 1984 the proportion of those age 65 and older had risen to 11.9% of the population of the United States. The number of arrests of persons age 60 and older in 1984 was 174,169, approximately 1.9% of all arrests made during that year (Federal Bureau of Investigation, 1985, p. 173). By 2009, the number of people aged 65 and older living in the United States was 39.6 million, 12.9% of the total

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population. Predictions on the growth of the older population in the future indicate that by 2030 there will be 72.1 million persons age 65 and above (19% of the total population) living in the United States (Administration on Aging, Administration for Community Living, 2015, p. 1). Statistics on the trend in the amount of crime committed by the elderly reveal a steady increase similar to that of the elderly population growth. The Uniform Crime Report 2015 reveals (UCR, Table 38, p. 1) that there were an estimated 221,015 arrests of persons age 60 and above in 2015, and 90,159 (41.3%) of the arrests of persons were persons age 65 and older. Approximately 3.1% of the total arrests of persons age 18 and above in 2015 were age 60 and above. The number of arrests of older persons tends to decline after the age of 60, as illustrated in the arrest statistics. Of the 221,015 arrests for those age 60 and above, 59.7% were of persons in the age 60–65 category and 43.3% were of persons in the age 65 and above category.

An analysis of the types of offenses committed by the elderly reveals the same downward trend for most offenses. The number of offenses tends to decline as the ages of the offenders increase.

Kratcoski and Edelbacher (2016, p. 60) note,

When the 2013 FBI arrest statistics are compared with the 2000 arrest statistics, with age being the variable used in the comparisons (Crime in the United States, 2013, Tables 38–46), we find that the proportion of all Index Crimes arrests for the 60–64 age category and the 65 and over age category increased from less than 1–2.2%. While the percentage of arrests for Index Crimes for the elderly is still small, it is important to note that the proportion increased significantly over the more than 10 years between the two time periods.

Kratcoski and Edelbacher (2016, p. 60) continue,

When a comparison of property crime arrests for the two time periods (2000–2013) was made, the same trend of an increase in arrests for those in the older age categories was manifested. The proportion of total arrests for fraud, forgery/counterfeiting, embezzlement, receiving stolen property, and commercial vice, and arrests for family-related offenses was not significantly different when the 65 and older groups were compared for 2000 and 2013.

## Older Victims of Crime

Is it difficult to ascertain the number of victims of crime in a society? Van Dijk (2016, p. 4) has completed crime victimization surveys with colleagues in more than 80 countries. He has found that official statistics on crime and crime victimization do not provide the true picture of the amount of crime and the number of victims of crime. Reflecting on the “dark side of victimization” and why is it important for governments to know how many of crimes are committed against their populations, Van Dijk states, “First, crimes often inflict harm on ordinary people and they could and ought to be prevented. Many if not most of these crimes are never recorded by the police, and victims of these ‘dark numbers’ are unlikely to be offered any kind of services or specialized support. This, one could argue, is the basic victimological perspective on measuring the dark figure of criminal victimization.”

A large number of crimes are never reported or recorded by criminal justice agencies for a number of reasons. The reasons for not reporting listed below are especially relevant for some older offenders. These include:

- The victim may not realize that he/she was criminally victimized.
- The victim may not report the crime out of fear of being victimized again by the offender.
- The victim may not report the crime because the offender is a spouse, family member, or close friend, and thus the victim wants to avoid having them get into trouble.
- In cases of older victims, some may not have the mental capacity to make decisions.
- The victim is dependent on the services and/or financial resources of the criminal offender and does not want to upset the established living situation.
- The victim believes reporting the crime is a waste of time because the officials will not do anything to change the situation.
- The victim has a strong emotional attachment to the criminal offender and will accept the victimization even when it is of a violent nature.

Those completing an analysis of the criminal victimization of older persons must recognize that they are making conclusions based on incomplete data. For example, Mason and Morgan (2013), in a study of trends in criminal victimization, found that slightly more than half (56%) of elderly victims of violent crimes reported the crime to the police. Slightly more than 1/3 (38%) of violent crime victims in other age groups reported the crime to the police.

## Victimization Surveys

The National Crime Survey was established under the Law Enforcement Assistance Administration in 1973. It was transferred to the Bureau of Justice Statistics in 1979 and renamed to be the National Crime Victimization Survey (NCVS) in 1992. Zhang (2013, p. 175) states:

The National Crime Victimization Survey (NCVS) is a series of surveys collecting data on criminalization victimizations of persons and households for the crimes of rape, robbery, assault, burglary, larceny, motor vehicle theft, and vandalism in the United States. Using a national sample of households and rotating panel methods, about 100,000 persons 12 years old and older living in approximately 50,000 households are interviewed twice each year on the frequency, characteristics, and consequences of criminal victimization.

In a study of the extent of elder abuse victimization (National Institute of Justice 2015, p. 1), 11% of the elderly reported being maltreated one or more times during the previous year. The abuse or maltreatment consisted of one or more times of physical abuse, sexual abuse, neglect, or financial exploitation. A family member was the most frequent source of the abuse.

The National Institute of Justice (2017, p. 1), in a summary of a survey of nearly 6000 elderly individuals, noted:

- A majority (57%) of perpetrators of physical abuse were partners or spouses.
  - Half of perpetrators were using drugs or alcohol at the time of the mistreatment.
  - Three in ten perpetrators had a history of mental illness.
  - Over a third of perpetrators were unemployed.
  - Four in ten perpetrators were socially isolated.
- *Note:* Information abstracted from a Grant Report authored by Acierno, R., Hernandez-Tejada, W. & Muzzy, K. National Elder Mistreatment Study (pdf, Date Created, May 17, 2009

## Elderly Victimization by Identity Theft

In a study of identity theft, Harrell (2015, p. 1) found “An estimated 17.6 million persons, or 7% of all U.S. residents, were victims of one or more incidents of identity thefts in 2014.” The most frequent form of identity theft, almost half, was theft of bank (credit) accounts or the misuse of information on credit cards. In regard to the identity theft of the elderly, “The number of elderly victims of identity theft increased from 2.1 million in 2012 to 2.6 million in 2014.” Thus, the elderly were the victims of approximately 15% of all of the cases of identity theft in 2014, and the 65 and older age group was the only age group in which there was a significant increase in the number of identity thefts when 2012 is compared with 2014. This finding might give a signal that elderly people are being targeted.

The most common methods used to steal the identity or to steal information from the victims were (Harrell, 2015, p. 2):

- Unauthorized use or attempted use of an existing account, such as a credit or debit card or a checking, savings, telephone, online, or insurance account (referred to as a fraud or misuse of an existing account)
- Unauthorized use or attempted use of personal information to open a new account, such as a credit or debit card or a telephone, checking, savings, loan, or mortgage account (referred to as fraud or misuse of a new account)
- Misuse of personal information for a fraudulent purpose, such as getting medical care, a job, or government benefits, renting an apartment or home, or providing false information to law enforcement when charged with a crime or traffic violation (referred to as fraud or misuse of personal information)

Harrell (2015, p. 5) reports, “Of the 5.7 million victims who knew how the identity theft occurred, the most common way offenders obtained the information (26%) was to steal it during a purchase or other transaction.”

The theft of one’s identity might bring on other problems such as banking problems, failure to secure loans, loss of a good credit rating, harassment from debt collectors, and even legal problems. The elderly victims of identity theft may be

especially devastated if they do not have the knowledge on how to respond or a support group to offer assistance.

## **Financial Exploitation of the Elderly**

Based on allegations of widespread financial exploitation of mentally disabled elderly persons by their appointed guardians, a study was completed by the GAO in 2010 (Government Accounting Office (GAO), 2010, p. 1) to determine if the allegations of widespread financial exploitation of the elderly were true and whether the predominate perpetrators of the exploitation were appointed guardians.

The Government Auditing Organization (GAO) “identified hundreds of allegations of physical abuse, neglect and financial exploitation by guardians in 45 states and the District of Columbia between 1980 and 2010.” It also discovered that millions of dollars were stolen from the elderly by their guardians and many cases of physical abuse and neglect accompanied the financial exploitation. The financial guardians who exploited the older persons they were charged with protecting used a number of scams and frauds to illegally bilk the elderly of their money and, at times, property.

## **Victimization Resulting from Domestic Violence**

The National Coalition Against Domestic Violence (NCADV) (2017, p. 1) states, “Domestic violence is the willful intimidation, physical assault, battery, sexual assault, and/or other abusive behavior as part of a systematic pattern of power and control perpetrated by one intimate partner against another. It includes physical violence, sexual violence, threats, and emotional or psychological abuse. The frequency and severity of domestic violence varies dramatically.”

Citing several different sources, NCADV states that domestic violence accounts for 15% of all violent crimes (National Network to End Domestic Violence, 2015), and one in three women and one in four men have been physically abused by an intimate partner (Black et al., 2011).

In addition to a general summary report on victimization, the National Crime Victimization Survey makes supplementary reports on such areas as domestic violence. Truman and Morgan (2014, p. 1, 3) in a report titled “Nonfatal Domestic Violence, 2003–2012,” state,

Domestic violence includes victimization committed by intimate partners (current or former spouses, boyfriends, or girlfriends), immediate family members (parents, children, or siblings), and other relatives. It details the number, percentage and demographic characteristics of domestic violence victims, and describes victims and incident characteristics of the victim-offender relationship.

It also includes estimates of the rates of offenses committed by acquaintances and strangers for incidents of domestic violence.

An analysis of the victim-offender relationship for all types of crimes for all age groups for the period of 2003–2012 revealed that in slightly more than half (53.1%) of the cases the relationship between the offender and victim was known. For serious violent offenses, the percentage of known victim-offenders dropped to less than half, and for simple assault the offender was known by the victim in 55.1% of the incidents.

Domestic violence incidents constituted slightly more than one-fifth of all of the victimization incidents. Of these, in 14.6% of the cases, the offenses were committed by an intimate partner (spouse, ex-spouse, boy-/girlfriend), 4.3% by an immediate family member (parent, child, sibling, other relative), 31.8% by a well-known/casual acquaintance, and 38.5% of the criminal victimizations the offender was a stranger to the victim. In 8.5% of the cases the relationship between victim and offender was not known.

A study by Rosay (2016) pertaining to violence against American Indian and Alaska native women and men suggests that Native American women or Alaska Native women are much more likely to be the victims of domestic violence by an intimate partner than are non-Hispanic white women. The results of the National Intimate Partner and Sexual Violence Survey found that 55.5% of the American Indian or Alaska Native women who participated in the survey claimed to have been the victim of physical violence by an intimate partner, compared to the 34.5 percent of non-Hispanic white women respondents in the survey. Rosay (2016, p. 41) reported that the amount of physical violence by an intimate partner was also higher for American Indian or Alaska Native men (43.2%), than it was for non-Hispanic white men (30.5%).

Truman and Morgan (2014, p. 11) compared the older victim (age 65 and above) with all other age categories on overall domestic violence victimization rates and characteristics. The comparisons included the sex of the victim, relationship with offender, type of offense, use of weapon, location where the victimization occurred, and the victims reporting the offense to the police. They found that, “As with overall violence, rates of domestic violence were highest for persons ages 18–24 and lowest for persons age 65 and older.” Person aged 65 and older had lower rates of violence in which the offenders were intimate partners, immediate family members, and other relatives than any other age group. In addition, persons age 65 or older had the lowest rates of violence perpetrated by acquaintances and strangers.

The victim-offender relationship for older victims was similar to that of other age groups, with the exception of the very young age group, in most of the characteristics compared. Some of the differences found were:

- Older victims were less likely to be victimized by strangers than those in other age groups.
- The domestic violence was less likely to be committed by an intimate partner.
- The domestic violence was more likely to be committed in the victim’s home or close proximity to the home of the victim.

- The older victims of domestic violence were predominately women.
- “Unlike patterns in domestic violence, persons who were never married or separated had higher rates of violence perpetrated by acquaintances and strangers than persons who were never married, widowed, or divorced” (Truman & Morgan, 2014, p. 12).

### **Box 6.1 Cases of Victim-Offender Relationship for Non-fatal Domestic Violence**

#### *Case 1: The Poker Game*

Leroy, age 74, Floyd, age 72, and several other older men were engaged in a friendly poker game at the home of Leroy. The group has been playing poker at the home of one group member every Thursday evening for several years. It was the duty of the host to provide the wine and snacks for the players. Occasionally there had been arguments over the winner of a particular hand and an occasional accusation of cheating. These conflicts would generally occur after the players had taken a few glasses of wine. On the occasion, in question Leroy and Floyd were engaged in a betting duel and Leroy had just won a large pot. Floyd was angry about losing and called Leroy a cheater. Floyd claimed the cards were “marked.” Leroy became very angry and ordered Floyd out of his house and told him never to come back again. After receiving this command from Leroy, Floyd got up and threw his glass of wine in the face of Leroy. Leroy responded by trying to take a swing at Floyd, but was stopped by the other players. They tried to calm the two down, and after some talk and an apology from Floyd, who blamed his outburst on two much “vino,” the group resumed their card game.

#### *Case 2: Robbery*

It was close to 9:30 p.m. when Mary Lou, age 78, received a knock on the door. Living alone, she was cautious about having anyone enter her home during the evening. She was also ready to go to bed. Without opening the door, she asked “Who is it?” The voice of what seemed to be a young woman answered “My name is Stephanie. I live a few streets from here and my car ran out of gas. Could I use your phone to call my father to pick me up?” Mary Lou decided to let her in to use the phone, and when she unlocked the door, a young woman and a young man rushed in the house. They demanded money from Mary Lou, and the man grabbed her arm, started to twist it, and threatened to break it if she did not get her purse and give them her money. Mary Lou, who had cashed her social security check that day, gave the couple the money she had in her purse. The young couple ran out the door with the money. Mary Lou called the police and the officer who responded asked her if she ever saw either of the criminals before and she had to answer “no.” The

(continued)



**Box 6.1** (continued)

officer warned her that you should be careful on those days when you received money because these will be the times when you are most vulnerable to being robbed. Mary Lou replied, "I outsmarted them. I hid most of my check money in my secret place. I told them all of the money I had was in my purse, but I lied." The police officer commended her for being so clever.

*Case 3: The Destruction of a Flower Garden*

Sam, age 84, generally kept to himself after the death of his wife. Shortly after their anniversary of 60 years of marriage, she developed a severe cold that turned into pneumonia and she died shortly after. Sam more or less lost interest in most things except his yard and garden. He rarely had any visitors, and on the occasions when a neighbor would stop by just to be friendly, Sam would inform the neighbor that he did not want any visitors. The rumor around the neighborhood was that Sam was senile and should be placed in a nursing home. What appeared to be Sam's only enjoyment was his yard and flower gardens. He planted a number of flowers each spring and also carefully cultivated the flowering bushes that were scattered throughout his yard. As the flowers bloomed he would sit on his porch in the late afternoon and gaze at the flowers, occasionally getting up a pulling a few weeds he noticed.

Sam was not overly friendly with his young next-door neighbors, but did respond when they greeted him with a hello or good morning when they would meet in their back yards. However, this friendly relationship changed when the neighbors purchased a big dog. The dog tended to come over to Sam's yard to "do his thing," and the neighbor never offered to clean it up. Sam tolerated the dog's mess on his lawn, but when the dog started digging up his prized flowers Sam could not hold his anger. He confronted the neighbor and warned him that if he did not keep his dog out of his yard he would take some action. The neighbor indicated that he would be careful and not let the dog loose, but at times he got out the door. Sam did not indicate what action he would take. The very next day, the dog ran out of the house and in a matter of minutes was digging out Sam's flowers.

When the neighbor saw what the dog was doing, he quickly grabbed the dog's collar and took it back into his house. He did not see Sam and thus thought, "I will apologize later for my dog's damage."

However, the dog managed to escape from the neighbor's house again and soon was back in the flower garden. A few days later, the dog became extremely ill. The neighbor rushed the dog to the vet and after examining the dog, the vet indicated that the dog appears to have been poisoned. The vet said "I might be able to save him, leave the dog with me."

Sam's neighbor strongly suspected that Sam was the person who poisoned the dog. After arriving home he rushed over to Sam's house to confront Sam, who was sitting on his back porch. The neighbor shouted "Why did you

(continued)

**Box 6.1** (continued)

poison my dog?” Sam replied “Look what your dog did to my flower bed. Those flowers were my only source of enjoyment in life.” The neighbor replied, “I am going to have you arrested, you crazy old man.” The neighbor followed through on his threat and signed a warrant to have Sam arrested.

## Older Homicide Offenders and Victims

Contrary to nonfatal violent crime, the large majority of murder and manslaughter cases are known to the police. In addition, the majority of these cases are either solved and the offender is brought to trial, the offender is known to the police and there is a search, the offender committed suicide, or the offender fled the country. Regardless of the status of the offender, it is generally possible to obtain more information on the characteristics of the offender as well as the victim offender-victim/s relationship than is typical for most other crimes. Thus, an in-depth analysis of the characteristics of the offender and victim/s, as well as the circumstances surrounding the incident and the relationship between the offender/s and victims, can be completed.

The trends in the number of homicides and non-negligent manslaughter offenses committed by the elderly have been on a steady increase during the past several decades in the United States. In 1989, there were 375 persons age 60 and above arrested in the United States for murder and non-negligent manslaughter (Federal Bureau of Investigation, 1990). The number of arrests for murder and non-negligent manslaughter of men age 60 and above in the United States in 2015 was 187, approximately 2.5% of all men arrested for murder and non-negligent manslaughter in 2015 (Federal Bureau of Investigation, 2016a, b, Table 39). The number of women aged 60 and above arrested for murder and non-negligent manslaughter in 2015 was 24, approximately 2.4% of all of the women arrested for murder and non-negligent manslaughter in 2015 (Federal Bureau of Investigation, 2016a, b, Table 40). The total arrests for murder and non-negligent manslaughter in 2015 were 8533, and 211 arrests were of persons age 60 and above for murder and non-negligent manslaughter, while a small proportion of the total still is a significant number. The statistics reveal that the number of murders and non-negligent manslaughters does not seem to be affected by an increase in the ages after the age of 60–65. For example, the number of homicides for both men and women was higher for those in the 65 and above age group than for those in the 60–64 age group. This is an important factor to consider, and a thorough examination of the circumstances related to the elderly homicides must be considered to fully understand the motivation for elderly offenders to commit murder.

An increase in the number of homicides was expected when the time periods of 1989 and 2015 were compared, since as already mentioned the elderly population

in the United States increased significantly during that time period. Thus, the number does not necessarily indicate that there was a significant change in the behavior of the older persons who committed homicide during the time periods compared. In fact, Mason and Morgan (2013), found that elderly homicide rates declined 44% between 1993 and 2011 and the trend toward fewer homicides by the elderly appears to have continued, as reflected in the 2015 statistics.

The criminal behavior of older persons resulting in murder and non-negligent manslaughter needs to be examined very closely to determine if there is a trend in such behavior, either toward more fatal deaths by older offenders or less fatal deaths committed by the elderly in the United States.

A longitudinal study of homicides committed by older offenders and their victims (Kratcoski, 1992) revealed that, although there were similarities in the large majority of the older homicide cases, there were also significant differences in the situations and characteristics of the offenders and victims. The study used a data file consisting of 286 homicide offenders, age 60 and above, who committed their offense in Chicago between the years of 1965 through 1981 and 97 older homicide offenders, age 60 and above, who committed their offense in Cuyahoga County, Ohio, Cleveland being the major city in the county. The major source for the Chicago study came from police files supplied by Kathleen Block, and the source of data for the Cuyahoga County was from the files of the coroner's office and supplemented by information provided by the prosecutor's office that included the police report.

The similarities in the cases for the two areas were:

Sex of offender: Chicago 91% male, Cuyahoga County 81% male

Sex of victim: Chicago 71% male, Cuyahoga County 80%

Race of offender: Chicago 80% nonwhite, Cuyahoga County 89% nonwhite

Race of victim: Chicago 73% nonwhite, Cuyahoga County 72% nonwhite

Victim-offender relationship: Chicago related 41%, acquainted 47%, strangers/not known 12%

Cuyahoga County related 32%, acquainted 57%, strangers/not known 11%

Place of occurrence: Chicago 74% in either the home of the offender or victim 74%, Cuyahoga County 68%

Alcohol detected on victim: Chicago 33%, Cuyahoga County 32%

There were several differences in the circumstances, of the elderly homicides in Chicago cases and in the Cuyahoga County cases. For example, only 22% of the homicides in the Chicago cases occurred during or shortly after a domestic quarrel, while in the Cuyahoga County cases the proportion of homicides that occurred during or after a domestic quarrel was 67%.

The proportion of offenders who had a prior criminal record was significantly different in the two populations included in the research. For the Chicago cases, 23% of the offenders who were related to the victims had a prior criminal record, and 51% of the offenders who were not related to the victims had prior criminal records, while in the Cuyahoga County cases, only 16% of all offenders had a prior criminal record.

Another difference found was the type of weapon used to commit the murder. In Chicago a firearm was used in 63% of the cases, while in Cuyahoga County, a firearm was used in 89% of the homicides of elderly victims.

In more than 25% of the Chicago cases, there was some evidence that the victims may in some way have precipitated the situation that resulted in their deaths. The information on this variable was not included in the variable file for the Cuyahoga County cases. However, some anecdotal information taken from the case files reveals that the victim may have precipitated the homicide through a domestic argument, by assaulting the offender or by a verbal argument. The following cases are used to illustrate victim-precipitated homicides by the elderly.

**Box 6.2 Elderly Victim-Precipitated Homicides (Abstracted from the Files of Kratcoski Research on Older Offenders)**

*The Case of Joe*

After retirement from his job at a steel mill, Joe, age 67, would frequently visit a local bar in the afternoon and play poker with his friends. On the day of the incident in which he became a murder victim, he had spent the afternoon drinking beer and playing poker at the local bar located near his home. During the afternoon, Joe had been drinking a number of beers and also had lost more than twenty dollars. He decided to quit and go home and eat supper. As he entered his house, his wife, age 65, could tell by the “ugly” look on his face that he had lost some money. Joe and his wife had been married more than 40 years, and their marriage had been mostly tranquil during those years. They had raised three children, and, except for the few times Joe had struck her during an argument about his drinking, she did not have many complaints about their relationship. The situation changed, however, when Joe retired. During the time he was home, he tended to complain about every little thing she did, including wasting electricity by not turning the lights out, watching too much television, not having his meals ready when he wanted to eat, and not keeping the house clean. She was also irritated with Joe for messing up the house, leaving dirty dishes in the sink, and not picking up his clothes. In fact, she was quite happy to see him go off to the bar during the afternoons. However, on those days when he appeared to have consumed too much alcohol and was not successful in the card game, she knew he would be in an ugly mood and she had learned to keep her mouth shut and not say too much until Joe’s mood got better. However, on this day, as Joe walked in the house, she asked him “How much did you lose this time?” He replied, “That’s none of your business lady. Where’s my supper?” Joe’s wife did not say any more about his poker game loses and replied, “I will heat up the stew and it will be ready in a few minutes.” Joe was now in an argumentative mood. He asked his wife “What did you do all day, watch television or gossip on the phone with your nosey friend?” She did not reply and continued to get his supper ready to serve.

(continued)

**Box 6.2** (continued)

She placed the beef stew on the table and quietly walked away to avoid any additional criticism, but Joe was not ready to quit. He ate some of the stew and loudly proclaimed, "This stew is terrible. Where the hell is the meat? Did you eat it yourself? After 40 years of marriage you should have learned to cook by now."

Joe's wife went into the next room and pulled out the loaded revolver that was kept in the drawer for protection and walked back into the room and, standing directly in front of Joe who was still sitting at the table, shot him in the chest. She dropped the gun and called the police. By the time they arrived Joe had died.

In a statement given to the police, Joe's wife said she did not know why she killed her husband. She stated, "I just snapped."

*Case 2: Orrin*

At 11:30 p.m., police officers Mike and Doty received a call from dispatch to immediately proceed to a bar located on their beat. The report indicated that the bartender had called and there had been a shooting. The person who had committed the act was described as an older white male wearing a suit coat. The officers had been called to the bar many times during the several years they had worked together. The bar, located near a residential neighborhood, was notorious for having fights and an occasional stabbing or shooting. It was an attractive destination for some of the locals who lived in the neighborhood as well as for several different "biker" groups. The major reasons for the popularity of the bar were the pool tables, dartboards, and the wide variety of different beers served. Generally, the evenings at the bar would be peaceful, but when a fight occurred, it would be ugly, the altercations either between two or more biker groups or between a local and a biker. Firearms and knives were often used when a fight broke out. A neighborhood crime prevention group had submitted a petition to the city council to have the bar closed because it was a cause of crime in the neighborhood, but the attempt to close the bar was not successful.

Officers Mike and Doty were prepared for the worst scenario when they arrived at the bar. They decided to wait until backup arrived before entering the bar. A few minutes later, two squad cars arrived and the six officers entered the bar. They immediately spotted the suspect. He was sitting at a table and a 32 revolver was on the table. On the floor was the victim. The officers immediately called for emergency personnel. The victim had been hit in the chest and apparently would not survive.

After informing the suspect of his rights, Orrin, the suspect who lived just a few streets from the location of the bar, told the police, "I had to shoot him, he was going to kill me." The police obtained the following story from Orrin, the slenderly built older person (age 66) who committed the act. He stated,

(continued)

**Box 6.2** (continued)

“I came into the bar about 10:30 or so to have a few drinks before going to bed. The bar was crowded, but I did find a seat next to a young woman at the bar. I said hello and she responded with a hello. She did not seem to want to talk so I did not say anything more to her.” Around 11:30, a huge man came into the bar. I did not recognize him, but I did notice that he was wearing the same insignia that a number of the other patrons were wearing and I assumed he belonged to the “biker” group. The man came over to where I was sitting and yelled, “Get off the stool grandpa, you’re in my seat.” I told him I was here first and I was not getting up. He said, “I am only going to tell you one more time, get off of that stool. If you don’t get up, I throw you off.” I did not move, and the next thing I knew the man had picked me up and had thrown me on the floor. I starting swearing at him and called him a few nasty things, and he responded by saying he was going to give me a beating I would never forget. As he came toward me, I pulled out my revolver and aimed right at his chest. I had never fired the gun before, so I was not sure if I hit him or not. However, he fell down and landed close to where I was on the floor. I really thought he was going to kill me.” Statements from a few of the patrons and the bartender who had witnessed the incident collaborated the story told by Orrin.

Officers Mike and Doty decided to take the suspect to the station for booking in their squad car rather than waiting for a patty wagon to transport him. As they were traveling to the station, Officer Mike spoke to the suspect. He said, “You do not have to answer this question, but do you have a permit to carry a concealed weapon?” The answer was no. Officer Mike continued “Than why in the hell did you carry the gun into the bar?” Orrin answered, “You saw how tough and mean looking some of those guys looked. If you were an old man like me, would you go into the bar alone without having some protection?” Officer Mike answered, “I see your point, but I would not go into the bar in the first place.”

There were 15 cases of homicide-suicide cases recorded in the Cuyahoga County older homicide files. In these cases the assailant was always a male, and the circumstances were predominately related to the older offender killing his younger wife after finding out that she was having an affair, or it was a form of mercy killing in which the older offender killed his wife who was terminally ill and suffering from great pain and afterward killed himself.

Kratcoski (1988, p.254) states, “The case files used in this research revealed that many of the older offenders were known to the police and social service agencies through previous contacts. Those involved incidences of domestic violence, mental health difficulties, and applications for welfare or home nursing services. If the agency personnel who interacted with these elderly persons in earlier contacts had perceived the potential explosiveness or hopelessness of the situation and responded

to their needs”, they might have prevented the violence that ultimately occurred. There is a need for community efforts to establish rapport with elderly persons through church groups, nursing home visits, or interface with other agencies that have contact with the elderly. Fortunately, a number of government and private agencies have established the kinds of services suggested since the report was published.

## Hate Crimes Against the Elderly

Hate crimes are defined as those acts that constitute a violation of the criminal law and thus include all types of personal and property crimes, but are motivated by a bias or hatred for the person or group because of the racial, ethnic, religious, or sexual preference of the victim/s.

It is likely that a large proportion of hate crimes are never detected or reported, and thus the full amount of crime is not known, and the number of victims is also not known. Victims of hate crimes may not report the crime to the authorities out of embarrassment of being selected as a target or the damage or loss was not substantial, or they do not think anything will be done to stop the criminal activity. For example, increases in hate crimes against a particular ethnic or religious groups may be explained by some crime such as a terrorist attack, allegedly committed by a member of a particularly group. These crimes often are minor in nature, such as painting nasty words on the victim’s house, vandalizing, and making threats of violence, either verbally or via telephone. The likelihood of catching the offenders is small and thus the victims decide to do nothing. Another factor that makes it difficult to obtain exact figures on the amount of hate crimes pertains to the authorities who do not recognize that a crime was motivated by bias or hatred toward the victim and when completing the incident report do not make a reference to it fitting into the category of a hate crime law violation.

The analysis of the incidents of *hate crimes* in the publication *Hate Crime Statistics, 2014* (Federal Bureau of Investigation, 2014, p. 1), reveals an increase in the number each year. In 2014 a total of 6416 offenses was recorded. The large majority of the victims of these offenses were individuals, rather than properties such as churches, schools, or government buildings. In 2015 (FBI, 2015, p. 1), the total number of offenses recorded was 6885, with 4482 against persons and 2338 against property. The number of hate crime offenses increased by seven percent in a 1-year period.

In 2015, the race or ethnicity of the known hate crime offenders was white 2761 (40.1%); black/African American 1129 (16.4%); American Indian, Alaska Native, Asian, Native Hawaiian, or other Pacific Islanders 132 (1.9%); group of multiple races 304 (4.4%); Hispanic or Latino 182 (2.6%); not Hispanic or Latino 875 (12.8%); group of multiple ethnicities 27 (0.4%); and unknown race or ethnicity 844 (12.3%). The large majority of hate crimes against persons (98.9%) consisted of aggravated assault, simple assault, and intimidation. The majority (72.6%) of



hate crimes against property consisted of destruction of property/damage of property and vandalism. The largest proportion of property hate crime offenders were either white (18.2%) or unknown (18.2%).

An analysis of the victims of hate crime (FRI 2015, p. 1) reveals that the large majority of victims were individuals (83.2%), followed by business/financial institutions (4.5%), religious organizations (2.7%), government (2.0), and either the society or the victim was unknown in 7.5% of the hate crime incidents. Individuals were the target in the majority of property crimes (53.2%), followed by business/financial institutions (13.3).

The hate crimes recorded for 2015 (FBI, 2015, table data, p. 1) were also categorized on the basis of the characteristics of the victims of the hate crimes that might have motivated the offense. The victim categories include race/ethnicity, religion, sexual orientation, disability, gender identity, and multiple bias incidents. For the single-bias offenses (6837), 61.7% were motivated by the race/ethnicity /ancestry of the victims, 20.4% by the religion of the victims, and the remaining 21.9% by either the sexual orientation of the victims, disabilities of the victims, gender identity of the victims, or motivated by multi-biases against the victims. The largest majority of victims based on race/ ethnicity were black/African Americans (54.2%), and the largest percentage of hate crimes motivated by a bias against a religion was anti-Jewish (52.1%) followed by anti-Islamic (21.9%).

For the 6885 hate crime offenses recorded in 2015 (FBI Hate Crime, Table 3, p. 1), the offender's race or ethnicity was unknown for 13.5% of the offenses. The known offenders were white for 44.1% of the offenses, black or African American for 18.1% of the cases, Hispanic or Latino for 2.9% of the offenses, and groups of multiple races and group of multiple ethnic groups for 5.3% of the cases, and in the remaining 16.1% of the offenses the offenders were American Indian/Alaska Natives, Asian, Native Hawaiian, or other Pacific Islanders and not Hispanic or Latino.

## Older Victims of Hate Crimes

The FBI statistics on hate crimes are not categorized by either the age of the offender, if offender is known, or the age of the victim. Thus, when trying to determine how hate crime affects the elderly, one has to make several assumptions. Since the report on hate crime provides some information on the motivation of the offenders, it is possible to make some assumptions about the what proportion of the elderly, of a racial group, or an ethnic group will likely be affected. For example, the large majority of the victims of hate crimes are individuals. The motivations of the offenders can fall into a continuum at the one end the offenders motivated to play a prank on the victim as in a case of two teen age boys constructing a cross and burning it on the front lawn of an elderly African American woman who had recently moved to a community in the suburbs predominately inhabited by Caucasians. The other extreme is by the bombing of an African American church, in which both young and old parishioners are killed or hurt. In other cases, the hate crimes may be the result



of two or more youth gangs representing different ethnic groups or gangs fighting over territory, neighborhood, or school. In the first case, the elderly victim may be the only one affected. However, if the incident becomes a news story, a form of “group victimization” may develop, since all of the members of the racial group are to be psychologically affected by knowing that the hatred toward their group exists. This sense of psychological victimization, that certainly is a likely outcome in the cases of churches or homes being destroyed or vandalized, may have a much greater impact on the older person because such individuals may have experienced this hatred for a good part of their lives.

In the present age, in which hate literature and hate messages are transmitted over the Internet, those races, ethnic groups, and religious organizations that are the targets of the hate literature often feel helpless in trying to protect themselves from such victimization.

## Older Property Crime Offenders and Victims

The FBI categorizes such crimes as burglary; larceny-theft; motor vehicle theft; arson; forgery; counterfeiting; fraud; embezzlement; buying, selling, and possessing stolen property; vandalism; and other crimes, such as engaging in commercial vice, as property crimes.

The “dark side of crime victimization” is more illustrated by property crimes than by any other category of crimes, including crimes against persons. A large number of property crimes are never reported to the authorities for various reasons, including the fact that many victims may not even realize that they were victimized. In addition, the majority of property crimes, for example, auto theft, larceny-theft, vandalism, and others, are never solved, and the offender is not known. Victimization surveys tend to give some insight into the victim-offender relationship for some property crimes, but again the victims may not know who the offenders were, particularly in cases of theft, scams, and vandalism. As a result, the use of statistics on the number of arrests in the analysis of property crimes may lead to erroneous conclusions.

The number of property crimes known to the police and reported has fluctuated in different time periods. The total of crimes known has not always been a yearly increase. Bachand and Chressanthis (1988, p. 77) theoretically developed and empirically tested “factors that significantly affect property crime arrest rate patterns in the United States by criminals of the ages 55–59, 60–64, and 65 and older from 1964 to 1984.” They found that there was a gradual increase in the total amount of arrests for property crimes for those in the age categories included in the analysis. A more focused analysis of specified property crimes such as burglary, larceny, and motor vehicle theft was completed. The assumption that changes in the inflation rate, population, unemployment rate, and employment participation patterns are key independent variables in explaining crime arrest rates was confirmed for the older offenders arrested during the time period of the study. An increase in inflation, unemployment rate, and disengagement from employment resulted in an increase of arrests of older persons for burglary and larceny, but not for motor vehicle theft.

The total arrests of men aged 60 and above in 2015 for the property crimes of burglary; larceny-theft; motor vehicle theft; arson; forgery; counterfeiting; fraud; embezzlement; buying, selling, and possessing stolen property; vandalism; and position and commercial vice were 18,244. The total arrests of women aged 60 and above in the same year for the crimes listed were 11,225. The total for the property crimes listed for those age 60 and older arrested in 2015 was 29,469.

As shown in Table 6.1 (Crime Statistics for 2015 (FBI, Tables 39 and 40)), the proportion of property crimes for which men age 60 and above were arrested varies by the type of crime.

The number of property crimes, public order crimes, and minor violent crimes committed by the elderly (those age 60 and above) is a small proportion of the total, less than 5% for most crimes, and not being above 7% for neither the men nor women 60 years old and above the age of 60. It is noteworthy that both the men and women have the highest proportion of arrest for those crimes in which they have the opportunity, ability, and generally the motivation to engage in the criminal act. For example, the proportion of older men arrested for such crimes as drug abuse, drunkenness, disorderly conduct, minor assault, and vagrancy is above that for arrests for most other crimes, and the numbers may be an indication of the poor quality of life experienced by many older men, especially those who are separated from family, living alone, and not having an adequate standard of living. The older women who were arrested had even a lower proportion of arrests than the men for many crimes. The lower proportion of crimes against the family would indicate that many older women were more likely to be the victims of family violence rather than the precipitators of family violence. It is interesting to note that the male-female ratio for most of the crimes is at least 2 to 1 and even 4 to 1 for some crimes, but the arrests for embezzlement are often almost equal. This perhaps is related to men and women having similar opportunities and motivation to commit this crime.

## **Elderly Victims of Scams and Fraud**

With the advent of the Internet, advanced technological high-speed communication devices, such as the smart phone, and a growing number of people who have the skills to manipulate the high-tech communications systems, the growth of crimes carried out by such means has become a worldwide problem.

Adults of all age groups are targets for various scams. The typical scam (con game) is based on the knowledge that most people can be persuaded to give away money or personal information about their financial resources if the con artist appeals to their greed, offering them a great deal in return for a small investment. In other cases, the con artist uses other techniques to “con” the victim out of money. They may appeal to the person’s values pertaining to the notion of social justice and appeal for help for underprivileged children, abandoned animals, and other seemingly noble causes. It is often difficult for those to whom the appeals are made to determine if the organizers are legitimate. Other frauds are based on the notion that most people will provide assistance to a member of the family or a close friend if they are convinced that the person making the appeal is legitimate.

**Table 6.1** Arrests of older men and women (FBI, 2015)<sup>a</sup>

Type of crime	Total number all ages	Arrests, men age 60 +	Arrests women, age 60+
<i>All property crimes<sup>b</sup></i>			
Men	699,250	135,489 (2%)	
Women	434,069		4698 (2%)
<i>Assault (minor)</i>			
Men	598,000	17,872 (3%)	
Women	233,684		4688 (2%)
<i>Forgery/counterfeiting</i>			
Men	27,598	460 (2%)	
Women	15,085		157 (1%)
<i>Fraud</i>			
Men	62,721	1807 (3%)	
Women	39,618		962 (2%)
<i>Embezzlement</i>			
Men	6093	118 (2%)	
Women	6154		103 (2%)
<i>Stolen property (buying, receiving, selling)</i>			
Men	53,621	577 (1%)	
Women	14,720		110 (1%)
<i>Vandalism</i>			
Men	115,698	1889 (2%)	
Women	31,498		505 (2%)
<i>Drug abuse violations</i>			
Men	886,022	646 (3%)	
Women	257,999		2169 (1%)
<i>Offenses vs family, children</i>			
Men	51,598	999 (2%)	
Women	20,820		272 (1%)
<i>Driving under the influence</i>			
Men	625,927	31,001 (5%)	
Women	207,908		7825 (3%)
<i>Drunkenness</i>			
Men	253,565	12,794 (5%)	
Women	61,291		1621 (3%)
<i>Disorderly conduct</i>			
Men	214,118	6941 (3%)	
Women	84,135		1723 (2%)
<i>Vagrancy</i>			
Men	15,080	1041 (7%)	
Women	4334		161 (4%)

<sup>a</sup>Percentages have been rounded to nearest percent

<sup>b</sup>Includes burglary, larceny-theft, motor vehicle theft, and arson

**Box 6.3 Grandpa, I am in Jail (Story Based on a Recent Attempt to Scam the Author)**

The phone rang in the late evening and when answered, the voice on the other end began by saying “Grandpa, I need your help. I went to Mexico with my girlfriend for the week end and we got into a big fight and she went back home. She was going to pay the hotel bill, but did not pay it and if I can’t pay it I will have to go to jail.” The author immediately realized that the caller was not his grandson since he had seen him the previous night at a family celebration. The author responded, “Can I send you anything while you are in jail?” The caller immediately hung up the phone.

Older persons are prime targets for various scams for several reasons. They include:

- The elderly are often not educated about the types of frauds that are current in vogue.
- The elderly are often not knowledgeable about the use of computers and thus often give information to unauthorized users.
- The elderly are often living alone and do not have others to consult with when trying to determine if an appeal or offer of a “good deal” is legitimate.
- Many older persons are suffering from dementia or some other form of mental deterioration and are not capable of making a rational decision on a financial matter.
- The majority of older people were socialized in a society based on trust and word of honor. They predominately interacted with acquaintances and family members and learned from experience who could be trusted. Those who target the elderly are generally not in face-to-face interaction with the elderly and in fact are not even in a voice communications relationship. Thus the opportunity for the older person to determine the validity of the situation is generally quite limited.

**Most Frequent Scams and Frauds Against the Elderly**

Administration on Aging, Administration for Community Living (2015, pp. 1–3) lists the following as the most frequent scams targeting the elderly:

- Counterfeiting prescription drugs
- Internet fraud and e-mail phishing
- Healthcare/Medicare fraud
- Funeral and cemetery expenses scams
- Telemarketing scams
- Investment schemes
- Homeowner repair scams
- The phony banker investor scam

- Sweepstakes and lottery scams
- Homeowner/reverse mortgage scams
- Fraudulent anti-aging scams

The authors have been the target of a number of the scams listed above or some variation of the scams listed. Other stories such as, “I have to flee my country for political reasons, but I have millions of dollars to bring to the United States and need a bank account to place it in. I will share with you if you allow me to place the money in your account” or “The FBI or IRS will arrest you in the next 24 hours if you do not pay your back taxes to such an address immediately.”

## **Crime Prevention Programs Implemented to Protect Elderly Victims**

The major focus of many programs to protect elderly victims of crime has been on education. These programs are based on the assumption that older persons can do a great deal on their own to prevent many types of victimization, including being the victim of a scam and even violent crime, if they become more aware of the dangers and the types of situations that could result in becoming a victim of crime.

National Crime Prevention Council (2015, p. 1) states that the key components for a program directed at preventing the victimization of the elderly should include:

- A communications network to keep the elderly alert to potential crime
- Information and training on how to report crime
- Services to support elderly victims in dealing with the physical, emotional, and financial impacts of crime
- Access to products, training, and other services to help prevent victimization

Many of the suggestions recommended by the National Crime Prevention Council have been implemented through federal, state, and local programs. For example, on the national level, the Victims of Crime Act was passed in 1984 by the US Congress.

Kratcoski and Edelbacher (2016, p. 62) noted,

This Act established the Crime Victim Fund. The funds are used to support victim assistance and compensation programs throughout the country. All victims, regardless of their age, can apply for assistance and compensation if they have received material or physical harm from a criminal act. The Office of Victims of Crime was established in 1988. The federal agency provides grants to victim assistance programs and training for service providers.

In addition to the victim service programs funded by federal and state agencies, there are a large number of programs under private auspices. Many of the programs are directed toward assisting the victims of a specific crime, such as those directed to assisting victims of rape or domestic violence. They receive their funding from grants, local government agencies, and fund raising campaigns. Although not specifically directed toward assisting the elderly victim, older victims are not excluded from being given assistance if the victimization falls within the mission of the agency.

## Summary

As the aging population of a society increases, the victimization of the elderly population becomes a growing problem. It is difficult to determine the amount of criminal victimization of the elderly because of the “dark side of criminal victimization,” that is, a large number of crimes against the elderly are not known to criminal justice agencies because they are never reported by the victims. It is also difficult to determine the victim-offender relationship, since the majority of those crimes that are reported are never solved and thus the characteristics of the offenders are not known. Research in the form of victimization surveys reveals that for a large proportion of crimes against persons, the offenders and victims are intimately involved with each other, either as family members, relatives, or close friends. This relationship also appears to be the situation for financial victimization of the elderly.

Research has revealed that some of the violent crimes against the elderly can be characterized as “victim-precipitated” crimes. In these cases both the victim and offender had some input into the violence that ensued.

It appears as if in the circumstances surrounding a large majority of property crimes, including theft, fraud, and others, the offender and victim are not close acquaintances and in fact are strangers. This is especially true for various scams and frauds in which the elderly are the victims.

In regard to hate crimes, the victim generally is not personally targeted for the violence or property destruction that results, but is targeted more for being a member of a particular race, ethnic group, or religious group or because the person represents a sexual orientation. The elderly may be physically harmed in cases where a church, mosque, or a meeting place is bombed, since they were there in person. However, the psychological harm to those members of the group that was targeted may be more devastating to some than the actual physical harm.

The elderly appear to be especially targeted for various scam and frauds, the reason being that they may be perceived as the most vulnerable and thus “easy pickings” for the criminals who commit such scams and frauds. A number of laws and programs have been implemented for the special purpose of preventing scams and protecting the elderly victims.

## Discussion Questions

1. Discuss some of the methods (schemes) criminals have used to scam elderly persons.
2. Discuss victim-precipitated crime. What types of crimes are most likely to be victim-precipitated?
3. Based on the research on homicide presented in the chapter, what are the similarities between homicides committed by the elderly and those of other age groups/what are the major differences in the characteristics of the homicide cases?

4. Define hate crime. Discuss those situations in which the elderly are likely to be targeted for hate crimes.
5. Define public order crimes. Discuss the types of public order crimes older persons are the most likely to engage in. What are some of the ways public order crimes of the elderly can be reduced?
6. Research on identity theft reveals that the number of older persons who are the victims of identity theft has increased significantly during the past several years in the United States. What are the factors that make the older population vulnerable for being a victim of identity theft?
7. Discuss the methods used to commit financial crimes against the elderly.
8. A comparison of the arrest of elderly men and elderly woman for specified crimes reveals that the proportion of arrest for some types of crime are remarkably similar and the proportion of total arrests for other crimes are significantly different. Identify those crimes in which the proportion of arrests are different, and discuss the possible reasons for the differences between the elderly men and women.
9. The trend in the amount of crime committed by the elderly has been that of a steady increase even in those years when the overall crime has declined. Discuss the reason for the increase in crime by the elderly and why this trend is likely to continue in the future.
10. In the analysis of elderly homicides, why is it important to know the circumstances surrounding incidents before making generalizations?

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# Chapter 7

## Elder Abuse in Communities of Color in the United States: A Literature Review



Janice Joseph and Arleen Gonzalez

### Introduction

Elder abuse is a significant major problem in today's society, and it affects older adults across all racial, ethnic, and cultural groups and globally. Using evidence from 52 studies in 28 countries from different regions, including 12 low- and middle-income countries, World Health Organization (2017) reports that globally one in six elderly people experiences some form of abuse. This new study has found that 17% of people above 60 years old are subjected to psychological abuse, financial abuse (6.8%), neglect (4.2%), physical abuse (2.6%), and sexual abuse (0.9%).

In the United States, a National Institute of Justice (NIJ) study with a representative sample of more than 7000 community-residing elders found that approximately one in ten elders reported experiencing at least one form of elder mistreatment in the year prior to the study. The researcher also indicated that approximately 1 out of every 14 cases of elderly takes place in the victim's home (Laws.com, 2017). Other research shows that elder abuse may be twice as common, in the United States, as previously thought (Anetzberger, 2012).

Lachs and Pillemer (2015) reviewed research and clinical evidence in the United States on the extent, assessment, and management of elder abuse. They found that the prevalence of elder abuse was approximately 10% including physical abuse, psychological or verbal abuse, sexual abuse, financial exploitation, and neglect. However, the author argued that this prevalence was underestimated. Their findings are consistent with other research (see Beach, Schulz, Castle, & Rosen, 2010; Acierno et al., 2010).

Despite the fact that research on elder abuse has grown significantly since the 1980s, there are gaps in the perceptions, conceptualizations, nature, and extent of

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elder abuse because most of the research often focus on White, middle-class individuals (Moon & Benton, 2000), while the issues of ethnicity and race and the experiences of immigration, discrimination, and social class are largely ignored. In other words, there is very limited research that studied communities of color. The primary objective of this study is to explore the nature, extent, and responses to elder abuse within communities of color, primarily Native American, African-American, Asian-American, and Latino communities. Recommendations for research and practice are included.

## Definitions and Perceptions of Elder Abuse

There appears to be no universally accepted legal or social definition of elder abuse. In the United States, each state has its own laws so the legal definition as to what constitutes elder abuse varies from state to state. In addition, definitions of elder abuse can vary between the official and the profession definitions. Moreover, the perceptions as to what elder abuse is vary among and within different social groups. The age and gender of the abuser, the health of the older person, the characteristics of the alleged victim, cultural beliefs, and values may determine how elder abuse is defined and perceived. Definitions of elder abuse among people of color are determined by the cultural differences between the different racial and ethnic groups and within these groups.

Elder abuse, however, can be defined as the intentional infliction of harm on an older adult. It can also take the form of intentional or unintentional neglect of an older adult by the caregiver. There are six common categories. They are *physical abuse* which can range from slapping or shoving to severe beatings and restraining with ropes or chains; *verbal, emotional, or psychological abuse* which ranges from name-calling or giving the “silent treatment” to intimidating and threatening the individual; *sexual abuse* which can range from sexual exhibition to rape; *financial abuse and exploitation* which constitute misuse of an older person’s funds to embezzlement; and *caregiver neglect* which includes failure to provide food, water, clothing, medications, and assistance with activities of daily living or help with personal hygiene (American Psychological Association, 2017).

## Perceptions of Elder Abuse in Communities of Color

Diversity in cultural values determines the definitions and perceptions of elder abuse. Consequently, when one defines elder abuse among communities of color, it is imperative to understand the differences in perceptions of elder abuse, from a sociocultural perspective, among the various ethnic and racial groups (Lee, Kaplan, & Perez-Stable, 2014).

Early research in the United States found that African-Americans compared to Caucasians, Puerto Rican Americans, and Japanese Americans were more likely to identify financial exploitation as a form of elder abuse (Anetzberger, Korbin, & Tomita, 1996). Other research found that African-Americans and Caucasians had similar views as to the causes of elder abuse, but Korean Americans were more tolerant of elder abuse than the other two groups. Another study found that the definitions of elder abuse were consistent among African-American, Caucasian, and Mexican American elders (Moulton et al., 2005).

Enguidanos and Associates (2014, p. 877) conducted five focus groups with African-Americans, English-speaking Latinos, Spanish-speaking Latinos, non-Latino Whites, and African-American caregivers of older adults to determine their definitions and perceptions of elder abuse. They found that different racial and ethnic groups expressed similar definitions and meanings of elder abuse. However, Latinos identified additional themes of “machismo, respect, love, and early intervention to stop abuse suggesting that perceptions/beliefs about elder mistreatment are determined by culture and degree of acculturation in addition to race/ethnicity.” The authors also found that there were different perceptions of elder abuse among members of the different racial and ethnic Latino groups in their sample.

Studies have also shown that the Native American’s conceptions of elder abuse are culturally determined. Some Native Americans, for example, apply the term “spiritual abuse” to situations in which the elders are being denied access to ceremonies or traditional healing (Trelstad, 2017). The Shielding American Indian Elders (SAIE) project examined the cultural understandings of elder mistreatment among 100 urban and rural American Indians ages 60 and older from a Northern Plains reservation and a South Central metropolitan area. The project focused on the respondents’ perception of what it meant to be treated well and poorly by family. The respondents reported that good treatment included “being taken care of, having one’s needs met, and being respected. Poor treatment, on the other hand, was defined as financial exploitation, neglect, and lack of respect” (Jervis, 2014, p. 78).

Lee, Kaplan, and Perez-Stable (2014), studying Korean and Chinese immigrants, reported that culture, immigration, and acculturation influenced their subjective perceptions of and response to elder abuse. Moon (2000) reported that Asian elders define elder abuse as taking place only in the family and, therefore, will not view abuse of an elderly person by strangers as elder abuse. In addition, he noted that Asian-Pacific Islander (API) elders perceived psychological abuse to be the worst form of abuse or as harmful as physical abuse.

## **Extent and Nature of Elder Abuse Among Communities of Color**

Despite the fact that elder abuse has been a serious societal problem, it has been an “invisible” phenomenon, which has been hidden within the family and institutions. Consequently, the nature and extent of the problem are difficult to be determined.

This is particularly true in communities of color where cultural values, beliefs, and traditions significantly affect the way in which elder abuse is defined, perceived, and reported. There is, therefore, limited research on communities of color and elder abuse.

### *Native Americans*

National statistics indicate the elderly population is expected to increase to an estimated 72.1 million persons, from 7% to 15% by the year 2030 (Barton, 2012). As the number of Native American elders increases in the next 50 years (including those living on reservations), elder abuse will likely increase, as well (Smyer & Clark, 2011).

There was a common belief that elder abuse was not a problem for Native peoples. This was based on the premise that the elders in the Native American communities were respected, honored, and revered. They were considered the cornerstones of the family and viewed as repositories of knowledge and wisdom for their community. They held power among their tribes and serve as important links to the past (White, 2004; Baker-Demaray, 2014; Elder Abuse Task Force, 2008; Hall & Weis, 2007; Jackson & Sappier, 2005; Jervis, Boland, & Fickenscher, 2010; Smyer & Clark, 2011). According to Jackson and Sappier (2005):

The traditional status of elders in American Indian and Alaska Native cultures is one of honor and respect. Elders are respected for their age, experience, maturity, and wisdom. They are considered valuable resources to the Tribe as custodians of Tribal history, culture and tradition. (p. 1)

Unfortunately, it is now widely accepted that elder abuse is presently a problem in the Native American communities and most of the perpetrators are family members (Anetzberger, 1997; Baldrige & Brown, 2000; Baldrige, 2001; Barton, 2012; Bureau of Indian Affairs, 2013; Smyer & Clark, 2011). Furthermore, abuse of the elder is a clandestine and an increasing problem in the Native American community. Historically elder abuse was unheard of in the Native American community, but recently, there has been an increase in elder abuse (Trelstad, 2017). This change in the Native American community is referred to as a cultural paradox because in the Native American community, there is a long history of respect for elders and elder abuse has now become a serious problem in that community (Smyer & Clark, 2011).

The first empirical study of abuse and neglect against Native American elders explored the extent, types, severity, and causes of abuse against Navajo seniors in the traditional rural community (Brown, 1989). Brown (1989) found that 16% reported being physically abused, 32% neglected, and 22% financially exploited and studied two tribes in the Plains region and found that neglect was the most prevalent form of abuse. Research suggests that 10% of American Indian elders suffer from definite or probable physical mistreatment (Anisko, 2009). Jervis et al. (2014)

surveyed 100 from Native Americans and found that financial exploitation was a major issue.

Carson (1995) linked the risk factors of elder abuse to the changes in kinship patterns of the Native Americans over the past 150 years. He argued that Native Americans have been subjected to a number of policies that have caused “oppression and genocide, broken treaties, economic hardship, forced migration to reservation land bases, detribalization, and the removal of large numbers of Indian children from their parents and tribe” (p. 21). Several members of the Native American community also view the increase in elder abuse among Native American populations resulting from the rejection of traditional tribal values and beliefs. Substance abuse and culture loss are also blamed for much of the elder mistreatment occurring in contemporary Native communities (Jervis et al., 2017). Other issues that often contribute to elder abuse in Native American communities include high unemployment, lack of economic opportunities, and high rates of substance abuse (Department of Health, and Human Services, Centers for Medicare, and Medicaid Services, 2015).

## African-Americans

The Administration on Aging reported that the Black or African-American older population was 3.2 million in 2008 and is projected to grow to over 9.9 million by 2050, and this is projected to be 18.5% of the older population in the United States (Vincent & Velkoff, 2011).

According to Tauriac and Scruggs (2006), elder abuse in the African-American community is defined and shaped by the sociohistorical experiences of slavery. They reported that physical aggression was the most common abuse in the African-American community, followed by verbal aggression. In 2010, Beach et al. (2010) conducted a population-based study on financial exploitation and psychological mistreatment among 210 African-American and 693 non-African-American adults aged 60 years and older in Pennsylvania. Their results indicated that financial exploitation disproportionately affected African-American older adults in comparison to non-African-Americans. They found that 2% of non-Black seniors compared with 13% of the Black seniors reported being cheated out of money in the 6 months prior to the study. The study also found that family members, other than the spouses, were the source of screaming (psychological abuse). In general, African-Americans seemed to be disproportionately impacted by financial exploitation and psychological mistreatment (National Center on Elder Abuse, 2016).

Research has shown that older African-American living with others rather than living alone (Lachs et al., 1997; Aubrey, 2002), poverty (Williams, 1990; Griffin & Williams, 1992; Li & Fries, 2005; Tauriac & Scruggs, 2006), and health disparities (Dancy Jr. & Ralston, 2002; Johnson, Gibson, & Luckey, 1990) are risk factors for abuse within the African-American communities. Studies have also shown that African-American elders, whose caregiver suffers from a great deal of stress and emotional and mental health problems and is exposed to intergenerational transmission of violence, are at risk for abuse (Benton, 1999; Spencer, 1995).

## Asian-American and Pacific Islander Communities

Asian-Americans and Pacific Islanders (AAPIs) in the United States are a diverse group of people who include Chinese, Filipino, Korean, Japanese, Indian, Vietnamese, Laotian, Cambodian, Thai, Hmong, Hawaiian, and other distinct ethnic groups. It is one of the most heterogeneous groups, with 50 different races and ethnicities, and is the fastest-growing minority group in the United States. They make up 5.4%, but this number is projected to increase to 9.3% by 2050 (Colby & Ortman, 2015).

Since the 1980s, several studies on elder abuse in the Asian communities were conducted in the United States. These studies show that the prevalence of elder abuse in the Asian communities ranged from 1% to 10% (see Laumann, Leitsch, & Waite, 2008; Pillemer & Finkelhor, 1988; Tatara & Kuzmeskus, 1997). More recently, Chun (2017) reported that financial exploitation is a serious problem in the Asian-American and Pacific Islander (AAPI) older members of that community. Choi, Lee, and Koh (2014) examined experiences of elder mistreatment among Asian-American and Pacific Islander (AAPI) older adults. The results indicated that 40% of research participants experienced at least one type of mistreatment during the past 12 months. The most experienced mistreatment was emotional mistreatment (26.7%), followed by financial (17.3%), physical (1.7%), and sexual (1.7%) (p. 5).

Some of the research on Asian-American have highlighted the cultural variations of elder abuse among the different Asian groups. Lee et al. (2014) for example, conducted a study with Koreans and Chinese immigrants and found that the most frequently type of elder maltreatment among the respondents was psychological or emotional abuse. Verbal aggressive acts, which included episodes of yelling, name-calling, belittling verbal threats, or hostile remarks, were included in their concept of psychological abuse. The respondents also reported nonverbal aggression which included exclusion, isolation, intimidation, control, domination, or restriction of freedom as an element of psychological or emotional abuse (Lee, Kaplan, & Perez-Stable, 2014). Dong (2014) found that elder maltreatment in the Chinese community in the greater Chicago area varied from 13.9 to 25.8%. The researcher found that financial exploitation was the most common form of maltreatment, followed by psychological abuse, caregiver neglect, physical abuse, and sexual abuse. Using a community-based participatory research approach, Dong et al. (2011), in their study of Chinese elders, identified psychological mistreatment was the most serious form of mistreatment. The respondents also characterized elder mistreatment in terms of caregiver neglect.

## Latino Americans

The Centers for Disease Control and Prevention (2011) Centers for Disease Control and Prevention (2011) uses the term “Latino or Hispanic” to refer to persons of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race. As of July 2016, they constitute the largest ethnic

minority and account for about 18% of the total US population (Colby and Ortman, 2015). Hispanic Americans are the second fastest-growing ethnic or racial group by percentage growth in the United States after Asian-Americans. Hispanic/Latinos overall are the second largest ethnic group in the United States after non-Hispanic Whites.

Like the other people of color, there is limited research on Latinos and elder abuse. However, DeLiema, Gassoumis, Homeier, and Wilber (2012) studied 198 Latino elders and found that 40% experienced at least one type of abuse and 21% experienced multiple types. Among those who had experienced mistreatment, about 25% reported psychological abuse, 10.7% reported physical abuse, 9% reported sexual abuse, 16.7% reported financial exploitation, and 11.7% reported caregiver neglect. Of the older adults that were abused, only 1.5% reported the abuse to Adult Protective Services.

Laumann et al. (2008) conducted a study with a representative sample of Latino older adults and found they were verbally and financially abused but they were less likely to report it. Moon (2000) noted that Latinos, like Asian-Americans, define elder abuse among within the context of the family, so they did not recognize abuse of the elder by someone outside of the family as elder abuse.

## Reporting the Elder Abuse

Research has shown that most victims of elder abuse in community of color do not report the abuse. There are several reasons for this response.

## Cultural Values and Beliefs That Inhibit Disclosure

Certain cultural values, beliefs, and traditions influence whether or not certain minority groups will seek assistance if they are abused. According to DeLiema et al. (2012), most immigrants are reluctant to report the abuse because of the family's preference to resolve it on its own. Some minority groups have a strong sense of family preservation. Consequently, they feel obligated to keep family problems within the home (Lee, 1997).

API victims of elder abuse may not want to reveal the abuse to outsiders because it is a source of shame. So, they may suffer in silence in order to keep it within the family (Moon, 2000). Chinese and Korean immigrants, for example, tend to have a strong reluctance to reveal elder abuse because, culturally, they are against the public disclosure of family issues and seeking assistance outside the family (Lee et al. 2014). According to Lee et al. (2014, pp. 13–14):

There are Asian sayings that you keep your problems within your own family. They don't believe somebody else outside of their family can help their problems. So, Chinese and Korean thinking are different from Western thinking. They don't want to talk about it,



they don't want to expose it, and the only time when elder abuse surfaces is when it reaches a crisis.

In traditional Asian cultures, such as those of China, Japan, and Korea, "loss of face" means disgrace and loss of respect not only for the individual but also the immediate family and the entire ancestral lineage. This is based on the collectivistic orientation which emphasizes the family and the community rather than the individual. Therefore, Asian elder abused victims may be reluctant to disclose the abuse for fear of shaming their families and communities. Haukioja (2016) reported that her respondents explained that the cultural stigma of disclosing the abuse was an important reason for not disclosing it. They did not want to bring shame on the family, especially since the family is central to the elderly person's identity. The fear of "losing face" often deters many Asian victims from reporting of elder abuse (Dong et al. 2011).

Members of the African-American community may be reluctant to report the abuse because culturally they were taught to "don't tell their business" or avoid disclosure. There is also a strong sense of loyalty to both the immediate and extended family so they are reluctant to discuss "private matters" outside of the family. There is also loyalty to the race and community. So the African-American elders may feel a need to maintain family privacy. Moreover, African-American elders often prefer to utilize informal support networks or institutions that have a strong community acceptance by credible members of their community (Horsford, Parra-Cardona, Post, & Schiamberg, 2011). Consequently, because of the culture of silence that exists within the African-American community, elderly victims may be reluctant to report their abuse to outsider and may not receive the needed care.

Culture factors are also important to Latinos. Several cultural values could act inhibiting factors to the disclosure of elder abuse in the Latino community. *La familia* within the Latin community places special emphasis on loyalty to the family and is more important than the individual in many Latino cultures. Preserving *la familia* to avoid *vergüenza*, or shame, can result in the lack of reporting elder abuse. Latinos who are committed to *la familia* and are abused may refuse to disclose abuse. Also, in these communities, if someone breaks this privacy code, that person is considered a traitor to the family and may be punished. Consequently, fear of rejection from family, friends, and community may prevent elderly victims from reporting their abuse. Citizenship status may also be a barrier to reporting elder abuse. If the victim is undocumented, that person is less likely to report the abuse for fear of deportation of themselves or their family members (DeLiema et al. 2012).

## Language Barriers

One major cultural barrier to reporting the elder abuse is the lack of language proficiency. An inability to speak English may prevent from reporting the abuse. According to Haukioja (2016), in her study, language barriers created difficulties for older respondents Chinese and South Asians to discuss their abuse outside of their communities. The inability to discuss in the dominant language was an inhibiting factor



for elderly to report the abuse. Lack of English proficiency is considered a risk factor for foreign-born Latinos but also a hindrance to seeking help when facing abuse or having been abused (National Center on Elder Abuse, 2014).

## **Distrust of the System**

Many members of the community of color do not trust societal systems so they are reluctant to report the elder abuse. There is also the fear that the involvement of authorities could harm the victim and the family (DeLiema et al., 2012). Some minority groups, for example, especially those that have negative experiences with the criminal justice system, believe that reporting the abusers may lead to incarceration (Enguidanos, Deliema, Aguilar, Lambrinos, & Wilber, 2014). This is particularly true of African-American elders who may be reluctant to report the abuse and seek assistance of the police given their experiences of systematic racism, discrimination, police abuse, and segregation (National Center on Elder Abuse, 2016). Some Latino and Asian elders also may be concerned that they will not be treated with respect by professionals (Blanchard & Lurie, 2004; Herrera et al., 2008).

## **Lack of Culturally Sensitive Services**

There is a tendency for people of color to underutilize community services because some of these services are not culturally appropriate for people from specific racial, cultural, and linguistically diverse communities. They often do not focus on the unique needs of elderly people of color who have been abused. Research has shown that in API family, intervention may be rejected if it is not delivered in a culturally sensitive manner (Brownell, 1998). In the Latino community, lack of cultural competency can create barriers to service for elderly victims. Choi et al. (2014) found that 68% of their respondents turned to their family for assistance during their maltreatment. In addition, lack of awareness of services can also prevent the victims from acquiring treatment (Pinquart & Sorensen, 2005). Choi et al. (2014) found that 70% of their respondents were not aware of the Adult Protective Services in their community.

## **Recommendations**

### *Gaps in Research*

There are limited studies that have been conducted on elder abuse with people of color. The few studies that do exist contain very small sample sizes so that the prevalence rates of elder abuse in these communities are underestimated. More studies, with

representative samples, are, therefore, needed. Future studies should focus on the prevalence, incidence, causes, risk/protective factors, and consequences of elder abuse in these communities.

There is also the need for community-based participatory research (CBPR) which will entail joint partnership between academic institutions with community organizations and key stakeholders. The CBPR approach is an important model for exploring the issues of elder abuse in minority communities. It allows the collaboration of researchers, community leaders, stakeholders, and member of the community to engage in research (Dong, Chang, Wong, & Simon, 2013). The results of traditional and community-based studies can be used to formulate policies and programs for victims of elder abuse. "CBPR methodology could be a novel model for conducting systematic and culturally appropriate elder abuse research in minority populations" (para. 5) (Dong, 2012).

### *Culturally Appropriate and Sensitive Practice and Interventions*

Given the increasing number of abuse older adults in communities of color, it is imperative that state and local communities develop and implement effective culturally appropriate prevention and management interventions to address the needs of these populations. It is also important for practitioners to understand the intersection between race, culture, and elder abuse. Culturally appropriate education and training is very important (Dong, 2012).

Culturally appropriate practice and interventions should be multicultural, multi-level, and multifaceted, especially in communities with collective cultures, such as Asian-Americans (Bernado, 2014). These programs should be designed to "increase familial, social, and community support for vulnerable older adults" (Dong et al., 2013, p. 8). In practice, these programs should also be interdisciplinary with an emphasis on a holistic view for understanding the individual, family, community, and the system and the social inequalities and injustices that exist in the elder abuse victim's life. Additionally, in practice, practitioners should use an intersectional approach by examining various forms of oppression, discrimination, and domination through the diversity lens of race and ethnicity, immigration status, religion, language barriers, and social class. In addition, competent older members of these communities can play a vital role in designing these culturally appropriate programs.

### **Prevention**

Elder abuse is a major public health issue. With the increase in elderly population in communities of color, elder abuse in these communities is likely to increase. However, there is a paucity of information about elder abuse in these communities.

Racial and ethnic forms of elder abuse are underexplored. Improvement in the knowledge gap is the key to effective prevention and treatment of the elder victims in these communities. In addition, there needs to be increased awareness of elder abuse, through public information campaign and educational programs and among members of these communities. There is also the need for access to competent and culturally appropriate services in these communities.

Preventing elder abuse in the communities of color necessitates an understanding of the factors that predispose the elder members of these communities to abuse. Understanding which factors are related to elder abuse is essential in prevention of this phenomenon. It is, therefore, imperative for researchers to examine the risk factors of elder abuse which are a combination of individual, relational, community, and societal factors that contribute to the risk of becoming a perpetrator of elder abuse. It is also important to examine the protective factors, which are factors associated with a lower likelihood that elder abuse will take place. Protective factors have not been studied as extensively or rigorously as risk factors. However, both the risk and protective factors are equally as important in preventing elder abuse. Prevention strategies should, therefore, attempt to eliminate risk factors while strengthening the protective factors against elder abuse.

## Summary

This review examined the limited information on elder abuse in the Native American, Asian-American, African-American, and Latino communities in the United States. There is a disparity in the literature which tends to focus on White Americans so research on elder abuse communities of color is very limited. Most of the research examined elder abuse in the home, and very few focus on institutions.

The review revealed that there are different definitional variations of elder abuse among the various racial and ethnic groups. It also indicated that the nature and extent of the elder abuse vary among the communities of color. Within all the groups, family plays an important role, and strong family solidarity, privacy, and filial piety are factors that determine whether or not the abuse will be reported. It is clear from the literature that most of the victims in these communities do not report their abuse. Furthermore, the review of the literature suggests that although there is some awareness of the elder abuse, this varies among the community of color. A common theme in the literature is that there are not enough culturally appropriate intervention programs.

In conclusion, this review highlights the need to increase awareness and research of elder abuse in communities of color. There is also the need for culturally interventions and programs to tackle the problem of elder abuse in communities of color. This phenomenon cannot be prevented until there is a greater understanding of the etiology of elder abuse in these and its impact on these communities.

## Discussion Questions

1. Discuss three reasons for elder abuse in the Native American communities.
2. Regarding elder abuse in the Native American community, what is the meaning of cultural paradox?
3. What are three differences in the perceptions of elder abuse among the four groups?
4. Discuss three reasons why members of the community of color do not report their victimization.
5. Discuss three recommendations in the chapter on how to improve the gaps in the information on elder abuse in community of color.
6. Discuss two ways in which to prevent elder abuse in communities of color.

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# Chapter 8

## Elderly Victimization in Aging Japan



Minoru Yokoyama

### Rapid Increase in the Aging Population of Japan

During the World War II, Japanese totalitarian government encouraged people to have as many children as possible, because there was keen shortage of manpower to wage the war.<sup>1</sup> At the final stage of the war, the total population decreased a little mainly because many people died in the battle field and by bombing from US fighters. However, soon after the war Japan witnessed the baby boom, as many former soldiers got married and had children. During the baby boom from 1947 to 1949, about 8,000,000 babies were born. The total population increased to 83,200,000 in 1950. After the finish of the first baby boom Japan witnessed another boom during 3 years from 1971. 2,091,983 babies were born in 1973, the peak of this second boom.

However, after 1973 many youngsters hesitated to get married, and even those who did marry, they did not want to have more than two babies. Thus, Japan entered into a third stage of population growth, that is, “incipient population decline” as pointed out by Riesman et al., in which both births and deaths are low.<sup>2</sup> In Japan the tendency toward the decrease in total population is not “incipient,” because its decrease has continued since 2004 and will not stop in the near future.

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<sup>1</sup>Many male Koreans were taken to Japan to work as a slave for such industry as mining and construction.

<sup>2</sup>Riesman, Glazer, and Denny (1973) pointed out that the total population was stable for a long time before the Industrial Revolution owing to the high rates of birth and death. At that time the social character of *traditional direction* was prevalent. By the revolution the population explosion occurred because the rate of death declined owing to improvement of health conditions. However, in advanced Western countries the total population is gradually declining because people begin to enjoy their private life with no child or a few children.

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In spite of the decrease in the birth rate, the total population continued increasing to 127,690,000 in 2004 because of lengthening in people's life span. After 2004 the total population began to decline. The results of the census carried out in October in 2010 revealed that total population decreased for the first time during the 5-year span since 2005. If the low birth rate continues, the total population is estimated to decrease to 62,410,000 in 2100. Therefore, in June of 2014 the national government announced plans to adopt the policy to maintain the total population of over 100,000,000 during 50 years in future. If Japan fails to realize this policy, Japan would become a stagnant society with a small number of younger people.

Japan has become an aged society since finish of the second baby boom. In 1970 all population reached to 103,720,000 among which the percentage of old people of 65 years old and over amounted to 7.1%. Around 1985 the national government foresaw the percentage of the old people would increase to 21.8% in 2020. However, this forecast was wrong, as the birth rate decreased more rapidly.

In October in 2015 the total number of old persons of 65 years old and over reached to 33,920,000, the highest number in our history (*White Paper on Highly Aged Society in 2016*). Then the percentage of those persons among all population increased to 26.7%. As females have the longer life, their percentage among the population of 65 years old and over amounted to 56.8%. With increase in the population of 65 years old and over, the percentage of the population of productive age and that of the population under 15 years old decreased to 60.6% and 12.7%, respectively. Japan will become a stagnant society in terms of the constant decrease in people of productive age if it does not find ways to increase the younger population, such as accepting many more immigrants.

## Change in Old People with Industrialization

In the feudal period before the Meiji Restoration of 1867, people accepted the Confucianism, under which a younger person is obliged to respect a senior and a woman is obliged to obey a man. Under the influence of Confucianism, the family head system was introduced by the enactment of the Civil Code in 1898.

Before the World War II, most people participated in jobs in the primary industries such as agriculture, forestry, and fishing. Most families, especially rich families, were the large-sized extended family.<sup>3</sup> In the family there was a strong human tie under the supervision of the family head, that is, the oldest man.<sup>4</sup> In addition, the oldest woman in a family had the power to manage the housekeeping.<sup>5</sup> The old persons in a rich family enjoyed their life at a privileged status.

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<sup>3</sup> In a grand house of a rich family, not only family members but also servants and maids lived together.

<sup>4</sup> The eldest son was also respected as a successor of the family head.

<sup>5</sup> We witnessed often that the eldest woman bullied her daughter-in-law.

In a poor family even old people had to work hard. For example, a female old person did housekeeping by herself and to take care of grandchildren instead of her daughter-in-law who worked together with her son. In most poor area old persons, especially ill persons, were abandoned to die, and the police did not treat this practice as a crime.

After the World War II, the large landowners had taken a lot of their lands by the agrarian reform as one of the democratization policies. By this reform tenant farmers could now own their farmland, which contributed to the realization of the right of equality in the economic field prescribed by the new Constitutional Law of 1946.

After the occurrence of the Korean War of 1950, Japan witnessed rapid industrialization. To fill the shortage of labor power, many youngsters living in a rural area moved to a big city to acquire good jobs especially in secondary industry. After getting married, they had their own nuclear family at a small apartment and no longer lived with their parents. Many old people had to remain in rural areas.

During the high economic growth in the early 1960s, the shortage of labor power became more serious. Then, many male farmers went to the urban areas to work as a part-time laborer in the winter. In such case their old parents and their wife remained at their house to do housekeeping and to take care of the children. However, after 1965 this part-time work system disappeared gradually, as even middle-aged persons moved to the urban areas to find good permanent jobs.

Most of youngsters studying at a university and those having jobs in the urban area have not returned to their home town and village. Therefore, the percentage of old people among the population in rural area is quite high. In the rural area many old people live alone or with their spouse without support from other residents belonging to the younger generation. In addition, even in an apartment complex in the suburbs of a large city where people began to live in the 1960s and 1970s, Japan witnessed the fact that many old people remain without living together with their children. Many old people living alone or with their spouse have more vulnerability to being victimized than those who are part of an extended family.

## **Change in Family Type with Aging**

With advancement of aging the household including persons of 65 years old and over has increased. In 1980 the total number of such households amounted to 1,062,000, of which 10.7% were a household of one old person, 16.2% were a married couple, 10.5% were a nuclear family, 50.1% were an extended family with three generations members, and 12.5% were other household situations. About half of the old persons who lived within their extended family were maintaining close human ties.

In 2015 the total number of the household including old persons of 65 years old and over increased to 23,724,000. Their percentage among all household rose from 24.0% in 1980 to 47.1% in 2015. The percentage of a household type of one old person (26.3%), of a married couple (31.5%), of a nuclear family (19.8%), of an extended family (12.2%), and others (10.1%) changed drastically in 2015 when

compared with 1980. The number of extended family households decreased by 37.6% during the two time periods. Nowadays the prevention of victimization of old people living alone or with their spouse draws our attention.

## Change in Status of Old People in Family

Before the World War II, old people had a respected status, as their knowledge and skill were evaluated by all family members as being important to the welfare of the family. Especially, it was true in the primary industry, in which people lived in the conventional way. In the period of high economic growth, the respected status of old people declined, because their conventional knowledge and skills became out-of-date.<sup>6</sup> Nowadays, we cannot live without using high technology. It is easier for youngsters to learn how to use high technology than it is for older persons. Thus, many old people cannot use it sufficiently. Therefore, youngsters tend not to give importance of the knowledge older persons have gained through many years of experience. Instead they rely on the computer to provide the facts and information they want.

Japan, as most other developed countries of the world, becomes a consuming society, in which people chose a purchase according to a fashion and their taste. Nowadays, youngsters follow the *other-directed orientation* as Riesman et al. pointed out. They enjoy exchanging information about fashion and their taste. Everyone looks toward their peers or take clues from the mass media on how to behave, dress, and determine what values are important. On the other hand, most old people share with a social character of *inner-direction*.<sup>7</sup> They cannot understand a fashion and a taste which *other-directed* youngsters follow for the sake of being accepted by their peers. If old people want to maintain friendly relations with their grandchildren who live near their house, they are expected to give money and gifts to their grandchildren. Old people often spoiling their grandchildren are often manipulated by them.

Nowadays, most old people live separately with their children and grandchildren. Then, they do not have opportunity of being treated cruelly by their children and grandchildren. However, they feel lonely and alienated in those cases where they do not have sufficient communications with children and grandchildren by telephone calls and by exchange visiting.

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<sup>6</sup>Riesman et al. (1973, p. 36) pointed out that "Grandmothers as authorities are almost as obsolete as governesses. There is no room for them in the modern apartment, nor can they, any more than the children themselves, find a useful economic role."

<sup>7</sup>The conformity of people with *inner-directedness* is insured by their tendency to acquire an internalized set of goals early in their life.

## Crime by Old People

The author wrote an article entitled “Increase in crimes committed in Japan by elderly people and the way they are treated in criminal justice” Yokoyama (2014). Therefore, crimes committed by old people are briefly analyzed in this section.

Research and Training Institute of the Ministry of Justice publishes White Paper on Crime annually since 1960. We saw for the first time the chapter on the highly aged society and crimes in *White Paper in 1984* with the special feature on crimes in an affluent. *White Paper on Crimes in 1991* had a special feature on the highly aged society and crimes. Then, *White Paper on Crimes in 2008* had a special feature on crimes by aged criminals and the treatment for them. In white papers published before 2008, the category of “old-aged people” was those who are 60 years old and over. However, criminal offenders of over 60 years increased drastically with advancement of aging. Then, the national government changed the category of “old-aged person.” We saw *White Paper on Crimes in 2008* with a special feature on the situation of old-aged criminals and treatment for them, in which those of 65 years and over were analyzed for the first time as the highly old-aged.

The total number of persons arrested for an offense of the Penal Code decreased constantly from 389,297 in 2004 to 239,355 in 2015 (White Paper on Crime, 2016, p. 5). On the other hand, the arrested persons of 65 years old and over increased from 36,696 in 2004 to 48,786 in 2008. Then, it declined gradually to 47,632 in 2015. The rate of those offenders per population of 100,000 also declined from 176.9 in 2007 to 140.6 in 2015. As the decrease rate is smaller, the percentage of those of 65 years old and over among all Penal Code offenders increased from 13.3% in 2007 to 19.9% in 2015.

However, we see the tendency that old people commit a minor offense more frequently. Among 239,355 persons arrested for the Penal Code offense in 2015, the percentage of shoplifting, other theft, injury and assault, embezzlement, fraud, and others amounted to 31.4%, 20.4%, 19.9%, 9.9%, 4.6%, and 14.1%, respectively. On the other hand, the corresponding percentage was 45.6%, 16.5%, 16.4%, 10.0%, 2.1%, and 9.4%, respectively, in male offenders of 65 years old and over. In the case of female offenders of 65 years old and over, 81.2% were arrested for shoplifting, followed by 10.6% for other theft. Main offense committed by offenders of 65 years old and over, especially female ones, is shoplifting.

Typically old people commit a shoplifting and other theft owing to poverty. The following is a typical case.

An old-aged male became a homeless. As he did not receive help from any relative and any agency for social welfare, he did not have money to buy food. Then, he stole a lunch box at a convenience store. For this offense he was imposed 1 year imprisonment with suspension of its execution for 1 year and a half. Immediately after being released he stole a lunch box again. Then, he received the imprisonment sentence for 1 year and a half. As the previous suspension was revoked, he was confined in Yokosuka prison to serve his term for 2 years and a half!

Japan has the good social security system. Nevertheless, everybody has possibility of becoming a homeless because of illness, unemployment, divorce, and so on. Although I do not know the reason why the abovementioned prisoner became a homeless, he might commit minor thefts owing to his bad social environment.

We see some old people committed shoplifting of trivial goods although they possess money enough to buy these goods. Some of these persons committed the shoplifting owing to their alienated situation. We witness that old persons living alone commit a shoplifting owing to their wish to be recognized by others. They may be an offender victimized in an alienated environment. In other cases we witness that old persons who suffer from such illness as senile dementia and depression commit shoplifting.<sup>8</sup> They commit it owing to unconscious impulse. Therefore, they should be regarded not as an intended offender but as a patient with the needs of medical care and protection.

## Movement of Crime Victims

Rights of crime victims were neglected for a long time. Asaichi Ichinose was a founder of the movement of crime victims. On May 21, 1966, his son was stabbed to death by an unknown juvenile of 19 years old. In response to resentment of his dead son, he began to visit other bereaved families of a crime victim. Then, next year he founded the Association of Bereaved Family to Eradicate Murder. However, the mass media did not report about the movement of this association as the big news. It was not until 1974 that their movement became in the spotlight. Japanese radical leftists escalated their terrorism within Japan, of which the most tragic case occurred on August 30, 1974 (Yokoyama, 2016a, p. 21).

Some radical leftists affiliated with the East Asian Front of Armament against Japan had a plan to bomb a building of several corporations in the munitions industry. Four members of EAJAJ set a time bomb on the street in front of the headquarters building of Mitsubishi Heavy Industries at 12:25 p.m. Twenty minutes later the bomb exploded, by which the total number of killed and injured persons amounted to 8 and 376, respectively. It was the first indiscriminate terrorism with many casualties in the business center of a large city in Japan.

After this terrorism the bereaved of crime victims activated the movement under the leadership of Ichinose. They demanded the national government to establish the compensation scheme for crime victims. It was not until May 1, 1980, that the Law for Providing Compensation to Innocent Victims of Crimes was enacted. However,

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<sup>8</sup>Nihon Keizai Shimbun on October 1, 2015, reported about a shoplifting by a man of 87 years old who lived richly with his spouse. As he suffered from senile dementia, he continued committing a shoplifting of trivial goods such as stationeries and postcards at stores for 10 years. At the criminal court he was imposed a fine twice. However, the imposition of a fine was in vain to stop his shoplifting.

the national government paid only a small amount of compensation money as a gift in token of people's sympathy to innocent victims.<sup>9</sup>

On November 17, 1990, Japanese Association of Victimology was founded. However, it was not until 1991 that the movement of crime victims surged up again. In October, 1991, a symposium was held as the 10th anniversary event after the enactment of the Law for Providing Compensation to Innocent Victims of Crimes. Next year a national survey on situation of crime victims carried out. In addition, counseling for crime victims started.

In the late 1990s the mass media reported about the movement of crime victims as the big news, by which more and more people sympathized with crime victims. Then, in 2000 several laws such as the Code of Criminal Procedure and the Juvenile Law were revised to strengthen victims' rights in criminal justice and juvenile justice. In 2004 the Fundamental Law for Protection of Crime Victims was enacted, under which protective measures for crime victims have been carried out in the response to demands by crime victims.

## Analysis of Elderly Victimization

In Japan the national government has the excellent system for collecting data on crimes and criminal justice. Therefore, victim survey was not carried out to find dark number behind the formal crime statics. However, in the upsurge of the movement of crime victims, the government decided to participate in the international survey on crime victims. Then, Research and Training Institute of the Ministry of Justice carried out the first victim survey in 2000. Since then the institute carries out the survey every 4 years, of which results are published in *White Paper on Crime*. However, they do not analyze the data by correspondents' age. Therefore, the results of the victim survey are not useful to understand the situation of elderly victimization.

On November 15, 1995, the Fundamental Law to Cope with Highly Aged Society was enacted, under which many measures for old persons have been adopted. By this law the national government is obliged to submit an annual report about the situation of aging and the measures for old persons to the diet. Since 1996 this report has been published as *White Paper on Highly Aged Society* by the Cabinet Office, Government of Japan. In this white paper there is a section entitled "Safety and Relief of Highly Aged People" with several subsections on such topics as an accident in a family, a traffic accident, a victim by a remittance fraud, a trouble about consumption, a fire, and ill-treatment. In another section of the report, the victimization of old people by a natural disaster, suicide, and dying alone in a house is recorded. In this paper the elderly victimization in a broad context is analyzed in the context of the abovementioned categories of victimization.

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<sup>9</sup>As this law did not prescribe its retroactive effects, participants in the movement could not receive any compensation money from the government.

The data for a thorough quantitative analysis of elderly victimization is not sufficient. Some important data printed in *White Paper on Highly Aged Society* are cited in this paper. Also, articles from newspapers are used to illustrate cases of elderly victimization.

## Elderly Victimization by Crime

The National Police Agency publishes annual statistics on the total number of cases in which the police recognized a victim of a crime. The total number of these cases decreased from 2,486,055 in 2002 to 87,094 (65% decline) in 2015. On the other hand, the total number of cases in which victims of 65 years old and over were involved decreased from 225,095 to 120,710 (46.4% decline) for the corresponding period. Of all cases, the percentage of the cases of victims of over 65 years old and over increased from 9.1% in 2002 to 13.8% in 2015. The increase in the proportion of criminal offenses for which an elderly person was victimized can no doubt be attributed to several factors including the larger older age population and more opportunities for criminals to victimize older persons.

We do not know exactly what kind of crimes for which old people are the victims. Some information on older victims can be abstracted from newspaper articles. Several stories are given below.

## Elderly Victimization by Murder

In Japan people rarely commit a murder. When a murder is committed, the mass media report about it as big news. The author will analyze several cases of elderly victimization by a murder.

### Case A: Murder on October 10, 2012, in Tokyo

S.T., a male murderer of 86 years old, was a former police officer with the rank of a superintendent who lived with his wife in Tokyo. S.K., his female neighbor of 62 years old, enjoyed gardening in front of her house. Three years ago S.T. gave caution to S.K. about good maintenance of her messy garden. Since then they quarreled frequently. On October 10, 2012, S.K. killed S.T. on a street with a Japanese sword and committed suicide in his house.

In urban areas, especially the area where old residents and newcomers live together, the residents do not have close human relations. In such area even old people cannot solve their conflict with a neighbor through direct negotiation. The murder in Case A occurred in the urban community without close human ties among neighbors.



**Case B: Murders on July 21–22, 2013, in Yamaguchi Prefecture**

A man of 63 years old returned to his native village from a city where he worked as a plasterer. He took care of his father who passed away 3 years later. He felt lonely in a village where fourteen elderly residents lived together.<sup>10</sup> The villagers gave many claims to him about his way how to work at his farm and how to grow a dog at his house. As he felt alienated, he visited the police to consult about his alienated relationship with villagers. However, the police failed to solve this problem.<sup>11</sup> At night from July 21 to 22, 2013, he murdered five old villagers and set a fire to two houses where three were killed by him. After the murders he failed to commit a suicide and was arrested in a forest near the village on July 26, 2013.

The majority of old people live alone or with their spouse. In rural areas they live together according to the conventional life style. In Case B villagers intervened kindly in the life of a man of 63 years old who had returned from a city with anonymity. As their intervention was an annoyance for him, he committed murders and injuries against many villagers.

**Case C: Murder on May 18, 2015, in Yokohama**

A boy of 15 years old lived with a grandmother (81 years old), a father (50 years old), a mother (50 years old), and a sister (12 years old). As he did not study hard, he had inferior complex to his father. Just before going to his senior high school, he was scolded by his grandmother and his mother for having indulged in games until midnight without studying diligently. With getting angry, he stabbed his grandmother and his mother impulsively to death by a kitchen knife. Then, he went to a police box to deliver himself to the police.

In this case an old woman was killed by her grandson for a trivial family conflict. By his impulsive murder all members of his family lost their peaceful life. Although he had a criminal liability, he was sent to a juvenile training school to correct his immature character instead of imposition of criminal punishment.<sup>12</sup>

**Case D: Serial Murders by Female Marriage Hunter**

On August 6, 2009, a dead body of an officer of 41 years old was found in a car at a parking lot in Fujimi City in Saitama Prefecture. He died owing to carbon monoxide poisoning caused by imperfect combustion of a briquette stove in the car. The police thought that it was not a suicide. Then, they began to investigate, after which KK, a female marriage hunter of 34 years old without any fixed job, was arrested for a fraud and a murder. The police found that more than four men associated with KK died strangely. She was prosecuted for four murders in addition to seven frauds in which she took money or attempted to do so at the time of association. A self-employed person of 70 years old gave about JPY 74 million (US\$ 673,000) to KK

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<sup>10</sup>In this village the 63 year old murderer is the youngest among all fourteen villagers.

<sup>11</sup>Japanese police are expected to work as a mediator for solving a conflict between residents in the community.

<sup>12</sup>Article 41 of Penal Code prescribes that an offense committed by a person of under 14 years old shall not be punished as a criminal.



during his association with her. In August, 2007, he died strangely in a bathroom in his house in Matsudo City in Chiba Prefecture.

Another victim was an old person of 80 years old living in Noda City in Chiba Prefecture. KK stole high-priced paintings in his house during her association with him. On May 15, 2009, his dead body was founded after a fire at his house. In addition, a briquette stove was found near his dead body. After setting a fire KK drew about JPY 1,900,000 (US\$ 17,300) from his bank account. She received the death sentence for four serial murders and seven frauds.

KK began to register on the website for marriage hunting in May, 2008. She associated with several men, from whom she took money by a fraud or by stealing. At last she committed serial murders. Two old persons living alone were victimized by her, because they believed her promise about the marriage.

### **Case E: Serial Murders Exposed on November 19, 2014 in Muko City**

On December 28, 2013, a man of 75 years old died in Muko City in Kyoto Prefecture. The police detected cyanide in his dead body. They began to investigate on the suspicion of a murder for the purpose of taking inheritance and insurance proceeds. After the careful investigation on November 19, 2014, the police arrested CK of 67 years old, who got married with him on November 1, 2013, after association since June, 2013, when he encountered her through the mediation of the marriage consultation center.

CK's first husband died in 1994, when she had a debt of about JPY 20 million (US\$ 182,000). Since then she registered at the marriage consultation center. She got married three times and lived together as the common-law wife twice with a man whom she encountered through the mediation of marriage consultation centers. All of these husbands and partners died strangely, after which CK acquired profits by inheritance and by receiving insurance proceeds. However, CK was prosecuted for only four murders, because the police failed to collect evidences in other cases.

In this case old persons living alone were victimized by a woman who aimed to deprive them of their property, especially the inheritance. In Cases D and E, we witnessed the most heinous crime committed by a female murderer. In the future such heinous crimes to victimize old persons may increase.

### **Case F: Massacre at Facility for Handicapped People on July 26, 2016**

Around 2:00 a.m. on July 26, 2016, SU, a former male nursing care staff of 26 years old, broke a window glass to invade into a facility for the handicapped. He bonded five staffs staying at the facility. Then, he stabbed handicapped persons by the use of five knives. As a result 9 male handicapped persons between 67 years old and 41 years old and 10 females between 70 years old and 19 years old were killed, while 26 handicapped persons were injured. After finishing the stabbing around 4:00 a.m., SU appeared at a police box to give himself up.

SU was promoted to a full-time nursing care staff at this facility in April, 2013. While taking care of handicapped people, he began to cherish a eugenic idea against the handicapped persons like Nazism. By his conviction that the handicapped persons without ability for communication deserve the mercy killing, he committed the massacre. If such eugenic idea spread, the old people with heavily handicapped

could not survive. However, we do not yet witness the spread of eugenic idea, although nationalism is gradually strengthened.

## **Elderly Victimization by Cruel Treatment in a Nursing Care Facility**

Old persons with needs of nursing care have increased. Then, the old persons victimized by ill-treatment in a nursing care facility increase. According to the research by Ministry of Health, Labor and Welfare, 1741 local governments accepted 1640 cases of performing consultation or receiving a report about cruel ill-treatment of 65 years old and over conducted by a nursing care staff in the facility (Cabinet Office, Government of Japan, 2016, p. 47). The following is a heinous case committed by a male nursing care staff person.

### **Case G: Murders at Facility for Senior Home in Kawasaki**

HI began to work at a residence apartment for senior persons in Kawasaki. As he accumulated stress in his jobs as a nursing care staff, he fell three old residents down to death from a balcony of a room at their residence. In 2014 a male resident of 87 years old, a female of 86 years old, and a female of 96 years old were found dead in a back garden on November 4, December 9, and December 31, respectively. As he resigned in winter in 2015, the police failed to investigate these murder cases earlier. It was not until February 16, 2016 that HI of 23 years old was arrested for murder of an 87 years old resident, followed by arrest for other two murders.

Nursing care staffs commit the cruel ill-treatment against an old-aged patient and resident owing stress which they accumulate by a hard job under bad labor conditions. In 2000 new system of nursing insurance was introduced. Since then physical restraint has been prohibited at any place for nursing care except for its use after careful examination about the urgent situation and about the adoption of an alternative. In case it is used, it should be used temporarily for a short time.

## **Elderly Victimization by Cruel Treatment in the Home**

According to the abovementioned research conducted by Ministry of Health, Labor and Welfare, there were 26,688 cases of the cruel ill-treatment by a person in charge of nursing care in the victim's home. Among these cases 23.2% of victims were male, while 76.8% were female. As the percentage of man and women among all population of 65 years old and over on October 1, 2016, was 43.4% and 56.6%, respectively, female old people are ill-treated more frequently at their home.<sup>13</sup>

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<sup>13</sup> One reason why women are ill-treated more frequently, men are more often taken care of their spouse.

According to the analysis by the age group, the percentage of the age group between 65 years old and 69 years old who were victimized was 10.4%, the percentage between 70 and 74 who were victimized was 15.6%, the percentage between 75 and 79 who were victimized was 21.4%, the percentage between 80 and 84 who were victimized was 24.4%, the percentage between 85 and 89 who were victimized was 18.0%, and the percentage of 90 years old and over who were victimized was 10.3%.<sup>14</sup> As a result of advancement of aging, older people receive nursing care more frequently owing to worsening their health conditions. Therefore, those older persons in the age group of 75 years old and 84 years old are victimized more frequently by the ill-treatment than in the age group between 65 and 74 years old.<sup>15</sup>

Concerning the abuser a husband, a wife, a son, a daughter, and others were 21.0%, 5.6%, 40.3%, 16.5%, and 16.6%, respectively. Almost half (49.2%) of victimized old persons lived together with an abuser and an additional 37.4% lived with an abuser and other family members. Only 12.2% who were ill-treated by an abuser lived alone. In a case that an old person having needs of nursing care lived with one family member, especially a son, the old person seemed to be the most vulnerable to being cruelly ill-treated.

#### **Case H: Beating to Death by Son in Yao City**

On July 29, 2017, *Mainichi Shimbun* reported about injury causing death by GY of 38 years old who was not employed. He took care of his mother of 69 years old who had been bedridden from an illness for several years ago. He often beat her as a result of being irritated with her disobedience to him. At last she died from the beatings she received from her son at her house.

It is a typical case of a cruel ill-treatment that a son beat his old mother who needs nursing care. In such cases, it is not always easy to judge whether an injury is caused by a beating or by an accident, because in cases in which an old person suffers senile dementia, he/she often does engage in self-injurious behavior.

## **Elderly Victimization by Property Crime**

Old persons, especially those living alone, are vulnerable to property crime. Recent statistics show that fewer old people are victimized by a theft, especially by a professional theft for pickpocketing and larceny on burglary than in the past. Perhaps this is the effect of crime prevention programs and correctional treatment programs in a prison. On the other hand, a protector or a person in charge of nursing care has the more opportunity to commit a theft from an old person by the nature of their relationship. In Case G, before being arrested for three murders, HI was arrested in

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<sup>14</sup>This data was collected on September 15, 2016.

<sup>15</sup>The percentage in the age group of over 84 years old who were victimized declined because the total population belongs to this age group decreased.

May, 2015, for stealing repeatedly from residents and imposed the imprisonment for 2 years and a half with the suspension of its execution for 4 years.

The property crimes were committed even by a guardian. In 2000, a new nursing insurance system was introduced, under which nursing services are offered by the contract between a business operator for offering services and a user. In Case A user does not have ability enough to contract, he/she may be victimized by the operator. The Civil Code was revised in 1999 to introduce the system of adult guardian for protection of an adult whose mental capacity was gradually declining. The adult guardian is appointed by the family court. Nevertheless, some of adult guardians were able to deprive a protégé of property. The *Mainichi Shimbun* reported about the following case on October 7, 2016.

### **Case I: Deprivation of Property by Lawyer**

HW, a lawyer, was appointed as a formal adult guardian at a family court in two cases and contracted to work as a guardian for another old person. During the period from 2011 to 2015, he deprived them of property by drawing money 183 times from their bank account. The total amount of deprived property amounted to about JPY 112 million (US\$ 1,020,000). On October 7, 2016, HW, 49 years old, was sentenced to the imprisonment for 6 years for an aggravated embezzlement as a professional.

We witness such deprivation of money not only by such a professional as a lawyer and a notary public but also by a family member and a relative. Old persons with less mental ability especially due to senile dementia seem to be deprived more easily by their family member and their relative, as they can hardly report about it to the police.

## **Victimization by Remittance Fraud**

Previously, the fraud was simple like a petty swindling by borrowing money but never paying it back. This fraud to take a small amount of money caused a slight damage to a victim. Although such petty swindling has generally disappeared in Japan, attention needs to be given to several kinds of new fraud. Especially, we give our special attention to a new remittance fraud, that is, the “Ore Ore” telephone fraud victimizing an old person.

For the period from August in 1999 to December in 2002, a swindler committed a remittance fraud, by which he made eleven old persons remit money to a bank account appointed by him. As he said “Ore (me), Ore (me)!” first in his telephone call, the police officers at Yonago Police Station in Tottori Prefectural Police who arrested this swindler named this fraud “Ore Ore” telephone fraud. Since then many swindlers, even members of Boryokudan (Japanese gangsters’ group), began to commit “Ore Ore” telephone fraud to deprive old persons of a large amount of money. The typical “Ore Ore” telephone fraud is the following:

Swindler: “Mom? Ore (me), Ore (me)”

Victim: “Are you my son A?”

Swindler: “Yes, I am A. In a train I left a bag, in which I put a bank check of JPY 3,000,000. If I cannot prepare JPY 3,000,000 immediately, I will be discharged. Help me! Please, go to a bank immediately to remit JPY 3,000,000 to the bank account, which I appoint (In other Case A swindler asks a victim to hand the cash over to a person whom he appoints).”

As a victim is upset, without consulting with anybody she goes to a bank immediately to remit or to draw the cash to hand it over. After the finish of the remittance or the handing over, she is notified that she is victimized by “Ore Ore” telephone fraud.

Since 2000 the “Ore Ore” telephone fraud has become prevalent. The technique of the remittance fraud by the use of a telephone has been diverted in addition to becoming more sophisticated. Following “Ore Ore” telephone fraud, three kinds of the remittance fraud by the use of a telephone developed: a remittance fraud on a fake invoice, on advance-fee loan scam, and on refund scam. Then, in 2004 the police renamed “Ore Ore” telephone fraud “Furikome” Fraud (a fraud by directing the remittance of money).

According to the statistics by the National Police Agency, the total number of cases on the Furikome Fraud recognized by the police amounted to 20,481 in 2008. Since then many preventive measures against the Furikome Fraud were introduced, by which the total number decreased to 6,233 in 2011.<sup>16</sup> However, it increased to 13,605 in 2016, as the technique of the Furikome Fraud developed. In addition, the total amount of damages by the Furikome Fraud also increased from JPY 275,900 million (US\$ 2508 million) in 2008 to JPY 375,000 million (US\$ 3409 million) in 2016.

The four ways among all Furikome Fraud for the year 2008 were the following. The percentage of “Ore Ore” telephone fraud was 37.1%, remittance fraud on a fake invoice was 15.9%, advance-fee loan scam was 24.8%, and refund scam was 22.2%. On the other hand, in 2016 the corresponding percentages were 42.3, 27.5, 3.1, and 27.1%. After the easy-money loan policy was adopted in April, 2013, the remittance loan scam dropped drastically from 5074 in 2008 to 428 in 2016.

In 2016 among all victims of Furikome Fraud, 83.2% were persons of 60 years old and over. This percentage rose to 98.6% in case of “Ore Ore” telephone fraud. Among all victims of “Ore Ore” telephone fraud, 71.7% were female persons of 70 years old and over.

Old people victimized by Furikome Fraud are deprived of large amount of money which they had as a reserve for their life during their old age. As a result of being victimized by a scam, the victimized old persons lose their future comfortable life in addition to being psychologically hurt. They also lose confidence in members of their family, because they are blamed for being carelessly victimized by a swindler.

Without considering the abovementioned damages in victimized old persons, greedy swindlers develop their fraudulent schemes, by which they acquire a gigantic amount of money without using much energy. They often use a youngster as a

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<sup>16</sup>The police have activated a campaign for an old people not to remit money immediately after receiving a telephone call. The officer in a bank asks an old person about the reason why he/she draws a large amount of money from her/his account. The bank establishes the limit of the maximum remittable money from ATM.

person who receives money directly from a victim or as one who draws the remitted money from the cash dispenser. The police sometimes succeed in arresting such a youngster.<sup>17</sup> However, they rarely succeed in rounding up a whole group of swindlers committing Furikome Fraud.

## Involvement in Troubles About Consumer Affairs

The total number of consultation for a person of 70 years old and over conducted by the National Consumer Affairs Center of Japan amounted to 183,136 in 2015. Of these consultations, 15.4% were related to the sale by the solicitation of a telephone call, followed by 13.3% by the fraud door-to-door sales persons.

As Japan is a consumers' society, companies compete to sell more goods to people, especially old people who are known to have money reserved for their old life. In such a situation the troubles between a seller and a consumer have increased. More and more old people begin to use the e-mail and to order goods by a personal computer or a smartphone because they have difficulty in going to stores for shopping.<sup>18</sup> In the near future, it is expected that Japan will witness more complaints from old-aged consumers in the mail-order business, because the smartphone becomes the most prevalent tool used by old people to facilitate their shopping for consumer goods.

## Exploitation in Silver Industry

With advancement of aging we witness the development of an industry to offer services to old people, which we call the *silver industry*. In this field some facilities and companies exploit money from old people. The public homes for seniors are always full and often overcrowded. To enter a public home, old persons with need of nursing care have to wait for long time. The rich old people enter a private facility in which they are offered good services with good nursing care staffs and good equipment for the handicapped and the diseased. However, old people living at a private facility may be offered services of low quality at too high price. Some administrators in a private facility may try to find ways to cut costs and to increase profits. It sets the scene for the corporate crime in the silver industry.

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<sup>17</sup> Previously, some juvenile delinquents snatched a purse from an old woman. However, such juveniles have decreased as they become a conformist owing to being grown under overprotection by their parents and persons surrounding them. Recently, more and more juveniles are involved in Furikome Fraud by swindler's solicitation. Although they do so by the motivation of earning the small amount of extra money, they are severely sanctioned if they are arrested.

<sup>18</sup> In Japan the technology by the use of a computer has developed. Therefore, most of people of under 75 years old can use a computer and a smartphone.

We witness the most serious case that poor old people live in an apartment with bad living conditions and poor services. In the poor apartment an owner and a manager offering accommodation receives a small amount of money from an old day laborer or an old person who is receiving money under the public livelihood protection program. In such a way the apartment owner and manager exploits money from poor old people.

The living conditions for many old people in a poor apartment tend to be worse than those in a prison. Then, if they experience the living in a prison after having committed a trivial theft, they may want to return to a prison by committing a trivial theft again.<sup>19</sup> Such old people tend to be victims of the inadequate system of social security.

## Exploitation Under Abenomics

Under Article 25 of Constitution Law, people are guaranteed their right to live on the minimum level of healthy and cultural living. Therefore, social security system has improved during the period of economic prosperity. However, with the advancement of aging, the economic prosperity has declined, while the costs for social security, especially those for old people, have increased.

To cope with this situation, since April, 2013, Abe administration has adopted the easy money policy to facilitate investment for economic development. In addition, a gigantic amount of deficit government bonds were issued to realize the inflation. To support these policies, the Bank of Japan introduced the negative interest rate policy. These policies are unusual, and the normal policies should be restored.<sup>20</sup> However, no leader including Prime Minister Shinzo Abe and the Governor of Bank of Japan has the bravery to restore these urgent policies to the normal ones.

By the economic policy named “Abenomics,” Japanese youngster will have great damages in the near future, as they have to pay for a gigantic amount of accumulated deficits in the government finances.<sup>21</sup> Old people will also suffer damages. For example, they are encouraged to participate in speculation, especially in the real estate business without being informed about the high risk they are taking. If the bubble in the real estate industry breaks, many old-aged speculators will lose their reserves for their old life.

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<sup>19</sup>As old persons share the social character of “*inner-direction*,” they have psychological resistance against committing a crime. However, if this social character declines, more and more old poor persons would want to live in a prison instead of a poor apartment.

<sup>20</sup>To maintain the low rate of interest in government bonds, Bank of Japan continues to buy a lot of government bond at the bond market. In addition, to maintain high price of stocks, Bank of Japan continues to buy a lot of stocks. We witness the dysfunction at both the bond market and the stock market by these continual purchases.

<sup>21</sup>Japan has the highest deficits in the government finances among all advanced countries.



Another problematic policy is the introduction of a casino, which was decided by the enactment of the Law for Integrated Resort Promotion on December 15, 2016. The main purpose of this law is to develop the tourist industry by inviting many foreigners to visit Japan. However, many foreign persons would not visit the integrated resort facilities to play a casino, because in Japan there are many good places for sightseeing and shopping. Therefore, the main customers targeted by the international casino enterprises who propose a large amount of investment in a planned casino in Tokyo, Osaka, and Yokohama would be Japanese people, especially many old people with a reserve of money saved for their old life. If many old Japanese people become a casino addict and lose their reserve, not only old-aged casino addicts but also the finance of the State of Japan will become bankrupt.<sup>22</sup>

## Elderly Victimization by Accident in House

The National Consumer Affairs Center of Japan receives information about an accident from medical facilities. According to a report in 2013 published by the center, 71.4% of all accidents of persons between 20 years old and 64 years old occurred at a residence, followed by 9.0% on a public road; 8.0% at a private facility; 4.7% at natural places such as the sea, mountains, and rivers; and 6.7% in other places. In the case of persons of 65 years old and over, the corresponding percentage was 77.1% of accidents occurring at a residence; 6.9% on a public road; 8.2% at a private facility; 3.3% at natural places, sea, mountains, and rivers; and 4.5% at other places. As old people have less opportunity of going out from their residence, an accident occurred more frequently in their residence.

Among all accidents inside a house, 35.1, 38.1, 12.0, 4.3, 2.0, and 4.5% occurred at a dining room, a kitchen, stairs, a bathroom, a front entrance, and others in the case of persons between 20 years old and 64 years old. In the case of persons of 65 years old and over, the corresponding percentage was 45.0%, 17.0%, 18.7%, 2.5%, 5.2%, and 11.6%, respectively. As old persons have less opportunity of cooking, their accident occurred less frequent in a kitchen. They fall down more easily on stairs. To prevent an accident by an old people in their residence, the government gives subsidiary to improve accident prevention equipment for old persons living in their own homes.

Old persons suffering from senile dementia have more opportunity of encountering an accident. Those suffering senile dementia may cause a self-injury and encounter an accident when they strays outside their residence. It is very hard for family members to prevent such a self-injury and an accident, because they cannot supervise the older demented person throughout the day.

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<sup>22</sup> If old-aged persons become casino addicts, they would become a homeless or a livelihood protection recipient. If the State of Japan continues to provide the current amount of livelihood protection to them, it would become bankrupt.



## **Elderly Victimization by Automobile Traffic Accident**

With advancement of motorization the casualties caused by automobile traffic accidents increased drastically until 1970. At that time many old people were killed and injured by the traffic accident, because they did not know the way on how to use the road with the increasing number of automobiles. Nowadays, most old people know the rules on traffic safety, as they have a driver's license. In addition, facilities and equipment for traffic safety have been improved. Therefore, old-aged victims by an automobile traffic accident decreased.<sup>23</sup> However, victims of younger generation declined more drastically than did the percentage of persons of 65 years old and over. Therefore, the percentage of persons of 65 years old and over killed by the automobile traffic accident reached to 54.8% in 2016, the highest rate in our history.<sup>24</sup>

## **Elderly Victimization by Fire**

Previously, people lived in a wooden house. Therefore, we witnessed many big fires, by which many people were victimized. Nowadays, many houses are fire-proofed, and the equipment for preventing a fire or controlling a fire has been improved. Therefore, the total number of persons killed by a fire decreased from 1220 in 2005 to 914 in 2016.<sup>25</sup> Among 914 victims 66.8% were persons of 65 years old and over. Many old people, especially the bedridden ones, are victimized because they cannot evacuate speedily in the occurrence of a fire.

## **Elderly Victimization by Natural Disaster**

In Japan we have many natural disasters such as an earthquake, a volcanic eruption, a typhoon, a heavy rainfall, and a landslide. Every year many people, especially many old people, are victimized by these natural disasters.

On March 11, 2011, the Great East Japan Earthquake occurred, by which 15,824 persons died (Yokoyama, 2016b). Among 15,755 victims receiving an inquest, 66.1% were persons of 60 years old and over. The old people are more frequently victimized by a natural disaster.

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<sup>23</sup> Criminalization against traffic offenders has also contributed to the decrease in traffic accidents (Yokoyama, 2015).

<sup>24</sup> The total number of persons of 65 years old and over killed by an automobile traffic accident amounted to 2138 in 2016, which was not highest in our history.

<sup>25</sup> This data exclude the case of persons committing a suicide by setting fire.

## Conclusion

In Japan many old people live safely with less possibility of being victimized by a crime and an accident. However, their life may be endangered by new phenomena such as the prevalence of the Furikome Fraud and the exploitation in the silver industry. The deprivation of money and the exploitation from old people will be more prevalent if Japan's economy becomes worse in the near future. This situation would come soon if Japanese government does not restore to the normal economic policy from the unusual one under Abenomics.

To maintain the current comfortable life, Japan should accept immigrants from advancing countries. However, the Japanese government maintains the policy to accept a small amount of able foreigners and refuses the acceptance of immigrants who are laborers (Yokoyama, 2016c). If this policy on immigration is maintained, the living standard of people, especially old people, will decline.

We witness that the phenomenon of aging is advancing in many countries such as China and Korea. Japanese experiences about elderly victimization may give lessons to people in these countries.

## Questions

1. How has Japan changed in terms of the amount and types of crimes committed with the advancement of an aging population?
2. What kind of crimes do old people commit? What are their motivations for committing these crimes?
3. Why are old people more vulnerable to being criminally victimized than those who lived in the past?
4. What are some of the major schemes used to victimize older persons in Japan?
5. Identify and discuss some of the ways older people in Japan are victimized by fraud.
6. What functions does Japanese government perform to provide assistance to old persons victimized by a fraud?
7. How are old people victimized by accidents and natural disasters?
8. What is the most common relationship of the victim and offender in cases of violent crimes in Japan?
9. Discuss how the changing family structure in Japan is related to the victimization of the elderly.
10. What are the main causes of the victimization of the elderly persons living in nursing homes?

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# Chapter 9

## The Victim-Perpetrator Problem in Elder Abuse and Neglect



Josef Hörl

### Introduction

Maltreatment of older people is a social fact which can no longer be seriously called into question. By now, there is a rich corpus of international studies on the extent and the consequences of elder abuse the maltreatment of older people. Cooper et al. (2008, p. 151) conclude that “(e)lder abuse is associated with distress and increased mortality in older people and caregiver psychological morbidity.” Elder abuse is not only a social problem but also a major public health problem that results in serious health consequences for the victims as well as for overstressed caregivers.

Any open-minded society must regard this state of affairs as a scandal which is just as atrocious as other forms of interpersonal violence. This realization pertains not only to the logical demand to put an end to the actual physical and/or mental suffering of the individual victims and to holding perpetrators responsible for such acts but also to counteracting this social epidemic at the overall societal level. Transgressions, maltreatment, and abuse are extremely disturbing not only to those affected but also to observers and may in the long run threaten the moral basis and cohesion of society; hence it is essential to take effective intervention and prevention measures.

The phenomenon of interpersonal family violence emerged at first in the cases of child abuse and abuse against women. These types of abuse were originally called baby battering and wife beating, respectively. Later, the problem of elder abuse emerged. The abuse of older people was first described in British scientific journals in the seventies and was initially called “granny battering” (Baker, 1975). Despite these efforts, elder abuse has not gained the same “reputation” that would promote it to an urgent social problem as other forms of family violence have achieved, primarily because for a long time no powerful lobbies have taken up this issue as its cause.

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Recently, however, national and international seniors' organizations are becoming more active in the field of designing policies that relate to the maltreatment of older people, and it seems reasonable to assume that consultations with these nongovernmental organizations (NGOs) are finding their way into governmental, official, or semiofficial documents.

We have to bear in mind the demographic impact of older people. Elderly persons in this context are persons aged 60 years and over. Their number and percentage will increase dramatically in the near future. The population aged 60 or above is growing at a rate of about 3% per year, and the global population of this age group is projected to be 1.4 billion in 2030 and 2.1 billion in 2050. Over the next few decades, a further increase in the population of older persons is almost inevitable, given the size of the cohorts born in recent decades (United Nations, 2017, p. 11). Although the proportion of older people out of the total population is higher in the developed nations (highest in Europe with 25%), the percentage of increase of the elderly population is greater in the developing world. Although there are only a handful of statistics or prevalence studies in the developing world, available results, crime records, and other reports contain evidence that abuse, neglect, and financial exploitation of elders are occurring everywhere. Elder abuse is now recognized worldwide as a serious problem (World Health Organization (WHO), 2002; WHO, 2011).

## Prevalence of Elder Abuse in Community Settings

Despite the fact that “(d)iscovering the prevalence of abuse, perpetrated against vulnerable people by those they rely on, is inherently difficult” (Cooper et al., 2008, p. 151), there have been several attempts to research the magnitude of elder abuse. Regardless of differences in quality and the wide spectrum of quantitative findings, this is a crucial first step in the public health approach to prevent this type of violence.

Using meta-analytical methods, Yon, Mikton, Gassoumis, and Wilber (2017) pooled the prevalence estimates of elder abuse within community settings reported in 52 publications published between 2002 and 2015. In this study, the global prevalence of elder abuse was 15.7%, or about one in six older adults. This estimate is similar to the estimate from a review by Pillemer et al. (2016, p. S197) which found a global aggregate of 14.3%. The convergence between these two global estimates, from two independently conducted systematic reviews, lends them credibility. Given the approximate 2017 population estimates of 962 million people aged 60 years and older (UN, 2017, p. 11), these rates amount to 150 million victims of elder abuse annually.

Additionally, the findings by Yon et al. (2017) provided insights into the large geographical differences in prevalence estimates, with Asia at 20.2%, Europe at 15.4%, and the Americas at 11.7%, possibly reflecting true variation in abuse rates across cultures as well as the differences in defining and measuring abuse. These rates are probably an underestimate, as some people may be reluctant to report abuse.

## Prevalence of Elder Abuse in Institutional Settings

Unfortunately, empirical research on prevalence of abuse in institutional (nursing home) settings or service organizations is still rare at least as far as studies are concerned where some form of random selection is used to select the sample. Obviously, it is very difficult to obtain permissions for systematically interviewing elderly residents or doing observational studies. Cooper et al. (2008) reviewed the literature on abuse by professional care providers and found that in nursing homes, 80% of the staff witnessed psychological abuse or physical violence by professional care providers, 40% of the staff admitted to psychological abuse, and 10% admitted to physical violence.

Anyhow, there can be little doubt that nursing home staff may abuse elderly persons who display aggressive behaviors. Two types of nursing home staff abusers, the reactive and the sadistic abuser, can be identified; the sadistic nursing home abuser intentionally and systematically abuses residents of nursing homes, while the reactive abuser has—for whatever reasons—either never developed or has lost immunity to residents' aggressions and thus reacts to immediate situations of aggressive behavior in abusive ways (Goodridge, Johnston, & Thomson, 1996; Shaw, 2004). The nursing home environment may also contribute to elder abuse and neglect, especially inadequate numbers of staff. There is a growing body of research dealing with the ethical dilemma, as nurses are caught between their intentions to fulfill professional standards, while concurrently attempting to safeguard and maintain their own rights to personal safety (Enmarker, Olsen, & Hellzen, 2011; Needham, 2006).

## Definitions of Elder Abuse

According to the overall definition by the World Health Organization, 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” (WHO, 2002).

Despite such laudable efforts, there is still a lack of consensus in defining and measuring elder abuse and its major subtypes. In addition to legal differences among different countries, the recognized experts in the field themselves continue to disagree on definitions. Consequently, different definitions among the various groups of gerontological experts and professionals may potentially lead to difficulty in intervention and treatment. Apart from the most obvious cases of physical mistreatment, behaviors such as neglect, self-neglect, financial exploitation, isolation, or sublime forms of threats are included or excluded. Furthermore, creating valid and reliable operational definitions of elder abuse in survey designs presents an additional challenge (Anetzberger, 2005; Dixon et al., 2010).

Until now, elder abuse has been defined primarily by health-care professionals, service providers, and researchers. In its extreme form, the narrow perspective of elder abuse includes only incidents which encompass physical injuries and, possibly, certain unwanted behaviors like making serious threats. Of course, the more occurrences we include, the more we are confronted with the problem of unclear boundaries.

Older people have had little input when defining the problem of elder abuse—quite in contrast to the case of domestic violence, which was defined by women themselves focusing on the feminist paradigm of gender or power dynamics (Harbison, 2017; Straka & Montminy, 2006).

Yet, recently there is a growing body of studies and reports where the elderly were asked to define elder abuse themselves (Moon & Benton, 2000; Mowlam, Tennant, Dixon, & McCreadie, 2007; WHO, 2002). Definitions given by elderly persons (and also by lobby organizations) tend to be rather broad. For example, widespread feelings of discrimination in everyday life and the loss of respect, especially in intergenerational relations, are expressed frequently by older people in focus group discussions. For them, violence means to be situated uncomfortably on the perimeters of society (Hörl, 2007).

The broadest perspective of elder abuse was developed employing the concept of “structural violence” (Galtung & Höivik, 1971), which extends beyond direct physical and psychological harm to include indirect actions. In this understanding, elder abuse is a built-in feature of societal systems and can be detected in unequal power relations and unequal opportunities in life. This includes—but at the same time goes far beyond—violent acts in the usual sense, and there is an obvious connection to the problems of age discrimination, marginalization, and the ageism debate in general. The concept draws attention to the role that institutions and social practices play in preventing people from meeting their basic needs or realizing their human potential. Furthermore, the concept of structural violence can be used to identify the heavy workloads, low levels of decision-making autonomy, low status, rigid work routines, and insufficient relational care as forms of violence in institutional settings. Not only are these poor working conditions experienced as sources of suffering, but they prevent care workers from providing the kind of care they know they are capable of.

## Subtypes of Elder Abuse

For practical reasons, the following subtypes of abuse as defined by the US Centers for Disease Control and Prevention (2015) may be considered.

Overall abuse might consist of any combination of

- Physical abuse: when an older person is injured as a result of hitting, kicking, pushing, slapping, burning, or other show of force.

- Sexual abuse: involves forcing an older person to take part in a sexual act when the elder does not or cannot consent.
- Psychological or emotional abuse: behaviors that harm an older person's self-worth or well-being. Examples include name-calling, scaring, embarrassing, destroying property, or not letting the elder see friends and family.
- Financial abuse: illegally misusing an older person's money, property, or assets.
- Neglect: failure to meet an older person's basic needs. These needs include food, housing, clothing, and medical care.

Most studies of prevalence coincide that among those abuse subtypes, the highest frequencies are found for psychological abuse, followed by financial abuse, neglect, physical abuse, and sexual abuse. Interestingly enough, Yon et al. (2017, p. e153) found in their meta-analysis no significant difference in prevalence between older women and older men as victims.

## Risk Factors for Elder Abuse and Neglect

As far as risk factors in family and community settings are concerned, substantial evidence exists for the importance of the following factors, as summarized by Lachs and Pillemer (2004, p. 1265): first, a shared living situation is a major risk factor for elder abuse and people living alone are at lowest risk (except financial abuse). Increased opportunities for contact—and thus conflict and tension—occur in a shared living arrangement.

Second, a string of studies have reported higher rates of physical abuse in patients with dementia than in people without this disorder. A likely mechanism is the high rate of disruptive and aggressive behaviors of patients, which are a major cause of stress and distress to caregivers and which can provoke them to retaliate. Caregivers, who might be old themselves, can also be victims of assault by demented relatives.

Third, social isolation has been identified as characteristic of families in which elder abuse occurs. Victims are more likely to be isolated from friends and relatives (besides the person with whom they may be living) than non-victims. Social isolation can increase family stress, heightening the potential for abuse. Furthermore, behaviors that are illegitimate tend to be hidden; the presence of other people can lead to intervention and sanctions.

Fourth, there is agreement that pathological characteristics of perpetrators, particularly mental illness and alcohol misuse, contribute to elder abuse. A history of mental illness seems to be more common among those who commit elder abuse than in the general population. Depression is observed as a common characteristic of elder abusers. Alcohol misuse by perpetrators also seems to be a significant risk factor for elder abuse.

Finally, people who commit elder abuse tend to be heavily dependent on the person they are mistreating. Abuse results in some cases from attempts by the relatives (and especially adult offspring) to obtain resources from the victim. Moreover,



situations have been identified in which a tense and hostile family relationship is maintained because a financially dependent son or daughter is unwilling to leave and thus lose parental support.

In discussing risk factors, it is of utmost importance to remember the diverging initial situations of family and professional caregivers.

Firstly, most informal and family caregivers are still very poorly educated in regard to illnesses like Alzheimer's disease, and they cannot interpret erratic or violent behaviors by the patient correctly; secondly, family members cannot escape the situation easily and move to a less stressful "workplace." The research on family caregiving usually circles around topics like stress-related disorders, depression, feelings of being trapped, the loss of quality of life, alcoholism, etc. Most importantly, of course, is the fact that families are structured as long-standing interactive systems with a high degree of mutuality and reciprocity. However, rewards or retributions need not be returned immediately or in the same manner. Due to the special features of family life, we have to be cautious so as not to misinterpret supposed cases of, for example, financial abuse, prematurely. Family exchanges often follow along rather tortuous paths; however, outright theft or deception is rather seldom.

On the other hand, the professional and expert discourse in the health and social service sectors often centers on intraorganizational problems, especially on poor workplace conditions in nursing homes and other facilities of long-term care, such as understaffing, burnout as a response to chronic emotional and interpersonal stressors encountered on the job, lack of quality assurance, overuse of uneducated personnel, and other factors (Buzgová & Ivanová, 2009; Hawes, 2002). Health and nursing care professionals normally stress that certain actions they have to perform (e.g., bathing, toileting, dressing and feeding the residents, or providing tranquilizing medication) are always legitimate and cannot be considered violent or abusive as long as these are in accordance with acknowledged professional standards even if residents subjectively may feel otherwise. Another prominent example is the use of physical restraints, such as bedrails or electronic tagging and locking devices to prevent cognitively impaired patients from running away (Hamers & Huizing, 2005).

## **Victim-Focused vs. Perpetrator-Focused Approaches**

As far as the question of an adequate societal response to elder abuse is concerned, the problem arises whether a victim-focused or a perpetrator-focused approach is more appropriate for gaining a true picture of assigning responsibilities and for implementing intervention practices (Bergeron 2001).

The victim-focused approach stresses the safety needs of older persons. Especially the frail elderly are regarded as highly vulnerable and as potential victims in danger of being harmed. The victim is the primary client, not the entire family, thus ignoring relationally based factors and characteristics. The perpetrator's motivations or personal difficulties are only a matter of secondary importance, if at all.

Consequently, “using monies allocated to elder abuse prevention to promote messages to caregivers about reducing stress is a misuse of the limited funding there is to address elder abuse, and may have minimal impact on preventing harm to older adults” (Brandl & Raymond, 2012, p. 37). Before all other possible further considerations, the abuse has to end. At the same time, it is up to the victims if they want to continue to have a relationship with their abuser. Within a victim-focused approach, the victim’s needs consistently remain the highest priority in planning care. Recent Austrian research (Hörl, 2009) found that a majority among professionals—especially those working in the fields of violence intervention and counselling—denies strongly that the victims’ (aggressive) behavior is of any significance for their victimization, in the sense that they participate somehow in becoming victimized by overstating or exaggerating complaints or accusations.

In the partnership with the victim, the professionals are required to be careful not to use their power in the relationship as abusers do; a one-size-fits-all intervention approach across all clients would not be feasible (Burnes, 2017; Hightower, Smith, & Hightower, 2006; Spangler & Brandl, 2007).

As an example for the ever-increasing significance of elderly persons as potential victims, it may be cited that recent consumer protection legislation in Austria clearly has been designed with elderly victims in mind, even if this cannot be declared publicly because of the constitutional principle of equality (Ganner, 2014). It has also been argued that in civil and criminal law, there has also been a paradigmatic shift toward a more pronounced victim-focused jurisdiction not least because of altered gender roles (Brammer, 2007; Connolly, 2010; Heisler & Stiegel, 2004; Malley-Morrison, Nolido, & Chawla, 2006; Penhale, 2008). As recently as two decades ago, such a victim advocacy approach was inconceivable; at that time the victim was considered a piece of evidence or maybe heard as a witness and nothing else.

Clearly, there is a certain parallel to be observed between the victim-focused approach in elder abuse and the (feminist) domestic violence paradigm. Actually, there are proposals of merging domestic violence and elder abuse paradigms, grounded in the alleged fact—which is strongly disputed by other scholars—that women are overwhelmingly more likely than men to be victims of domestic violence at all ages (Freysteinson, 2011; Straka & Montminy, 2006).

Those who advocate a victim-focused approach have a double agenda when working with victims of abuse in later life. As said before, first of all, they wish to provide a safe environment, emotional support, counselling, information, access to medical and social services, etc. In applying empowerment principles, it is recognized that the victims are the best to judge their own lives and they are encouraged to make an informed choice about future steps.

Secondly, in addition to the focus on the safety needs of the individual older person, the advocates of the victim-focused approach are regularly committed to a wider political agenda by promoting victim rights on a societal level. The rationale for this attitude can be found in the underlying power and control dynamics of society, which allegedly discriminate old persons systematically. They strive to extend their concerns of raising public awareness of (gender-related) power relations to all

age groups. In this context, they regard it as useful to concentrate on one special form of abuse in later life, which is the phenomenon called “aging out” of violence; here, older women stay in abusive relationships because they feel a commitment to take care of partners despite the fact that they had been abusive for years. The dynamics and risk factors of mistreatment remain the same regardless of age (Ansello & O’Neill 2010; Band-Winterstein & Eisikovits, 2009; Freysteinson, 2011; Straka & Montminy, 2006).

Victim-focusing requires being on the victim’s side unequivocally on all individual and societal levels. Now, when someone strongly pursues a political agenda, it is not advisable to show a kind of wishy-washy empathic attitude toward everyone, including the worst offender. Quite the contrary, it is recommendable to highlight the “structural” gap or dichotomy between the perpetrator and the victim. Under this point of view, any suggestion of seeing caregiver stress (see the following paragraph) as a primary cause of abuse has unintended and detrimental consequences that affect the efforts to end this widespread problem (Brandl & Raymond, 2012).

On the other hand, the perpetrator-focused approach places much more attention and sympathy on the motivations of the offenders and the specific circumstances in the different environments where violence happens. For example, Anetzberger (2000) proposes a model where elder abuse is primarily a function of the perpetrator’s characteristics and secondarily a function of the victim’s characteristics. Caregiving serves as a contextual framework for victim-perpetrator interaction. The dynamics related to caregiving, including the victim-perpetrator interaction and the situation, along with other contexts, such as intimate relationships, isolation, and accessibility to valuables, trigger abuse. It may be expected that a greater understanding of the victim-perpetrator relationship and the characteristics of abusers, victims, and incidents can help to identify proactive responses for abuse prevention. For instance, when domestic violence among an elderly couple occurs, it can include mutual combative situations. Both parties are thus guilty of contributing to the violent incident.

As mentioned, the strongest connection is between the perpetrator-focused approach in elder abuse and the caregiver stress overload paradigm. Basic to this paradigm is the effect on the caregiver from providing long-term care to a physically or mentally impaired elderly person. This caregiver effect becomes stress that may result in the caregiver becoming overburdened. Other factors of the caregiver are important, such as his or her coping skills, perception of burden, the voluntary nature of the caregiving role, isolation of the victim, and lack of supportive services (Bergeron, 2001; Pillemer & Finkelhor, 1989; Sengstock & Hwalek, 1986). Of course, this theory is strongly associated with caregiving provided by informal caregivers such as adult children or spouses.

An often-cited illustrative case example is the husband suffering from Alzheimer’s disease—exhibiting volatile and dangerous behaviors—and his wife caring for him (Ramsey-Klawnsnik, 2000). In the end, she becomes overwhelmed and sometimes turns abusive, verbally or otherwise. Violent reactions can never be justified, but it is understandable nonetheless, if one holds compassionate feelings for a caregiver

who exhibits good intentions while being overburdened. Quite frequently, abusive family caregivers admit to a temporary loss of control leading to acts of inappropriate behavior, like scolding or isolating the person being cared for. (See also the section on risk factors.) At the same time, they tend to trivialize as an unpleasant, but occasionally unavoidable, aspect of “normal” family life under such difficult circumstances. Violent behavior itself is not condoned, but the question of responsibility for abuse becomes much more blurred or is left latently resting in the background altogether (König & Leembruggen-Kallberg, 2006; Lee, 2008; Moon & Benton, 2000). Of course, advocates of this approach try to avoid any suggestion of a reversal of responsibility, but it becomes quite obvious that sort of a “two-victim theory” is assumed and the unintentional character of such “derailed or misspent care” (De Donder et al., 2011, p. 131) when the amount of needed care exceeds the capacity of the caregiver to provide this is emphasized.

The impression cannot be easily resisted that those who employ a perpetrator-focused approach (usually in combination with the caregiver stress concept) show a certain attitude of relativism and even leniency toward offenders. The result is a model where dependent elderly persons who often enough exhibit severe behavioral problems like aggressive acts are cared for by caregivers who are doing their job as best they can and are sometimes even sacrificing themselves. They are left behind by society, however, and are therefore always on the brink of a breakdown. Professionals who are active in the fields of social welfare, medical services, and ombudsman or self-help groups express a certain degree of sympathy toward this view (Hörl, 2009; Sandvide, Fahlgren, Norberg, & Saveman, 2006; as mentioned, professionals from other fields employ a different, victim-focused view).

Of course, there is a thin line between doing social justice also to perpetrators and blaming the victim. Victim blaming occurs when the victim of an abuse is held responsible for the actions committed against them and is perpetuated by a couple of mechanisms. One of them is the just-world theory, originating in the Old Testament. The idea is that only bad things happen to people if they did something wrong to deserve it. People get what they deserve and victims are sinners.

## Conclusion

Summarizing the pros and cons of the victim-focused and the perpetrator-focused approaches, both fail to address the systemic context in which elder abuse is allowed to occur. Each model does in its own way encourage an acceptance of the victim-perpetrator dichotomy and does not take into account the complexity of personal relationships or the societal pressures and traditions that affect individuals inside and outside of institutions. Dow and Joosten (2012, p. 853) rightly emphasize that the “danger of limiting understanding of abuse to include only those actions that are perpetuated at the individual level upon vulnerable elders is that it runs the risk of also limiting our view of older people. Rather than seeing older people as having distinct identities and a variety of valuable roles that they fulfill in society, elders

are seen only in regard to the aspects of their self that may be protected from or suffer abuse.”

For analytical purposes, empirical studies in elder abuse usually employ a perpetrator-victim dichotomy, too. A person may be considered having been victimized or not and having abused or neglected or not. Especially in caregiving, however, interaction processes are of great importance, and elder abuse is normally embedded in complex intimate interactions. It is well known that professional staff in old age institutions or social services as well as family caregivers are frequently confronted with verbal or physical aggression, like spitting or yelling, noncompliance with care needs, deviant behaviors, etc., often caused by cognitive impairments. Thus, violence has become an everyday experience for many nurses and family caregivers. Due to the fact that the act committed by the elderly perpetrator is perceived as being unintentional, it is often not worth reporting. Consequently, there is a lack of awareness about the possible psychological effects of such aggressive assaults, e.g., the high levels of distress (Shinan-Altman & Cohen, 2009). Of course, any acts of retaliation must be regarded as misdemeanor. There can be no excuse for “taking the law into one’s own hands.” It is no easy task gaining a balanced, nondiscriminatory assessment and proposing adequate intervention measures, since the parties and stakeholders involved often enough exhibit high degrees of “ideological” commitments and uncompromising views with regard to the cause of elder abuse.

## Discussion Questions

1. At what age are people considered to be “older” victims?
2. How can the definition of what constitutes elder abuse be improved?
3. Which perpetrators under what circumstances can be considered in a position of trust?
4. To what degree a difference exists between elder abuse victims and crime victims?
5. How can risk profiles for both victims and perpetrators be improved?
6. How does cognitive impairment affect elder maltreatment investigations (e.g., regarding testimony of victims)?
7. How can better mechanisms be created whereby researchers can gain access to victims and perpetrators (in community and institutional settings)?
8. Are there differences between cultural and ethnic groups in defining or excusing elder abuse?
9. What evidence-based strategies can be developed to improve the evaluation of existing elder maltreatment intervention and training programs?
10. Contrasting the victim-focused intervention approach with the perpetrator-focused intervention approach: which approach holds the most promise for the prevention of elder abuse?

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# Chapter 10

## Abuse and Neglect of the Elderly



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### Introduction

Acts of violence committed against elderly people may occur more than once in a trust-based relationship or as the failure to take appropriate measures, which then leads to injury or suffering for the victims. Violence can take on many forms, including:

1. Physical violence
2. Physical and chemical restraints
3. Sexualized violence
4. Omission of certain (necessary) action—neglect, negligent treatment
5. Psychological violence
6. Financial abuse

These forms of violence are explained below:

### Physical Violence

*Physical abuse* ranges from the “unintended slap” to intentional tormenting and on to the repeated infliction of pain. It may produce a row of acute injuries on the victims, such as reddened skin, haematoma, fractures, cuts, contused lacerated wounds,

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and burns, but continued impairment may also occur (a reduced capacity of seeing, hearing, moving) and may in some cases even end with the death of the victim.

Since convalescence from physical injury is slower in old age, this may lead to an increased need for care, either permanently or at least temporarily. Among affected individuals, bone fractures often lead to permanently limited mobility. Immobility in the wake of an injury may trigger complications such as pneumonia, decubitus, inner vein thrombosis, and other injuries.

## **Physical and Chemical Restraints**

A particular form of violence in a care setting is the use of unwanted physical and chemical restraints against the will of the care-dependent person. Although the use of restraints constitutes a massive infringement of constitutional rights with grave consequences for the dignity, quality of life, and health of the victims, mechanical fastening (bed barriers, strap systems, facing tables) and medical fastening (psychiatric drugs, sedatives) are used by nurses on a daily basis. Especially strap systems, when regularly or durably in place, may cause considerable health impairments, such as inflammation, infection, muscle atrophy, or faecal and urine incontinence. These symptoms may go along with psychosomatic reactions, such as stress and anxiety. Inappropriate or improper fastening may lead to injuries of various degrees (skin abrasion, haematoma, bruising of soft tissue, nerve injuries, fractures), occasionally even to the death of the victims. Even though correctly attached, strap systems may cause lethal accidents if carers fail to correctly monitor and attend to their wards.

## **Sexualized Violence**

Sexual abuse is defined as punishable, unwanted sexual contact with people who are unable to defend themselves: ill or care-dependent persons, people with a handicap, and other maladies. These acts also include the negligent or intentional invasion of the victim's privacy, e.g. through unnecessary physical contact as part of a medical treatment or of care duties, and even words or looks can be classified under sexual abuse.

## **Omission of Certain (necessary) Measures**

*Neglect* describes the repeated wilful or unintentional denial of failure to give urgently needed help and humane attention. In practice, a wide range of acts may be described as neglect of a frail and care-dependent elderly person; these include,

among other things, keeping the person waiting for help with fundamental needs, using a sharper grip when performing care duties, disregarding the person, reducing communication to the very minimum, as well as showing emotional detachment in the form of inappropriate communication and choice of words. Grave consequences from failing to carry out necessary care duties may include dehydration, malnutrition or malnourishment, muscle or tendon retraction, decubitus, incontinence, and/or cognitive depletion.

## **Psychological Violence**

A wide range of acts of violence is committed on a psychological or emotional level. Psychological violence is characterized as hurtful and/or disrespectful statements, acts, or attitudes of nurses and care-providing family members in respect of those who need long-time care, as producing feelings of rejection and humiliation, which also leaves them feeling worthless. Such acts of humiliation are part of psychological violence, e.g. shouting at or sneering at older people for their failures, insulting, and offending them, fanning anxiety and feelings of guilt by way of threats.

Patronizing behaviour (e.g. structuring daily tasks, choice of clothes) and the interdiction or strict monitoring of family or external contacts are other ways that deprive the care-dependent person of a self-determined life in spite of impairments or limitations. These experiences of violence may cause psychological damage to the victims as well as a number of clinical patterns, such as post-traumatic stress disorders, psychosomatic complaints, or even self-injurious behaviour or suicide.

## **Financial Abuse**

The term “economic violence” is among other things defined as the withdrawal or denial of money (e.g. the unwanted use of the pension or attendance allowance of the care-dependent person by the caregiver) or as abuse of the legal guardian status.

## **Magnitude of Violence**

Physical, psychological, and sexualized violence may all come in very different magnitudes. For the most part, these are rarely isolated events but most likely recurring “light” forms of violence that may, however, increment in magnitude over time, thus leading to visible health impairments and injuries. Individual forms of violence are not always easy to distinguish, as boundaries are often blurred. Subtle

expressions of violence are not always perceived as such, not even by the victims, their social environment, or perpetrators. More often than not, care-dependent persons remain silent about their suffering, either due to an underlying illness (e.g. dementia) or for social, cultural, or individual reasons. Occasionally, they keep their maltreatment secret because of fear, helplessness, dependency, or feelings of guilt or shame about their maltreatment. Since these assaults hardly ever go on record, a high rate of unknown cases can be assumed. A World Health Organization (WHO, 2011) study published in 2011 came to the conclusion that up to four million elderly people in Europe are affected by violence.

## **Risk Factors**

Frequently, violence occurs where people expect a relationship of trust and where a dependency has developed from their helplessness. Acts of violence may be committed unilaterally or bilaterally. They may emanate from the care-giving family but also from professional nurses and be directed to care-dependent persons and vice versa. The fact of being in need of care or of having to care for a family member changes the social roles within the family. Having a care setting in a common household generally means having limited living space and privacy, which is both true for the care-dependent person and for the care-giving relatives.

A lack of withdrawal options may lead to tension and conflict and may increase the risk of showing or experiencing violent behaviour. Care duties must often be performed in addition to other tasks, such as work, looking after children, and household tasks in the caregiver's own home.

The lack of professional knowledge among non-professional caregivers may lead to physical and psychological overload and, as a result, to inadequate reactions toward care-dependent persons. Family conflicts from the past may be additional burdens. Violent assaults may be triggered or aggravated by alcohol, drug, or substance abuse. While addictive behaviour generally does not entail violent behaviour, it is frequently used to justify and excuse violence. Social isolation is another risk factor that increases the likelihood of encountering violence in a family setting. For people in need of help and their care-giving relatives, a supportive social network is highly important, since perpetrators often avoid any external contact in order to hide their misconduct.

The victims thus have no chance to voice their suffering and ask for help. Other violence-encouraging factors are an extremely high degree of care dependency, dementia illnesses, cramped living conditions, and tense financial and burdensome living conditions (e.g. joblessness). Other factors influencing proneness toward violence include the provision of care for financial motives only and the nature of the relationship between family members before the need for care arises. Prejudices and devaluing attitudes toward the elderly may also contribute to a readiness to show violent behaviour, since they create the basis for tolerating disrespectful behaviour, humiliation, and physical abuse. The fact of looking away, of trivializing or tolerating

such behaviour, in turn, encourages violent assaults to happen again and again. The early detection of such risk factors makes it possible to prevent or at least minimize violent assaults.

## The Key Role of Health Professionals

Physicians and nurses are frequently the only persons (beside the family members) to come in closer contact with elderly victims of violence, either in the course of medical interventions or of outpatient or inpatient medical care. They therefore play a key role when it comes to detecting red flag symptoms. In some cases, they observe situations that suggest inadequate behaviour vis-à-vis the care-dependent person or a massive overburden among the relatives regarding the care issue. In most cases, an insufficient condition of the care receiver, conspicuous behaviour (e.g. unusual withdrawal, reticence, nervousness, anxiousness), or acute injuries and complaints on the part of the care receiver may point to a violent assault. Although medical professionals and nurses can neither change the living conditions of the victims nor end a situation of violence, they can still function as an interface between victims, aid and protection institutions, and the police. Medical health professionals can look for various clues that may indicate abuse. These clues include the fact that the elderly person:

- Looks anxious, reticent, timid, or aggressive
- Is in a poor nutritional condition/bad health/care condition
- Frequently changes physicians (“doctor hopping”) or fails to keep medical appointments.

Several clear alert signals pointing to physical violence are:

- Injuries that do not match the explanation about how they happened (e.g. falling)
- Delays between the time the injury occurred and the use of medical help
- Several injuries in different healing stages
- Chronic complaints without an obvious physical cause
- Clearly defined bruises, fractures
- Black and blue marks in atypical places
- Skin reddening and abrasive burns in areas around wrists or ankles
- Recurring attempts or thoughts of suicide

## Anamnesis

In addition to clinical anamnesis, acts of violence should be subject to violence-specific anamnesis. In addition to asking victims for the history of violence, it is necessary to describe the progression of events, including the duration and time of the act of violence as well as the instrument used in perpetrating it (household

devices, knives, firearms). Before examining the victims, they must be explicitly informed about secrecy, the physician's obligation to confidentiality, and their own personal freedom of choice. Denying or hesitant decisions of the victims must be respected. At the same time, victims should be informed about possible consequences of their decisions, for example, in the case of failure to keep evidence.

The securing of biological traces on the body and clothes of the victims is a must. To guarantee a flawless securing of evidence, special evidence kits (e.g. "sexual crime" forensic sets) are available from the forensic DNA Central Laboratory of the Medical University of Vienna.

## Documentation

In investigation or penal proceedings, it is necessary to precisely document any injuries and complaints in order to prove a violent assault. In addition to injuries that require medical care, it is frequently the minor injuries that—although irrelevant from a therapeutic point of view (such as scratches around the neck, small haematoma on the inside of upper arms and thighs)—may be evidence of maltreatment. Therefore, it is necessary to describe any visible injuries in all detail and in a form that is understandable to noninvolved third parties. An interpretation of the assumed origin of the findings is not required. In order to prove an act of violence, additional graphical and photographic documentation of injuries or traces on the victim's body and clothes are highly welcome.

## The MED-POL Project: Documentation Sheet

The Med-Pol (Medicine-Police) project was launched in 2010 by the Federal Ministry of the Interior in cooperation with the Austrian Medical Chamber as an integral part of the programme "Bündnis gegen Gewalt" (Alliance against Violence). Goals include a network for the coordination of aid for victims and for detecting and preventing violence in their closer social environment. As part of this project, experts of Forensics, the Federal Ministry of the Interior, and the Austrian Medical Chamber compiled a standardized checklist in a form to be used in court in order to document injuries and complaints.<sup>1</sup>

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<sup>1</sup>The injury documentation sheet was designed by the Department of Forensics at the Medical University of Vienna (Univ. Prof. Dr. med. Andrea Berzlanovich) and implemented by the Federal Ministry of the Interior BM.I (Mag. Martina Stöffelbauer, .BK 1.4 Crime Strategy; Mag. Rudolf Gross, .BK 6.1; Dr. Jochen Rausch, amtsärztlicher Dienst; Gerhard Rubenz, .BK 6.2; Andreas Schmidl, BMI II/1/a; Oberst Harald Stöckl, BMI II/2; CI Strohmaier Manfred, .BK 1.4 Crime Strategy; ORat Dr. Hans-Peter Stückler; .BK 1.4 Crime Strategy). The board and members of the Austrian Forensics Society have accompanied this sub-project with shared responsibilities and provided medical consultation. The project was also supported by the Austrian Medical Chamber.

A systematic approach ensures that important signs cannot be overlooked or forgotten while also facilitating the reasoned use of evidence. The assessment sheet should thus be used throughout Austria, by physicians, nurses, and non-medical professionals, such as the staff of victim protection institutions and police. It can be downloaded from the Internet, e.g. under <http://oeggm.com/oeggm-service.html>. The form can be filled out in electronic form via the operating systems of all main hospitals in Vienna and, if necessary, printed out in the form of a physician's letter.

As practice has shown, victims hardly ever consider reporting assaults immediately after they happened. Many victims are maltreated over years before taking concrete steps themselves or being efficiently supported in doing so. Therefore, standardized documentations can provide substantial evidence. Not only do they correctly document and archive injuries relevant for medical intervention but also minor traumas, in which case the documentation sheets can be used at a later stage in penal proceedings.

## **Manual “Medical Care for Women Affected by Violence”**

A group of 54 experts has compiled a manual for use by health professionals interested in more in-depth knowledge, which can be downloaded under [http://www.goeg.at/cxdata/media/download/berichte/Gewaltbetroffene\\_Frauen\\_Leitfaden.pdf](http://www.goeg.at/cxdata/media/download/berichte/Gewaltbetroffene_Frauen_Leitfaden.pdf).

It provides medical and nursing professionals with extensive information that is valid throughout Austria, e.g. on the generation of findings, on documentation and securing of evidence, and on how to communicate with victims.

## **Measures to Prevent Violence Against Elderly People**

Although the fundamental values of our society do anchor the right of any human being to dignity and integrity, the wide range of forms of violence against elderly, mostly care-dependent people has hardly been perceived by the public to date. Violence often happens behind closed doors; victims often live in conditions where they depend on the family and, thus, obtain only little support or attention from outside. Many of the measures that are supportive of victims are not geared to the requirements of older people. Therefore, further improved strategies and measures are needed in order to detect violence and to efficiently protect people in need of help.

### **Discussion Questions**

1. List and discuss the forms violence against elderly persons may take in a trust-based relationship.
2. How do physical and chemical restraints affect the quality of life for elderly persons?
3. Discuss the forms sexual violence against elderly persons may take.

4. What forms can psychological violence against the elderly take?
5. Why is it so difficult to discern the existence and/or magnitude of violence committed against elderly persons?
6. What types of past events can influence the behaviour of family members when they become caregivers for elderly relatives?
7. Who are the key professionals who have opportunities to detect or suspect mistreatment of elderly persons by caregivers? What action can they take on the basis of their suspicions?
8. What are the “red flag” indications that elderly persons are being subjected to physical or emotional abuse?
9. What types of physical documentation must be collected when investigations for possible abuse charges are conducted?
10. Discuss the injury documentation sheet designed for use in courts in Austria to document injuries and complaints regarding the care of elderly persons. How and by whom is this sheet prepared and used?

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# Chapter 11

## Victimization of Elderly Women, “Witches,” and Widows



Michael Platzer

### Introduction

Elder abuse is a widespread phenomenon in all countries. However, the simple fact that more women than men over 60 live alone makes this population group more vulnerable to exploitation and abuse. The inequality and structural discrimination against women aggravates the problem. Of the approximately 245 million widows, more than 115 million live in extreme poverty. An estimated 81 million have suffered physical abuse. In many societies, women are not allowed by law to inherit their husband's assets; often they do not have a proper education and/or marketable skills. Many older women are financially insecure and are dependent on their children or husband's relatives for their basic needs. In some societies, widows are stigmatized, becoming “nonpersons” and are among the most vulnerable and destitute. Urbanization and the breakup of multigenerational support systems have also destroyed the traditional respect and feelings of obligation toward the widowed grandmother in all regions of the world. Moreover, violence against women remains the least-punished crime in all jurisdictions. While some countries have dedicated resources to crimes against the elderly (burglaries, assault, theft, fraudulent schemes), few have seriously examined the physical and mental abuse suffered at the hands of immediate members of the family or in-laws. These crimes can range from the horrific (burning of widows) to dislodging the widow from the family home into a home for the elderly, physical isolation, verbal abuse, and gradual impoverishment and dependence.

Of course, the criminal justice system can do only so much to prevent the mistreatment of elderly widows. Much depends on the religious, cultural, community, and personal values of the society toward widows.

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“No woman should lose her status, livelihood, or property when she loses her husband, yet millions in our world face persistent abuse, discrimination, disinheritance and destitution. Many are subjected to harmful practices such as widow burning and “widow cleansing” – and abhorrent ritual which often amounts to rape and increases the widow’s risk of HIV infection”

Ban Ki-Moon, UN Secretary-General, International Widows Day, 2014

## Universal Challenges

Widows around the world share two common experiences: a loss of social status and reduced economic circumstances. The loss of a husband’s income and the declining value of pensions, along with a steady inflation of costs, result in many women being forced to work again (at low-paying jobs), accept social assistance or charity (meals), or live a life of frugality, foregoing proper health care or even purchasing new undergarments. Frequently, their children have moved to another city or abroad, and often the only alternative is an old age home where they may often be disrespected and badly treated. Homes for the elderly vary greatly in quality, but some are exploitative, even criminal in garnering all the assets of helpless abandoned women.

Callous offspring are not only guilty of neglect but even of criminal behavior ranging from illegal transfer of a woman’s assets, robbery, battery, and hastening the death of the mother. The lack of appropriate medical attention, not providing for home care and wholesome nutrition, forced transfer to an elderly home, and the sale of the family home and personal property are the fate of many elderly widows in developed countries. As a result of these experiences, many elderly widowed women suffer from chronic depression and become suicidal.

## South Asia

India has the largest recorded number of widows in the world—33 million. Fifty-four percent of women aged 60 and above are widows (Chen, 2000). Although this represents 6.9% of the total population, these women remain largely voiceless. There can be a triple cultural discrimination of widowhood for the Indian woman, her widowhood, her caste, and her poverty. In the dominant Hindu society, a widow may be physically alive but socially dead (in many parts of South Asia, widows are expected to wear white and shun all colored garments and jewelry). It is, in fact, difficult for a widow to inherit her deceased husband’s property against the rights claimed by his family. In India, widows’ deprivation and stigmatization are exacerbated by ritual and religious practices. *Sati* (widow burning), although criminalized by law, still occurs. Widow remarriage may be forbidden in the higher castes; and remarriage, where permitted, may be restricted to a family member (usually the deceased’s brother). A widow, upon remarriage, may be required to relinquish all property rights. Thousands of widows are disowned by their relatives and thrown out of their homes in the

context of land grabbing. Their options, given a lack of education and training, are mostly limited to becoming exploited, domestic laborers (house slaves within the husband’s family) or turning to begging or prostitution. Many commit suicide as a result.

Witch hunting, despite the Prevention of Witch Practices Act, still occurs in North and Central India (thousands are killed each year). A widow’s very right to inherit becomes her death sentence when the husband’s family asks her to relinquish the property. For such a heinous crime, the punishment is only 6 months’ imprisonment or a fine of 1000 rupees. The law is rarely enforced. Law enforcement has arrested only 2% of the culprits.

Many of India’s widows live in abject poverty. The international media has made sensationalist documentaries about the widows abandoned by their families at the temple shrines of Varanasi, Maltura, and Tirupati. In Vrindavan alone, an estimated 20,000 widows struggle to survive, by chanting and begging for alms from pilgrims and tourists. Some of the older widows may have lived the greater part of their lives in these temples.

In spite of the 1956 Hindu Succession Act, widows’ lives are still determined by local customary law, which does not permit them to inherit. Legislation criminalizing child marriage, the battery of one’s own wife or *sati* (the burning of widows) has not succeeded in eliminating such traditions which persist in the rural areas of some Indian states. Until recently, a husband could have an instant divorce by simply saying “Talaq” three times under Islamic law in India.

## ***Bangladesh***

In Bangladesh, the Muslim widow is theoretically better-off than the Indian Hindu widow. Under Sharia Law, the widow is entitled to one-eighth of her husband’s estate. However, illiterate poor widows in rural areas are regularly deprived of their rightful inheritance (Ishrat, 1995a, b). In one survey, only 25% of widows sampled received their rightful share from their parents and only 32% from their husband’s estate. Polygamy enables second wives to be brought into a marriage when the first

### **Box 11.1**

A recent study in Nepal of coping strategies of widows who have suffered violence makes dismal reading (Sabri, 2015). The women report a general lack of awareness of their problems and needs, discrimination, lack of social support, and insensitivity of the police.

In Pakistan, the Honour Codes oppress all women, a blanket of silence hiding the cruelty, imprisonment, and even death inflicted upon widows who are suspected of bringing dishonor to the family. Similar “Hudood” ordinances exist in Saudi Arabia, Jordan, and other Islamic countries. The mourning rituals in some of these countries verge on the barbaric, requiring women to wear uncomfortable “mourning clothes,” to be kept in a hut or separate part of the house, and to be not allowed to appear in public. They may be denied food and can even be physically abused by their in-laws.

wife is considered too old for sex or childbearing. The daughters of poor widows represent an economic liability and are often given away to older, frail, disabled men, thus ensuring serial widowhood.

Widows' daughters who are without male protectors and not enrolled in schools in Nepal and Bangladesh are particularly vulnerable to being trafficked to the brothels in India. Poor homeless Bangladeshi widows come to the cities in search of jobs as domestic servants and are forced to leave their children behind in the hope that their meager income which they send home will be used to feed, clothe, and educate their children. Anecdotal evidence points to a direct linkage between widowhood and child prostitution.

The United Nations estimates that there are several million war widows in Afghanistan who are the sole survivors for their families (Report of Secretary-General, 2001). The Taliban forbids women to work outside the house or even leave the house unaccompanied by a male relative. The Taliban has also decreed that food aid must be collected by a male relative. Thus, the children of widowed mothers suffer malnutrition and ill health (International Herald Tribune). The plight of these war widows has been brought to the attention of the international community, but without effective remedies to relieve these desperate war widows, they are reduced to begging in the streets and exposed to more violence.

## **Southeast Asia**

The situation is similar in parts of Asia which have been ravaged by war, namely, Cambodia, Vietnam, Indonesia, and East Timor. One-third of East Timor's population has been killed, disappeared, or died of war-induced famine. In many cases, widows have sought refuge in the hills or were moved at gunpoint to camps in West Timor and often became victims of rape. Fearing retaliation or ostracism by their communities and families, they have been reluctant to report these crimes.

The war in Cambodia left widows in charge of their rural homes; in some regions, 35% of households are headed by widows. Due to widespread poverty, many widows are forced to become sex workers or to sell their daughters to trafficking agencies for money. In neighboring Myanmar, widows are also struggling to bring up their children and to care for the sick and disabled victims of their internal civil war. The dearth of alternatives has led many of the young widows to move to Thailand and become part of their thriving sex industry. But what is worse is that destitute widows sell their daughters to trafficking agencies for money.

## **Pacific**

Media reports have revealed disturbing mutilation and murder of women accused of "witchcraft" in Papua New Guinea (500 cases have been reported). Suspected witches have been thrown from cliffs, tortured, dragged behind cars, and burned

alive (Zocca & Urame, 2008). Victims are mainly widows or other elderly women who do not have children or relatives to protect them, women who were born out of wedlock or women who do not have high standing in the family (Manjoo, 2012). Perpetrators are rarely arrested.

Elderly women in Australia, New Zealand, and the Philippines suffer fates similar those in the United States and Europe.

## Africa

Africa suffers from all of the above victimizations of widows, brutalizing poverty, no property rights, land grabbing (or “chasing off”), degrading rituals such as sexual cleansing by male members, the practice of *levirate* (widows must marry their dead husband’s brother), accusations of witchcraft, banishment (to “witch camps”), even murder, and the effects of armed conflicts (especially in South Sudan, Central African Republic, Congo, western Chad, northern Cameroon, Liberia, Sierra Leone, northeastern Nigeria, Uganda, Rwanda, Angola, and Mozambique). While modern laws, international treaties, and even constitutional guarantees should provide protection for women, impunity is, in fact, the reality. The customary codes, the patriarchal nature of society, the particular vulnerability of women to natural disasters, the HIV/AIDS pandemic, untreated health problems, the lack of education and skills, and also the structural-adjustment policies that resulted in the destruction of small-scale agricultural plots have reduced widows to begging on the streets and putting their children into child labor.

Sixty percent of adult women were widowed by the wars in Angola and Mozambique. The genocide in Rwanda created 500,000 widows. Even years after the mass raping of the war widows, these women now suffer and die from HIV. Moreover, intergenerational effects are continuing because of the vulnerability of their girls to rape and violence, who cannot go to school. Similar reports come from Congo, Nigeria, Somalia, Sudan, Chad, and northern Uganda.

According to the World Widows Report, published by the Loomba Foundation, widows know no peace in Angola, Botswana, Republic of Congo, Democratic Republic of Congo, Ivory Coast, Kenya, Malawi, Namibia, Nigeria, Rwanda, Senegal, Swaziland, Tanzania, Zambia, and Zimbabwe (Loomba Foundation, 2016).

Women have been accused of being witches in Tanzania, Ghana, Togo, Nigeria, and South Africa so that their property can be seized (Laurent, Platzer, & Idomir, 2013). Many of these women flee with their children to towns to seek refuge. In Ghana, there are “witch” camps where widows seek mutual protection (Reiterer, 2013). According to Action Aid, there are six witch camps located in northern Ghana: Gambaga, Kukuio, Gnani, Bonyase, Nabuli, and Kpatinga. An Action Aid survey of these camps found more than 70% of these women were accused of being witches after their husbands died (Action Aid, UK., 2017). Widows who are accused of being witches are vulnerable persons with no strong male family defenders. Women who are accused of witchcraft suffer sometimes fatal violence, torture, and

banishment and left with only the clothes on their backs. According to expert reports, accusations of sorcery are a convenient disguise for premeditated killings based more on a person's dislike for another, jealousy, envy, greed, rivalry, or revenge, especially targeting women from other tribes or communities (Manjoo, 2012). According to a HelpAge International Research Study (Kibuga, 1999), 500 killings of "witches" take place each year in Tanzania. In Zimbabwe, 42 cases of murder of women over 50 accused of witchcraft took place. A particularly vile custom in some African countries is that widows are forced to drink the water that their husbands' corpses have been washed in. The worst irony is that women accused of practicing sorcery can actually be prosecuted under various provisions of the criminal legislation, although no actual harm needs to be proven, only the intention of doing harm.

HelpAge International and other nongovernmental organizations (NGOs) are seeking to educate local communities about the harmful consequences of witchcraft allegations, misconception about HIV, and other illnesses which local people cannot explain. Community members have been trained as paralegal advisors to provide legal advice on land, inheritance, and marriage rights (HelpAge). In addition, influencing the behavior of traditional healers and local law enforcement and working with local government officials, religious leaders, and the media have been priorities. The UN Special Rapporteur on extrajudicial, summary, or arbitrary executions recommends that all killings of alleged witches be treated as murder (A/51/457)

## Latin America

Women in Latin America suffer the phenomenon of "machismo" or male chauvinism, are kept in subordinate positions, and discriminated against, particularly in education and employment positions. This ultimately has a cumulative effect when their beauty has faded and their husbands die. Many widows are then impoverished, suffer loneliness, and low self-esteem (depression, even thoughts of suicide) due to the lack of support systems.

Indigenous women are now particularly vulnerable as their traditional way of life is being destroyed by the invasion of miners, loggers, and unscrupulous men who have come into their environment.

Armed conflict in Guatemala, El Salvador, Colombia, and Venezuela has also resulted in thousands of war widows. During the "violencia" in Guatemala, 15,000 indigenous men were killed. In Chile and Argentina, many men were "disappeared" leaving their families without knowledge of their beloved ones and without economic support. In many of the regions of Latin America, where drug cartels or organized gangs terrorize the population, innocents are killed or forced into criminal activities. These populations, often living in impoverished neighborhoods, are then invaded by police, paramilitary, or vigilantes who cause more deaths. The vulnerable widows are exploited by these gangs and forced to hand over protection money. Others flee with their children to "El Norte."

## Central and Eastern Europe

Since the collapse of Communism and the social support system, many elderly women have been impoverished and suffer from psychological depression, family violence, and suicide. Men succumb to alcoholism and now die much earlier than decades before (life expectancy is now 58 years from 62 years in 1980). Thus, there are more widows now than in the past. In addition, there are soldiers’ widows in Russia from the wars in Afghanistan and Chechnya. With the breakdown of law and order and respect for the elderly, robbery, assault, and rape of defenseless women has increased.

The low pensions that women were given in the Soviet Union (unpaid for many years after the collapse of the USSR) and in Eastern Europe, aggravated by the fact that many women lost their jobs as a result of economic restructuring and their benefits (canteens, childcare), have meant a large group of very vulnerable elderly women. Anecdotal evidence suggests that many of the “street children” and increasing number of juvenile delinquents (now gang members) are the offspring of widowed mothers who can no longer afford to care for them. These children, who are often violent, now turn on their mothers for money for drugs, clothes, or entertainment.

Many widows in Eastern European and the Baltic states are ethnic Russians who migrated in the post-World War II years from throughout the Soviet Union and now in their old age are losing their rights to property, citizenship, and basic assistance. Moreover, the new emphasis on a market economy, glamour, and fancy lifestyle has left the older woman excluded and invisible.

## United States

Elder abuse is a hidden, yet growing problem in the United States. Research estimates that approximately 1 in 10 older adults living in their homes experiences elder abuse each year (Alexandra Hernandez-Tejada, Amstadter, Muzzy, & Acierno, 2013). At the same time, elder abuse is significantly underreported, for reasons of shame or fear. While the number of older persons will increase, due to the post-World War II “baby boom,” the US Government Accountability Office (US. GAO, 2011) has said that resources directed to elder abuse are not keeping pace with the growing volume and complexity of cases.

Advanced age does not protect one from sexual assault, but rather increases the risk in many ways because of the disabilities and vulnerabilities of older women. The US National Center on Elder Abuse defines sexual abuse as any “non-consenting sexual contact” including rape; sodomy; coerced nudity; sexually explicit photographing; touching genitals; biting breasts, neck, or buttocks; sadism; torture; and traumatization. Most older victims are female (although male victims have been reported in almost every study). Genital injuries occur with more frequency and severity in postmenopausal women than younger rape victims (Poulos & Sheridan, 2008). Older victims are also more likely to be admitted to a hospital following an

**Box 11.2****Sexual Abuse of Elderly Women in Nursing Homes: United States**

A landmark national study of residents (mean age, 79 years) of long-term care facilities where investigation of sexual abuse was detected found that the most likely perpetrators were facility staff (43%) or another resident (41%) (Ramsey-Klawnsnik, 2008). In home care situations, women have been subject to rape, sexual molestation, sadistic sexual activity, attempted penetration of the vagina or anus, fondling of breasts or genitals, oral-genital contact, invasive genital touching while being provided with personal care, and unnecessary digital rectal examination by spouses, intimate partners, male relatives, or home caregivers. Possible but less likely abusers are strangers, acquaintances, visitors in facilities, online predators, and sexual predators released from prison. When abused by a spouse, partner, or family member, there is often a history of domestic violence or incest. In almost all cases, the women have a diminished ability to flee or resist physical attack (suffer cognitive impairment, dementia in particular) and are in a dependent situation.

assault (Eckert & Sugar, 2008). Most perpetrators have special access to victims as family members, intimate partners, fellow residents, or care providers. Persons who sexually offend against family members exhibit characteristics of mental illness, substance abuse, domineering or sadistic personalities, sexual deviancy, and sexist views of wives as property (Ramsey-Klawnsnik, 2003).

Victims of elder sexual abuse are reluctant to report, especially if the perpetrator is a family member, for fear of further harm, misinterpretation of disclosure as being dementia-related, and unsympathetic responses by the police. The US National Institute for Justice research has shown that the older a victim, the less likely the offender was to be found guilty (Schofeld, 2006).

Often such “late-life” domestic violence or intimate partner violence has developed as result of caring for a sick spouse over a long period of time. Frustrated husbands have used excessive force, coercion, or physical restraint; others have physically neglected their wives even to the point of denying medicines. In some private nursing homes, there is little control over the administration of medicines (caregivers divert analgesics for themselves)

***Financial Abuse of Older Adults***

Financial abuse of elderly women often occurs in combination with physical or psychological abuse. As in developing countries, family members have often sought to inherit or control the assets of elderly women by using undue influence to transfer deeds to property, titles to vehicles, bank accounts, retirement accounts, use credit cards, or even forge signatures of their mothers. In addition, professional scammers solicit money under false pretenses (sweepstake scams, computer-based scams,



debt and tax scams) and take advantage of older women who are lonely, vulnerable, gullible, or cognitively impaired. Younger men have been known to romance an older woman with the intention of acquiring her assets and then to abandon her forthwith. Predatory lenders have pressured older homeowners to take out home equity loans at exorbitant rates, and financial advisers have encouraged elderly women to invest in dubious schemes. Unscrupulous home repair people do not provide the services they are paid to do. Paid caregivers “steal time” by engaging in personal activities while being paid to provide care and ignoring the needs of the person who pays them. Elderly women living alone are particularly vulnerable to theft of pocket books and battery on the street and breaking and entry of their homes and theft of their valuables. Identity theft by paid caregivers and nursing home employees can be even more devastating in terms of the elderly person’s loss of control of their bank accounts and liquid assets.

These different forms of financial abuse not only deplete the older adult’s income and assets but diminish their ability to pay for medications, medical supplies, health care, and other health-related needs. This theft affects the health conditions of elderly women and causes impaired cognition, physical disability, and mental health risks. The conditions most consistently cited as risks for financial abuse are sex, dependency, and increased age (between 70 and 89 years).

African Americans in the United States who are below the poverty line and reside in households with non-spousal family members are nearly six times as vulnerable to exploitation as non-African Americans. Family members with addictions take money or property to support their habits. But many times, it is unclear in terms of what is fair compensation for caregiving; moreover, family members who are in possession of the assets or bank accounts do not understand that the money should be spent only for the older person.

There are red flags indicative of financial abuse such as sudden changes in bank accounts, unexplained withdrawals of large sums of money, inclusion of additional names on an elder’s bank account, abrupt changes in a will, sudden transfer of assets to a family member, discovery of elder’s signature being forged, and unexplained disappearance of funds or valuable possessions.

In many cases, the transfer of assets to family members is logical because of emerging dementia. However, loss of financial capacity can be psychologically distressing when diminished capacity to attend to financial matters increases the risk of exploitation. Caregivers and other persons observing the abuse are required to report the misuse of funds to the authorities.

### ***Response to the Abuse of Elderly Women***

Many of these afflictions apply to elderly women in almost all countries. So what can be done? The United Nations has promoted the Madrid Plan of Action on Aging of 2002, and each year, the General Assembly calls upon Member States to implement the Plan on a national level and set up units to protect their senior citizens. In 2011 the United Nations designated June 15 as World Elder Abuse Awareness Day.



The June 23 has been declared International Widows Day, and the General Assembly reminded us that millions of widows endure extreme poverty, ostracism, violence, homelessness, ill health, and discrimination in law and custom. Each year, the Secretariat, on behalf of the Secretary-General, sends out a message. In 2016, Ban Ki-Moon sought to link the plight of widows to the “2030 Sustainable Development Agenda with its pledge to leave no one behind has a particular resonance for widows, who are among the most marginalized and isolated.” But there is no specific mention of widows or older women in the Sustainable Development Goals nor in the 174 indicators. It has been said that these women are “invisible.” The Global Fund for Widows and Widows for Peace through Development and Widow’s Rights International prepared a report for the sixtieth session of the Commission on the Status of Women, “Widowhood: An Economic, Social, and Humanitarian Crisis: The Solution to Sustainable Development.” While the elderly undoubtedly deserve our respect and make substantial contributions by working longer and also taking care of grandchildren, their political influence remains limited because the percentage of the elderly, even in developed countries, does not exceed 20%. Perhaps, when the next generation reaches 60 or 70 years of age, the power relations will change. However, for disadvantaged women, the cultural and embedded discrimination against women may not change. It may be hoped that laws to protect women already on the books may be enforced more and more and that police, medical personnel, social workers, and judges become more sensitized. Media and nongovernmental organizations must also continue to press for recognition of the plight of abandoned widows and fight against the discrimination against the older women.

## **The Present Reality**

Whereas, on the one hand, modern laws, international treaties, and national constitutions guarantee equality and the protection of women against violence, on the other hand, customs and the patriarchal nature of society still allow for impunity. Funds for the prevention, training, and protection against elder abuse are limited in all countries, and even less money is provided for research on causes of elderly abuse, what works to prevent violence, and how to prosecute the perpetrators. There are many theories to explain the violence (feminism, power and control, community/social influences, the relationship between victim and perpetrator). While it is agreed that elder abuse is complex and requires a multidisciplinary approach to counter it, little research on the cognitive status of the victim is undertaken, the setting in which abuse occurs and concerns for victim safety (Jackson & Hafemeister, 2013). Some research has shown that many interventions currently employed are ineffective and counterproductive (Daniel, 2011). However, as the elderly population increases, a more dynamic, multisystem intervention approach is needed to end elderly mistreatment and to focus funds on programs that are effective.

Even at the United Nations, there has been a reluctance to draw attention to the plight of elderly women in human rights documents or in the development agenda. Worse, many states have entered reservations on the articles of the Convention of All Forms of Discrimination against Women (CEDAW) pertaining to personal status law, inheritance, and land rights—issues which most affect widows.

The UN Population Fund has identified the sexual health problems of older women (particularly in connection with mourning rites and conflict violence), but UNFPA has not been able to fund research and programs for these affected women. Their extreme vulnerability to HIV/AIDS has not received enough attention. UNHCR has developed special projects for refugee women, but has neither targeted the special needs of widows as a separate group nor recognized their personal status (such as flight from a forced remarriage or feared violence from their family or community) as legitimate grounds for asylum. Women’s inheritance rights and the extreme hardship widows face have slowly entered the poverty eradication and development discussions. The World Bank Development Report “Voices of the Poor” now includes a special section on widowhood.

In 2001, the first International Conference on Widows was organized in London. It recommended that legal reforms in inheritance and landownership rights be enacted and enforced; action be taken to end the cruel, dehumanizing, repugnant, and discriminatory practices widows must endure; customary, religious, and modern laws reinforcing discriminatory practices be abolished; laws be strengthened to ensure the punishment of perpetrators of violence against the elderly; continuous sensitization of law enforcement personnel, judges, magistrates, religious leaders, and traditional leaders to be carried out; independent research be undertaken into the extent of violations against widows; and multi-sectoral schemes be developed to protect, empower, and support the elderly in society.

In 2011, the United Nations General Assembly adopted International Widow’s Day. In 2015, Secretary-General Ban Ki-Moon spoke of the intersecting forms of discrimination elderly women face, due to age, lack of income, ethnicity, disabilities, and lack of a husband. “The death of their partner can leave them in precarious living conditions, particularly in areas of conflict, natural disasters and humanitarian crises... we must erase the social stigmatization and economic deprivation that confront widows” (Ban Ki-Moon, International Widow’s Day, 2015).

However, in 2016, 130 million widows still live in desperate poverty, and many suffer horrible violations of their rights and human personality. The Secretary-General asks us to make widows more visible in our societies and support them in living productive, equal, and fulfilling lives (Ban Ki-Moon, International Widow’s Day, 2016).

The 2030 Sustainable Development Agenda with its motto to “leave no one behind” has a particular resonance for widows, who are among the most marginalized and isolated. There is still much work to be done before the victimization of older women and widows is eradicated.

## Discussion Questions

1. Why do accusations of witchcraft and the killing or banishment of accused women still occur in many parts of the world?
2. Why is domestic violence committed by the spouses, intimate partners, in-laws, and children against older women one of the most unpunished crimes?
3. Why do elderly women who are victims of such crimes as rape, sexual, assault, and battery committed by their caregivers not reported to the authorities?
4. Why are laws designed to protect elderly women and widows not enforced, either in developed countries or in developing countries?
5. Do you believe a United Nations Convention on Protecting Elderly Women and Widows from Abuse and Victimization would lead to the prevention of the victimization?
6. What are your ideas on how to prevent elder abuse?
7. What would you do if you witnessed violence against an older woman?
8. Would you be willing to volunteer in an elderly care facility?
9. Should the protection of poor vulnerable older women receive as much targeted foreign assistance as the funds provided for protecting teenage girls?
10. What effect do the customs, traditions, and culture of a country have on the enforcement of the laws that were enacted to protect elderly women and widows?

## Resources

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## Part III

# Introduction: The Criminal Justice Response to the Prevention of Elderly Crime and Treatment of the Elderly Offender

### Introduction

The response of the criminal justice agencies to the older criminal offender has not always been consistent. Prior research on sentencing of older persons convicted of criminal offenses reveals that some older offenders have been treated more harshly than younger offenders who had been convicted of the same offense, while other researchers have found that older offenders were treated more leniently than younger offenders who had been convicted of the same offenses.

In Chap. 12, the author examines the situational factors surrounding the offenses of older persons that might have an influence on the way a particular justice agency responds to the older offender. In this chapter, the procedures used by the police, prosecutors, and judges to divert older offenders from formal processing are examined. An explanation of special problem courts, including drug courts, mental health courts, family (domestic violence) courts, and community courts is given and the relevance of these courts to the older offender is also examined. The author provides information and examples of older convicted criminal offenders who are placed on community supervision such as probation and commitment to a residential treatment facility. The special programs offered in community corrections, such as drug and alcohol counseling, mental health counseling, and counseling on making an adjustment in reentry into the community for those older inmates who had been released from prison and placed on parole, are described. Finally the adjustment of the older inmates incarcerated in prisons is examined, specifically focusing on the factors that make prison life difficult and the special needs of older inmates, particularly health care. A description of the characteristics of special programs developed in correctional facilities to accommodate the needs of the older inmates is provided.

In Chap. 13, the author focuses on the special treatment programs developed for offenders with mental health problems. Research reveals that a substantial number of older offenders suffer from dementia, depression, and some form of psychosis. For these older offenders, a mental health approach to treatment may be warranted rather than a criminal justice approach. The author explains several

of the community-based and institutionally based approaches that offer promise for the treatment of older criminals with some forms of mental health problems. Collaboration and cooperation of service agencies, public health agencies, and justice agencies in the development of programs and the supervision and treatment of the criminal offender with special problems are emphasized.

In Chap. 14, the author provides an overview of the trends in the criminal offending of the elderly in the various countries represented by those who have written chapters for the book. Although the trend toward an older population is apparent in all of the economically developed countries, the major forms of criminal behavior of the elderly may be different, depending on the social, economic, and legal systems of the country being considered. For example, countries such as the United States and South Africa have much higher rates of violent crimes by the elderly than most other countries for a variety of reasons, including a tolerance for violent crime and the elderly's opportunity to commit violent crimes by use of firearms. The response to the older offender may vary, depending on the laws and cultures of the countries being considered. The author reviews some of the most commonly used techniques and methods used by criminals to victimize the elderly. With the development of the Internet, the same techniques used by criminals to victimize the elderly through frauds and scams can be employed throughout the world.

# Chapter 12

## Justice System Response to Elderly Criminality



Peter C. Kratcoski

### Introduction

The increase in the number of crimes committed by the elderly throughout the world is likely to continue for the majority of types of crimes. Kratcoski and Edelbacher (2016, p. 4) note,

As a result of improvements in health, communications, and education, changes in life styles, including the type of employment, and changes in social relationships, the life span of the populations of most countries of the world has increased. People are living longer, working longer, and in general have more formal and informal contact with people outside of their primary social relationships.

These factors, as well as others relating to the entitlements provided by the government to older persons, new policies and laws that affect the elderly, and technical tools used in data processing provide opportunities to engage in criminal acts. Kratcoski (2017, p. 13) states,

In addition to opportunity, the motivation to commit crimes must also be considered. For example, people who may have had a steady income during their productive years may not have had much motivation to steal, but in their older years, if they find themselves living on an income that is barely sufficient to cover the increasing cost of living and with no backup funds for emergencies, the motivation to fulfill their basic needs for food and shelter through stealing may increase.

The ability to commit the crimes may also be a factor in explaining why some types of crimes by the elderly are either increasing or decreasing. For example, violent crimes against persons by the elderly, such as homicide, might decline considerably in those countries where a small proportion of the citizenry owns firearms, because many older persons do not have the physical strength to be involved in violence. In other countries,

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including the United States, the rate of homicides may continue to increase, since easy accessibility to guns makes it easier for older persons to commit such crimes.

The criminal justice system's response to older persons who commit criminal acts due to circumstances, in contrast to those who have been habitual criminals for many years, must be considered in any analysis of the older criminal offender

## **Criminal Justice Response to Older Offenders**

Criminal justice system functionalities dealing with older offenders must consider the prior criminal histories of older offenders in making decisions on how to process them. In addition, other factors such as the severity of the crime, the circumstances surrounding the criminal act, the laws pertaining to the crime existing in the jurisdiction in which the crime occurred, the likelihood of the desistance of criminal activity if the older offender is diverted, and the special needs of the offender, such as mental health treatment, must be taken into account in the disposition of cases of older criminal offenders. If the criminal code of the state or federal jurisdiction allows for considerable discretion on the part of the criminal justice officials, there may be considerable differences in the response to those charged and convicted of criminal offenses from jurisdiction to jurisdiction and even within the same jurisdiction. For example, within the same county court system, some judges may be known for their leniency in disposing of certain offenses, while other judges may have reputations for their severity in sentencing for the same offense.

With the exception of offenders defined as juveniles, the criminal codes do not specify age as a factor that calls for special consideration in the sentencing of convicted criminal offenders. What deference is given to the older offender will be based on either the policies of the criminal justice agency or the use of discretion on the part of the criminal justice agents. Research by Fattah and Sacco (1989) found that the police were generally sympathetic in response to the older offenders who were arrested for such offenses as shoplifting, vagrancy, public intoxication, and family violence. The police officers viewed most of the older offenders as being mentally confused and in need of assistance or supervision rather than harsh punishment. In contrast, other researchers (Aday & Krabill, 2006) found that some judges gave harsher sentences to older offenders than they gave to offenders in other age groups who were convicted of the same offense.

The specific offense may be a determinant on whether older offenders may be treated more severely in sentencing than younger offenders who are convicted of the same offense. Vinyard (2016), in a study of child pornography offenders who had been convicted under federal statutes, found that older age was a predictor of being given a harsh sentence and a longer period of post-release supervision. The Protect Act of 2003 (Vinyard, 2016, p. 47) was enacted by the US Congress to allow for harsher punishments for those convicted of violating federal laws pertaining to child pornography. In addition to provisions that would allow judges to give harsher sentences to those convicted of child pornography law violations, "... The Act length-



ened the supervised release term for child pornography offenders from a maximum of five years to a minimum of five years to life” (Shockley, 2010, p. 7). Vinyard’s research database consisted of 1770 males convicted of and sentenced for child pornography law violations in the federal courts. He found that older offenders (50 and above) convicted of an offense pertaining to child pornography were given significantly longer supervised release time than that given to younger offenders convicted of the same offense. Vinyard (2016, p. 51) concluded, “Of all the extra-legal factors considered in the study, age exerted a significant effect in predicting those child pornography offenders sentenced to a life term of supervised release. The result is contradictory to findings in the most recent extant sentencing literature on the effects of age and sentencing, which finds that the younger offenders are more likely than older offenders to be treated more harshly.” The author provides several speculations for the reasons for the older child pornography offenders to be treated more harshly than the younger offenders. He suggests that the older offender may be perceived as a greater threat to society by the sentencing judges. He states (p. 55), “The idea of an offender over age 50 receiving sexual gratification from images depicting the sexual assault of children under the age of twelve, including infants and toddlers, may be unsettling for judges.”

## **Application of the Sequential Intercept Model for Older Offenders**

The Sequential Intercept Model (SIM) (Munetz & Griffin, 2006) was developed to set guidelines for those providing forensic mental health services for offenders in need of such services. The SIM identifies five intercept stages in the criminal justice process in which a violator of the criminal law might be diverted from deeper penetration into the justice system. The extent of penetration for an individual offender is determined by the severity of the offense, by the circumstances surrounding the offense, and by the community resources and linkages available to intercept the offender at various stages of the criminal justice process. Although the Sequential Intercept Model was specifically developed to provide a “systems mapping” plan for the treatment of law violators with mental health problems, the SIM is applicable to all criminal law violators, with the exception of those who are convicted of a criminal offense that requires a mandatory prison sentence. It is particularly useful with multiproblem offenders which is often the case with the older criminal. Research by Kratcoski and Dahlgren (2004) revealed that a large proportion of the older offenders participating in a drug court program as a result of substance abuse also had one or more problems in the areas of physical or mental health, housing, employment, and family relationships.

Bratina (2017, p. 60) notes “The SIM outlines five potential ‘intercept’ points in which personnel in multiple systems and at multiple points of processing could potentially divert persons with mental illness (PwMI) away from further justice involvement.” These five intercept points are:

- Law enforcement/emergency services (prebooking)
- Initial hearings and detention (post-arrest)
- Jails and courts
- Reentry
- Community corrections and community support services

The five intercept points listed above will be discussed later in the chapter with specific reference to the older offender. Bratina (2017, p. 67) notes that, although the research on the effectiveness of the SIM is limited, the SIM is useful as an organizational tool by the police and community corrections systems as a tool for multisystemic mapping of ways to respond to criminal offenders at each stage in the justice process.

## Diversion of the Older Offender

Research on the characteristics of older criminal offenders suggests that a large proportion of the elderly have a problem or multiple problems that would tend to mitigate to some degree the culpability of the offense.

Bratina (2017, p. 55) states,

In fact, a significant proportion of offenders are frequent ‘cross-over’ clients in multiple systems of care (including criminal justice, mental health, public welfare, and substance abuse). To improve the systematic response to this population, there was a need for the development of a conceptualized model of diversion points by which to provide opportunities for treatment and prevent individuals from further penetration into the system of criminal justice.

The National Initiative to Reduce the Number of People with Mental Illnesses in Jails created by the Center for State Governments Justice Center (Center for State Governments, 2016, p. 1) has the specific purpose of using alternatives to handling those accused of a crime who have some form of mental illness, or an addiction to drugs or alcohol, and who would normally be held in jail. The alternative would consist of either hospitalization or referral to a treatment facility. Programs to divert the mentally ill from being held in jail pending a decision on the offense to which they were charged have been in operation for several decades throughout the United States. However, the police do not always have the opportunity to divert the mentally ill offender, and holding the person in jail may be the only option available. Kratcoski (2017, p. 2) notes,

The police working in many counties throughout the United States, particularly those counties that have relatively small populations, face a dilemma when they encounter a law violator whose behavior shows all of the signs of the individual being mentally ill. Although the police realize that arresting the person and transporting him/her to jail is not the ideal course of action to take, it may be the only option available, since the community does not have other means for dealing with such cases. Police officers also have to consider the potential for the mentally ill becoming violent and a danger to the community in making a decision to arrest or divert the mentally ill persons they encounter.

Scherer (2009) suggests the diversion of mentally ill criminal offenders from incarceration in jails requires cooperation and coordination of all of the justice agencies, including the municipal police, county sheriff, prosecuting attorneys, judges, and mental health officials. The procedures used may vary by the specific jurisdiction and can include the on-scene police officer making a referral to a mental health program, filing a charge or referral to a shelter for those who are at high risk of offending and those who have committed minor offenses, filing of charges with the prosecutor who makes a referral to a mental health facility, or taking the person into custody and, at the time of arraignment, having the judge offer the person an opportunity to engage in a mental health treatment program in lieu of being convicted of a criminal offense and the possibility of serving a sentence in jail. For those who have committed very serious offenses and for whom diversion is not possible, the options include the formal process of determining if the person was competent at the time the alleged crime was committed, if the accused is currently competent to stand trial, and if convicted what correctional facility is available to provide treatment for the mentally ill criminal offender.

## Mental Health Courts

Following the lead of the Council of State Governments Justice Center's initiative in advocating the development of mental health courts for criminal offenders with mental health problems, including alcohol and drug addiction, Odegaard (2007) noted that the goals of mental health courts included providing criminal offenders who apparently have some form of a mental health problem with an opportunity to engage in a treatment program that will deal with the offender's problem. Hopefully, the intervention will lead to a better quality of life and an elimination or reduction of the person's criminal behavior. The US Congress signed into law the American Law Enforcement and Mental Health Project (2000, p. 1). This law provided funding for the development and implementation of 100 mental health courts for judicial jurisdictions located in various parts of the United States. Kratcoski (2017, p. 97) stated,

Mental health courts are community based and judicially administered and employ a team of court staff and mental health professionals to implement treatment plans for those mentally ill defendants placed under the drug court supervision. The treatment plan consists of providing incentives (often dropping or suspending the criminal charges), regular meetings before the mental health judge, and a type of graduation celebration in the court room for those who successfully complete the treatment program.

Mental health courts have been implemented in the legal jurisdictions throughout the United States. They are particularly effective for those older offenders who have multiple problems such as homelessness, isolation, poverty, a lack of a social support network, and drug or alcohol addiction.

### **Box 12.1 Summit County Day Court**

The Summit County Probate Court's New Day Court has the goal of helping people with serious mental illnesses who are hospitalized or have been released from a mental hospital from potentially being a danger to themselves or others. Waresmith (2017, p. A1) states, "The goal is to get them stabilized, make sure they are following their treatment regimens and return them to their lives." The New Day Court was started by Probate Judge Elinore Marsh Stormer in 2016. Waresmith (2017, p. A1) states,

Stormer, who was elected probate judge in 2012, saw a need for another program to assist people who haven't been charged criminally but have been pink slipped or civilly committed for mental problems and hospitalization in a psychiatric facility—often repeated. She started the New Day Court in 2016, with the aim of providing clients with additional support so they don't get off of their medication and end up back in the hospital.

Waresmith (2017, p. A8) states,

Summit County clients do not enter Day Court willingly. The clients do so after a being forcibly hospitalized because of behavior deemed dangerous or an inability to meet the ordinary demands of life. They then are committed to the Summit County Alcohol, Drug Addiction & Mental Health Services Board for 90 days.

After being released from the hospital, the clients are paired with a caseworker from Community Support Services (CSS) and a psychiatrist. The caseworkers give them a ride to New Day Court, where they appear before Stormer for the length of their outpatient commitment. At the end of the 90 days, they may be released or their commitment may be extended for up to two years.

When viewed from a treatment as well as an economic perspective, the diversion of the older criminal offender from being locked up in jail or a prison makes sense. Bratina (2017, p. 176) discussing those inmates of jails and prisons states,

... a substantial number of inmates suffer from major depression, mood disorders, anxiety, and depression. For some, psychotic symptoms may also be observed, including delusions, disorganized thinking, hallucinations, and bizarre behaviors (some of which are the result of taking psychotropic medications). Moreover, other specialized populations (e.g., geriatric, females, or inmates with developmental disorders and/or substance abuse) may have mental health and multiple other medical issues, which results in the increased necessity for screening, diagnostic exams, and follow-up services.

Kratcoski (2017, p. 109) notes, "In addition to the factors of age, health, type of crime committed, and the character of the older offender that a judge must consider when sentencing an older offender, the matter of the difficulties a jail or prison" sentence creates for those who administrate jail or prison facilities must be taken into consideration. For example, elderly offenders may suffer from chronic physical and mental health problems, may be in need of special diets or unable to participate in the normal activities required of someone incarcerated in a jail or prison.

## Drug Courts

One provision of the Violent Crime Control and Law Enforcement Act of 1994 was to provide funding to local political jurisdictions to establish specialized court dockets (referred to as drug courts) that allowed criminal offenders charged with a drug-related offense to participate in a supervision and treatment program specifically focused on the needs of the drug and alcohol abusers. The courts established in jurisdictions throughout the United States varied in size, structure, and criteria for eligibility for the program. However, they tended to have common characteristics. According to Kratcoski (2017, p. 98),

These included that, to be eligible for the drug court, the offense must be drug related. Participation was voluntary, that is, the defendant had the option of being tried in the drug court or in the regular criminal court. For those who chose the drug court, the determination of guilt or innocence would be deferred, and, if the person successfully completed the program, the charges might be dropped. The presiding judge of the drug court had wide discretion in deciding who was eligible for the court (generally violent offenders were excluded) and the types of sanctions and treatment programs in which the defendants were required to be involved. The treatment programs were staffed by both court officials (probation officers) and professionals such as psychologists, counselors, and social workers.

The only age requirement for eligibility for participation in a drug court program is that the defendant be charged in a criminal court. Many of the juvenile courts throughout the United States have developed specialized dockets for drug offenders, and the programs for the juvenile offenders are specifically designed for the age group under the court's jurisdiction. In regard to older offenders, although the drug court programs do not specifically focus on the problems and needs of older offenders, each individual accepted into the program will be supervised and provided with treatment according to the case management plan developed during the initial period of participation. For example, an evaluation of the CHANCE Drug Court program (Kratcoski & Dahlgren, 2004, p. 600) found that the drug court participants had one or more chronic or minor problems relating to alcohol abuse, drug abuse, mental health, family disruption, physical health, employment, or education. The older offenders when compared with younger offenders tended to have fewer problems with employment, family disruption, and education than the younger participants, but are more likely to have more severe problems with physical health, mental health, and housing. This observation was confirmed through an interview with Alison Jacob, director of the Day Reporting Program, Stark County Common Pleas Court, Ohio (Interview completed on August 1, 2017).

### Box 12.2

*Q:PK:* What percent of the total number of Day Reporting participants currently active in the Day Reporting Program and age 60 or older?

*A:AJ:* Three percent of the active clients are over 60 years of age. Only 1% of the total number of participants are age 65 or older.

(continued)

**Box 12.2** (continued)

*Q: PK:* What is the gender distribution of the Day Reporting participants?

*A: AJ:* There are 308 active clients, 231 (75%) are male and 77 (25%) are female.

*Q: PK:* What is the gender distribution of the older clients?

*A: AJ:* All of the clients age 60 and above are males.

*Q: PK:* Provide information for the number of clients and the number of older persons in the following Day Reporting Programs:

A: AJ:	Total participants	Older participants
Drug/alcohol counseling	76	3
Mental health counseling	65	1
Anger management counseling	28	3
Multiproblem counseling	Unknown	2

*Q: PK:* What are the most difficult problems the Day Reporting Staff encounters with the older clients?

*A: AJ:* Most of the treatment we provide is in a group setting. The older adults have told us that they have difficulty relating to the younger individuals in the group.

Five out of the nine individuals over 60 have been to prison on prior charges and were not given the opportunity for community control in the past. Some of them are conditioned by their prison experience, and they do not understand that Day Reporting Staff is trying to help them stay out of prison. These individuals can be resistant to programming in the beginning. After they are engaged in treatment for a period of time, they tend to be more compliant with requirements than the younger participants and are more successful at completing community service and other requirements of probation.

Often times older adults in substance abuse counseling can identify the consequences of drug and alcohol use and verbalize a desire to make a change as far as their using drugs and alcohol, but find it difficult to change old habits.

*Q: PK:* Please give the most common characteristics (profile) of older participants in the Day Reporting Program.

*A: AJ:* I don't know if there is a common characteristic among all of the older participants. The majority have a substance abuse problem and a high percentage are violent offenders. Five out of the nine participants over 60 years old have done prison time, three have no prior criminal record and all of the first time offenders were charged with either violent or sex offenses. The majority are unemployed and not seeking employment. Most of the older participants are receiving SSI or Disability. Those who have no prior felony records tend to have been employed in the past and are now retired or still employed.

The Day Reporting Staff all agree that older adults tend to be the most compliant with adhering to the requirements of the court and the program.

## Criminal Justice Response to Older Drug Offenders

The heroin and opiate crisis that is affecting most cities throughout the United States has the justice agencies adopting new measures to deal with the crisis. For example, in Buffalo, New York, Thompson (2017, p. A6) stated that the opioid crisis in Buffalo is so drastic and unique that the current drug court in that city could not handle the problem. Thompson states, “Now the city is experimenting with the nation’s first opioid crisis intervention court, which can get users into treatment within hours of their arrest instead of days, requires them to check in with a judge every day for a month instead of once a week, and puts them on strict curfews. Administering justice takes a back seat to the overarching goal of simply keeping them alive.” If the offender agrees to participate, “Acceptance into opioid crisis court means detox inpatient or outpatient care, 8 p.m. curfews, and at least 30 consecutive days of in-person meetings with the judge.” To date, none of the 80 persons who participated in the program had overdosed.

## Community Courts

Statistics on the arrests of older offenders reveal that a large proportion of all arrests for those age 65 and older in 2016 (Federal Bureau of Investigation, 2016) were for minor offenses. In 2015, the number of arrests of persons 60 and older for

### Box 12.3 Turning Point: Summit County Ohio Drug Court

Warsmith (2017, p. A1) stated, “Summit County’s (Ohio) drug court has gotten so large that the county wants to start a second program.” The program, titled Turning Point, served 225 participants in 2014 and 366 in 2016, a more than 69% increase. The drastic increase in opiate users in Summit County created the need for a second drug court. Warsmith (2017, p. A6) states, “Summit County’s drug court program is offered to offenders who struggle with drug or alcohol addiction. Participants are regularly and randomly tested for drug use, required to appear frequently in court for a review of their progress, rewarded for doing well, and sanctioned for not following requirements.”

Recently, Summit County received a grant from the United States Department of Health and Human Services’ Substance Abuse and Mental Health Services Administration. The funds will be used to provide for additional crisis intervention counselors, caseworkers, recovery coaches, and researchers needed for the second drug court.

Currently, the drug court docket, Turning Point, is presided over by Summit County Common Pleas Judge Oldfield. The second drug court docket will be administered by Common Pleas Judge Christine Croce.

property offenses, including burglary, larceny theft, motor vehicle theft, and arson, was 140,187; arrests for assault was 22,560; arrests for drunkenness was 14,415; arrests for buying, receiving, and possessing stolen property was 687; arrests for offenses against family, including children, was 1271; arrests for driving under the influence was 38,826; arrests for disorderly conduct was 8664; arrests for drug abuse violations was 8629; and arrests of those 60 years old and older for vagrancy was 1402.

Some of these offenses committed by the elderly, including the offenses against persons, were serious enough that, if convicted, a sentence of either community corrections or imprisonment was warranted. However, a large number of the offenses, such as the public order crimes of drunkenness, disturbing the peace, vagrancy, and drug abuse, perhaps can be handled either through diversion or through a special problem court.

Unlike special problem courts, community courts do not focus on one specific problem of the offenders such as drug abuse, mental health matters, or family matters. Kratcoski (2017, p. 104) notes that, while the goals of community courts may be similar to those of other special courts, the main goal is to process low-level misdemeanor offenders as quickly as possible and to provide the assistance the offenders need to function successfully in their lives, family, and the community. To achieve these goals, there must be cooperation between the officials of the justice agencies, social service agencies, and the community. Lee et al. (2009) list the aims of community courts as individualized justice; discretionary options for judges to vary sentences of convicted offenders depending on circumstances; varying sentence lengths, again depending on circumstances; holding offenders accountable for their offenses even though circumstances may mitigate somewhat the offenders liability; and involving the community in determining the problem areas and developing solutions.

Given our knowledge of the characteristics of the majority of older offenders and the factors that lead them to crime, the community court appears to be a viable means for addressing the interrelated legal, residential, health, and relational problems many older offenders face. For example, a sizable number of older people live in substandard housing, have an income below the poverty level, have physical and mental health problems, face social isolation, and have diminished mental capacity. Older offenders are found in all categories of criminal offenses. Their criminal acts are concentrated in property crimes, such as petty theft, trespassing and property destruction, public order crimes such as disturbing the peace, and public intoxication. The large majority of crimes against person committed by the elderly consist of simple assault, with the victims being family members, friends, and acquaintances. An approach that combines the justice system and public health concerns appears to be reasonable and likely to benefit the community as well as the older offenders.



## Effectiveness of Special Problem Courts

Rowland (2016) completed an assessment of the “problem-solving” courts operating in the federal judicial system as well as within the various jurisdictions of the state systems. Rowland (2016, p. 4) notes,

The problem-solving court model calls for the formation of a team led by a judge and joined by the prosecutor and defense attorney, a probation officer, and usually a treatment provider. The judge and attorneys are asked to transcend their traditional roles and broaden their normal objectives in a criminal case. Specifically, judges and attorneys are tasked with working collaboratively to help justice-involved persons remain law-abiding.

After an extensive review of the research on the effectiveness of problem-solving courts (the large majority of the research cited focused on drug courts), Rowland (2016, p. 12) concluded, “There is ongoing debate about whether problem-solving courts achieve their goal of reducing recidivism and keeping communities safer. Studies of federal problem-solving courts have been mixed. Adding to the equation is that operation of problem-solving courts has generated some policy, ethical, and even pragmatic questions.” The author continues by noting that even with the mixed results of the research on the effectiveness of the problem-solving courts, problem-solving courts hold great potential for the treatment of multiproblem criminal offenders. Rowland (2016, p. 12) states, “Specifically, many problem-solving courts help participants manage and overcome ‘collateral consequences’ to their criminal activity, prosecution, and sentence. In doing so, the courts address “responsivity issues” that could interfere with a successful reintegration into society, and impact important life skills that assist program participants in moving forward.”

As previously mentioned, the vast majority of the research on the effectiveness of special problem courts, such as drug courts, mental health courts, and family courts, does not focus on the older offender. Occasionally we get a glimpse of the likely effect when age is included as a variable in the research design. Without having much factual data to assess the effectiveness of the specialty courts with older offenders, one can only surmise that the influence of the supervision and programming provided by the courts to participants of other age groups will be the same for the older participants.

If one bases the determination of being effective solely on recidivism or relapse as in the drug courts, the problem-solving courts may not show results different from those that of the traditional courts. During the course of completing research on a specific drug court, the author had observed a number of participants who relapsed, violated the conditions of their supervision, and had been sanctioned by the judge, with a reduction of privileges, an extension of required time in the program, and even given the extreme sanction of jail time. However, they were not terminated from the program and, at the time of their graduation from the drug court program, appeared to be making a satisfactory adjustment in the community and in their personal lives (Kratcoski & Dahlgren, 2004).

## Community-Based Programming for Special Needs Offenders

### *Assessment of Risks and Needs*

Traditionally, the assessment of a convicted criminal offender for potential risk of committing additional crimes and risk of harming the community was the responsibility of the court in which the offender was convicted. The assessment, referred to as a *presentence investigation*, was completed by a member of the probation department attached to the court. The typical presentence report focused on many of the same items included in the risk and needs assessments currently being used in the majority of the states and the federal probation services. These included age at first offense, prior convictions, drug and alcohol abuse, family matters, and matters pertaining to employment, family, and the community. In addition, the report contained information on the individual's attitudes, cooperativeness, and likelihood of recidivating if placed on community supervision. In those cases for which the sentencing judge had an option of committing to prison or placing the defendant on probation, the presentence report and the recommendation of the officer who completed the report were the major factors used to assist the judge in making a decision on the appropriate disposition. In some cases, the specific age at the time of committing the offense and the circumstances surrounding the offense could serve as mitigating circumstances that would work in favor of granting an older offender a less severe sentence. For example, if it was determined that the offender stole food from a grocery store as a result of not having sufficient funds to buy food, committed fraud in order to have money to buy medicine or pay the rent, or was suffering from some form of mental illness, such factors would no doubt be considered in the sentencing judge's decision.

Statewide risk and needs classification systems were first developed in the late 1970s, with Wisconsin being the first state to adopt a statewide system. In 1982, the National Institute of Corrections (Clements, McKee, & Jones, 2010) provided grants to states who submitted proposals to develop and implement a standardized probation and parole assessment instrument that would be suitable for use throughout the state. Risk-needs assessment instruments were eventually developed and implemented in all of the states and in the federal pretrial and probation system. They tended to replace or modify the assessment and case management systems in use that were based on the presentence investigation or a model that was not evidence based. While the presentence investigation was not discarded, it tended to be used less frequently and only with the more difficult cases. Kratcoski (2017, p. 117) noted,

The vision of NIC was that the statewide classification systems would be useful tools for probation and parole officers, who would have objective criteria to assist them in making decisions on case management plans. Also, it was hoped that with the use of standardized instruments throughout the state the likelihood of officers' prejudices being a factor in the decisions would be reduced.

The large majority of the statewide classification systems adopted by the states, referred to as *evidence-based classification models*, are based on essentially the three principles of risk, needs, and receptivity. The items on the risk assessment instruments have been set up, based on research findings on their predictability of recidivism. Typically, prior felony convictions, number of prior arrests and convictions, employment status, alcohol and drug abuse problems, number of times on probation/parole supervision, number of prior incarcerations in a prison, and number of revocations of probation or parole are included on the risk instruments. The items are weighted according to their importance in predicting recidivism, and, if the offender was placed on probation or granted parole, the level of supervision (maximum, medium, minimum) is determined by the score the person assessed obtained. The individualized case management plan adopted for each offender placed in the system is based on the dynamic risk factors and the needs assessment. The PEW Center of the States (2011, p. 3) notes, "Research has identified both changeable (dynamic) and unchangeable (static) risk factors associated with criminal conduct. The seven dynamic risk factors closely associated with criminal conduct that can be assessed and altered through effective intervention are: Antisocial personality patterns, pro-criminal attitudes, social support for crime, substance abuse, poor family and or marital relationships, school or work failure, and lack of prosocial recreational activities."

Those states that use a needs assessment instrument in their probation and parole classification system include many of the items found on the risk assessment instrument on the needs assessment instrument. For example, such items as associations, drug use, alcohol use, employment status, and attitudes and functioning in the family are included in the needs assessment. However, since the main function of the needs assessment is to determine the strategies and types of programming that will be the most conducive to bringing about desired changes in behavior, several of the items generally included on the needs assessment instrument, in addition to those mentioned, pertain to emotional and mental stability, financial management, vocational or educational training needs, problems with health or residency, sexual behavior, and mental abilities (intelligence, reasoning powers). For the older offender, the needs assessments are likely to be the most important part of the case management plan, since the older offender may have a number of needs to be addressed, including those relating to health, housing, finances, isolation from family, and even mental functioning. For those older offenders who have been assessed as having multiple problems and needs, their case management plans are likely to be complex and require the involvement of a number of service provider agencies as well as health and mental health agencies.

## Older Offenders on Probation

A Bureau of Justice Statistics report (Kaeble & Bonczar, 2016, p. 1) stated that more than four and a half million adults were under some form of community corrections supervision at the end of 2015. Almost four million of the adults in

**Box 12.4**

Woodrow (known as Woody) was arrested for theft and assault by the \_\_\_\_\_ Police Department. Woody, age 81, had worked in the tire and rubber industry for 40 years, most of his adult life. After graduation from high school, Woody enlisted in the United States Army and obtained the rank of Sergeant before his enlistment was up after 3 years of service. He obtained a position in a factory that made automobile tires and held various positions within the factory. On his retirement he was the foreman of the afternoon shift. Woody married shortly after leaving the military. He and his wife had been married for more than 50 years when his wife died suddenly. Woody and his wife never had children. However, they had engaged in a wide range of community activities and had a considerable number of friends, and both of them were involved in religious and social activities associated with their church. He was a member of the bowling team and would occasionally attend sporting events with some of his fellow factory workers.

After his wife's death, Woody tended to withdraw from social interaction. He stopped going to church services and would generally find some way to avoid his friends. On those occasions when they did meet to have a beer or two at the local tavern, his friends noticed that he seemed withdrawn and depressed. They also noticed that he would become intoxicated long before the group separated and departed for home. In the past, Woody could be described as a moderate "beer drinker." Now he could be described as a "heavy whiskey drinker." In addition to his heavy drinking, Woody would often become very loud and argumentative after having several drinks of alcohol. He would order the bartender to bring him his drink immediately and often complain and cursed at the bartender and his friends when they tried to persuade him to "calm down." One night, when he accused the bartender of shorting him on the amount of liquor in his drink, the bartender ordered him to leave the tavern and never come back. After several nasty comments, Woody left the bar.

As the months passed, Woody became more isolated and depressed. Living alone, he would sit for hours doing nothing except drinking and occasionally fixing some food for himself. He lost all interest in community or national affairs and had no desire to interact with people.

He located another bar that did not seem to be frequented by any of his former friends. When not home alone drinking, he would go to a new bar and sit at the bar for hours. He would complain about how rotten the world has treated him and that he deserved better. Generally there was no one at the bar to hear him except the bartender. As Woody tended to become more depressed and difficult, none of his former friends wanted to interact with him.

Woody's situation came to a head on the night he was arrested for theft and assault. Woody was living on his retirement income and social security. Under normal circumstances, the income would have been enough to pay the bills,

(continued)

**Box 12.4** (continued)

but the cost of purchasing the liquor he drank and his bar bills was cutting into his monthly income. The bartender at the new bar he frequented was willing to run a “tab,” but insisted the entire bill had to be paid at the end of each month, or else Woody’s drinks would be cut off.

On the evening of his arrest, Woody had run out of money and was trying to figure out a way to purchase another drink. There was no one at the bar except Woody. The bartender asked Woody if he was ok with his drink, and when Woody said “yes,” the bartender said that he was going in the kitchen to clean up and to get ready for the happy hour crowd that would soon be coming into the bar. When the bartender left the room, Woody walked behind the bar and quietly opened the cash register. He took several 20 dollar bills and a 50 dollar bill from under the register drawer. He had noticed that the bartender hid the larger bills there. He walked back to the other side of the bar and sat down.

When the bartender came back, Woody ordered another drink. The bartender asked if he had any money, reminding Woody that his tab had been stopped. Woody threw out a 50 dollar bill. The bartender made the drink, and when he went to the cash register to make change, he noticed that the 50 dollar bill that was under the register drawer was gone. He had jotted a few numbers on the bill to be able to identify the bill in case it was stolen, and he immediately recognized that the 50 dollar bill given to him by Woody was the one from the cash register. The bartender also noticed that other money was missing.

He approached Woody and told him to give back the money he had stolen and leave and never come back, and that if Woody refused, he was going to call the police. Woody became very angry and threatened the bartender. The bartender stated he had one last chance to give the money back before he called the police. Woody started swearing and kept denying that he had taken the money. At that point the bartender picked up the phone to call the police, and Woody ran to the bartender and tried to grab the phone. He was swinging his fists and punching the bartender.

The police soon arrived and, given the fact that Woody was in a violent mood, he was arrested on charges of theft and assault and driven to the county jail where he was booked.

His case was reviewed by the prosecutor, and Woody appeared to be eligible for diversion in one of several of the special dockets of the county courts. The risks and needs assessments revealed that Woody had multiple problems that need to be addressed. He could benefit from participation in the drug court program to get treatment for his alcohol problem, and he appeared to be eligible for the mental health docket as a result of his depression, isolation, and anger outbursts. Since he as a veteran, the Veterans’ Court was also a possibility.

Woody was accepted in the drug court. Based on the outcome of the needs-risk assessments, the judge ordered that Woody be placed in a community residential treatment facility. Woody was required to participate in the treatment programs designed to address his problems.

community corrections were on probation (3,789,800), and the remainder (870,500) were on parole.

It is not known what proportion of the close to five million convicted criminal offenders under some form of community-based supervision in any given year are age 65 or older and have special needs. Estimates of the proportion of probationer and parolees who may have some form of mental illness range from five to fifteen percent. The proportion of convicted offenders, as well as those offenders who have been diverted from the justice system who have been placed under some specialized community-based treatment program for drug and alcohol treatment, is not known.

A special report on trends in the correctional populations in the United States (Kaeble, Glaze, Tsoutis, & Minton, 2015, p. 1) indicates that the corrections population in 2014 had steadily declined from its peak year, 7,339,600 in 2007 to 6,851,000 in 2014. Kaeble and Bonczar (2016, p. 5) show that in 2007, 80.3% of the corrections population was under non-secure community supervision, either probation or parole. The remainder was either in prisons or local jails. In 2014, the percentage was almost the same as in 2007, with 79.2% under probation or parole supervision. The report does not provide information on the number of persons under probation or other forms of community supervision who were age 65 or older. However, given the fact that more than half of all of those who are under correctional supervision are on probation and that the large proportion of older offenders are convicted of either property crimes, public order crimes, or simple assault, it is safe to assume that the large majority of older offenders not diverted from official processing are placed on probation or some other types of community corrections status such as referral to a community treatment center.

The proportion of these older offenders under community supervision who are in need of special treatment for drug abuse, alcohol abuse, or mental health problems is not known. Research findings on the effectiveness of programs for those with special needs will generally include age as one of the variables in the research design, and one can obtain detailed information on the importance of the age factors in the analysis of the effectiveness of the treatment modalities used in these programs for special needs offenders. Reports on several of the community-based programs for special needs offenders are presented later in this chapter.

Bratina (2017, p. 241) suggests that a large proportion of the special needs offenders placed under community supervision may recidivate as a result of having multiple problems that the community programs are not equipped to handle because of lack of personnel or programs needed for their treatment. Research by Hartwell et al. (2013) indicated that as many as 70% of those offenders with serious mental health problems may also have serious substance abuse problems. In addition, many are homeless and have serious physical health problems. In addition to the fact that many communities do not have the programs to treat the special needs offenders, particularly those with multiple problems, Bratina (2017, p. 244) states, "Also there is a lack of knowledge with respect to services available for persons with mental illness. Thus, although research has shown that parole and probation supervision does reduce recidivism, specialized mental health and substance abuse training would further increase the number who are successful released into the community."

Ostermann and Matejowkowski (2014) report that resource guides have been designed and used in some communities and made available to individuals working in multiple, but integrated, systems of care. In some jurisdictions, specialized programs were created for probationers with mental health problems and offenders who were released on parole or post-release supervision who have been identified as having mental health or substance abuse problems. In addition, specialized training programs for community correctional personnel have been implemented in some jurisdictions.

## Community Residential Treatment of the Older Offender

Community residential facilities that housed convicted criminal offenders were established in New York in the mid-nineteen century under the auspicious of the Society of Friends (Quakers) and the Volunteers of America (Ohio Division of Parole and Community Services, 1974, p. 6). The movement continued to expand, with new facilities established in the larger cities until the 1930s. Since almost all of the community residential facilities were under private auspicious, the majority being nonprofit organizations administered by religious or volunteer organizations and depending largely on donations, many were forced to close during the 1930s. At that time, many of the charitable and service agencies were forced to discontinue their work due to the great economic depression. However, there was a resurgence of the use of community residential facilities in the 1950s. Since state and federal criminal justice agencies are generally supportive of community treatment and were willing to provide funding for community residential facilities, the number of facilities has been increasing. Kratcoski (2017, p. 162) noted,

The first halfway houses were established to house and provide treatment to a variety of criminal offenders. The programs were quite general in programming and focused on providing a stable environment and preparing the residents for their transition to independent living in the community. If the residents needed specialized treatment for substance abuse or mental health matters, they were referred to therapists who were employed by private and public agencies in the community, or even transferred to another facility that provided the type of treatment needed.

### Box 12.5 Older Residents at Oriana House

Oriana House, Inc., consists of 34 residential and nonresidential facilities located in several sections of Ohio. Oriana House offers a wide variety of programs for the residents. These include counseling on family matters; a motivation for success treatment program; substance abuse treatment; recovery coaching; counseling on housing, health, and employment matters; distorted thinking group therapy; anger management counseling; and other

(continued)



**Box 12.5** (continued)

programs designed to address specific problems of the residents (Kratcoski, 2017, pp. 167–175).

The following information was supplied by Alex Boros, who works in the research division, and other staff members on matters pertaining to older Oriana House residents. The statistics were compiled on August 20, 2017.

- The number of older participants (age 60 and above) in the Oriana House programs is 100. This constitutes less than 1% of the total Oriana House population.
- More than three fourths (77%) of the older participants are male.
- The distribution of the participants age 65 and above is 91% male and 9% female.
- Thirty-five percent of all of the Oriana House clients are housed in the residential facilities. Less than 1% of those housed in any of the residential facilities are age 65 or older.
- A large majority of the older residents, age 65 and above, participate in the drug and alcohol abuse programs.

Statistics are not available on the number of older residents at Oriana House who are participating in some type of mental health counseling. Often, residents are required to participate in a program ordered by the courts as a condition of probation. These programs are not under the auspicious of Oriana House.

Oriana House does not have a special residential facility for older residents. The older residents are assigned to living quarters on the basis of several criteria, including a need for special accommodations on the basis of having physical disabilities, the amount of security required, and the types of programs for which participation is required.

When a staff member was asked to give the general characteristics of the typical older Oriana House resident, the reply was, “With less than 1% of our residents being over the age of 65, it is difficult to generalize a profile. Older inmates in the prison system tend to be returned directly to the community via a compassion release or at the completion of their sentences, so they are not included in our Halfway House population among our other reentry clients. For offenders sentenced directly to Oriana House residential programs, the low risk level of the elderly offender population makes it better suited to non-residential options where they can access generic focused community programming.”

When asked what about the most difficult problems faced in providing residential treatment to older offenders, the response was, “The problems facing older offenders tend to be the same types of problems facing the elderly in general. Their financial resources are often more of a concern if they do not

(continued)



**Box 12.5** (continued)

have a community support system. Medical issues are more problematic in the older population, and medical needs are often neglected. From a programming standpoint, many behavioral treatment curriculums are geared for clients starting out in careers, parenting, finding employment, education, and such. We also have to address physical accommodation challenges and must train staff on how to handle specific issues pertaining to the elderly they might have to address during the course of completing their duties.”

Currently, community residential facilities housing those who are under supervision of criminal justice agencies can be found in varying sized communities throughout the United States. Some of these are administered by private profit-making organizations, others by private nonprofit organizations, and still others by a public municipal, county, state, or federal criminal justice agency. Generally, programs offered in these residential facilities continue to focus on many of the goals of the early houses, such as preparing the residents for their transition to independent living in their community, but have broadened their missions and programs to include many other goals. Some community residential organizations consist of one facility, in which the treatment is specialized and focused on one type of offender, such as substance abusers, while other organizations serve several types of offenders and offer a variety of programs. For example, Oriana House (Oriana House Home Page 2016), headquartered in Akron, Ohio, has several buildings located in Akron and other Ohio cities and provides residency and treatment for a variety of criminal offenders. These include:

- Special category offenders (drug, alcohol abuse) who have been diverted from the justice system
- Convicted offenders who have not been sentenced and who are housed in a residential facility during the time a presentence investigation is being completed
- Low-risk offenders placed on probation, but who are in need of some structure in their lives
- Probationers who are under intensive supervision
- Inmates of a correctional facility who are on pre-release status
- Probationers with alcohol, drug addiction, or mental health problems who are required to receive treatment for their problem/s as a condition of their probation

Each of the categories of offenders listed above will be housed in either a separate Oriana House facility or a separate section of a facility. The specific treatment programs followed differ, depending on the needs and problems of the residents housed in the facility. The type of staff training and experience needed to provide the treatment will also vary, depending on the specific type of offender housed in the unit.

As mentioned in the statements given above, the residents of Oriana House, Inc., who are elderly are dispersed throughout the residential and nonresidential pro-

grams of the organization. They include both men and women, but predominately men, as is the case with the distribution of those under justice agency supervision throughout the criminal justice system. Although not all clients are charged and convicted of a drug- or alcohol-related offense, 90% or more of the residents have either alcohol, drug abuse, or mental health problems. Health-related matters are also a major concern for the elderly residents of Oriana House. A considerable number of the older residents have multiple physical and mental health problems. These health problems of the elderly residents are often related to their drug and alcohol use, and providing the appropriate medical care needed is a considerable problem for the administration. In regard to this problem, James Lawrence, President and CEO of Oriana House, Inc., remarked (Kratcoski, 2017, p. 174),

Most of the concerns in the day to day operations center around having qualified staff to fill the huge need and lack of appropriate funding to cover the increasing cost of operating the organization. For example, there are just not enough people who are qualified in the AOD field to fulfill the demand. The Affordable Care Act makes many substance abuse offenders eligible for treatment, but we have to put them on a waiting list to get into our program.

## Secure Community Residential Facilities

A secure community residential facility can best be described as a facility designed for convicted offenders who are in need of a more secure living situation than can be provided by probation supervision or a typical halfway house, but who are not in need of the high security found in the local jails and the secure correctional facilities under state administration. In addition to security matters, the typical offenders committed to such facilities, particularly the older offenders, have multiple issues that need to be addressed, such as substance abuse problems, health problems, and employment problems, and a community setting where the offenders live in or near their homes and where medical and service providers are most likely to be available is the type of environment that will be conducive to producing the changes desired.

Carlson (2015, p. 2) reported that the total number of prisoners under the jurisdiction of state or federal correctional authorities on December 31, 2014, was 1,561,525. The distribution of prisoners consisted of 13.5% federal and 86.5% state prisoners. The prisoner population consisted of 92.7% men and 7.3% women. The number of prisoners decreased by 1% from the previous year. Carlson (2015, p. 2) contends,

The decrease observed in 2014 was the second largest decline in the number of prisoners in more than 35 years. The decline of 28,600 prisoners from 2011 to 2012 coincided with the enactment of California's Public Safety Realignment Policy, which diverted newly sentenced nonviolent non-serious, non-sex offenders from state prison to serve time in local jails and under community supervision.

The substantial decrease in the number of federal prisoners was a second reason for the decrease in the prisoner population in 2014. The number of older inmates in state facilities is not known. In June, 2017, there were 11,078 inmates 60 years of age and older under Federal Bureau of Prisons (BOP). These constituted 5.3% of the total BOP population (Bureau of Prisons, 2017, p. 1).

The number of older inmates housed in state and federal correctional facilities in the United States is expected to increase drastically in the future, even though there has been a trend toward reduction of the number of prisoners in state and federal facilities. “The number of federal and state prisoners who are age 65 or older grew an astonishing 94 times faster than the total sentenced prisoner population between 2007 and 2010. The older prisoner population increased 63.5% while the prison population grew by 0.7% during the same time period.” This increase of older persons in the prison population is predominately due to two factors. First, the determinate sentencing codes of the federal government and the majority of the states require or required long-term sentences for a large range of offenses. As a result, it is not uncommon for many criminal offenders sentenced under these laws to enter prison during their middle age, but essentially grow old in prison. The second factor pertaining to the increase in the number of older persons in the prison population is related to the larger number of the older population convicted of a crime and given a prison sentence. For example, the Ohio Department of Rehabilitation and Corrections is completing a movement of the death row inmates from the prison where they are currently housed to another prison that has better facilities for older inmates. Seewer (2017) states,

State prison officials said last fall they would move death row from Chillicothe in southern Ohio to the Toledo Correctional Institution because of the growing number of aging inmates serving death sentences. Toledo’s prison is newer and designed to handle inmates with physical and mobility limitations, including those in wheelchairs, the state said. There are about 140 inmates on death row and the average age is around 50.

Research (Krstcoski, 2004; Vito & Wilson, 1985; Kratcoski & Pownall, 1989; Bratina, 2017) supports the claim that most correctional facilities do not have the proper programs or sufficiently trained staff to handle the diverse physical health, mental health, recreational, and social programming needs of a large majority of the older inmates housed there.

Judges charged with the task of sentencing older offenders may be cognizant of the limitations of the programming for older offenders with special needs in most correctional facilities and perhaps would prefer to pronounce a community-based sentence rather than a prison sentence for those older offenders who are not considered a serious threat to the community. However, the judges’ ability to follow this inclination is hampered by either the sentencing guidelines of the criminal code under which they must abide or the lack of community-based programs or facilities designed to treat the older offender.

## Special Problem Older Inmates

Bronson and Maruschak (2015, p. 1), in a study of disabilities among prison and jail inmates, report, “An estimated 32% of prisoners and 40% of jail inmates reported having at least one disability. About 2 in 10 prisoners and 3 in 10 jail inmates reported having a cognitive disability, the most common reported

disability in each population.” Other disabilities consisted of hearing, vision, ambulatory, self-care, and independent living. The most common disabilities among those age 50 and above were ambulatory, closely followed by cognitive (Bronson and Maruschak, 2015, p. 4).

For some older inmates, mental illness, dementia, or physical conditions such as loss of hearing, poor eyesight, or loss of physical strength, if not recognized by the prison staff, may result in unwarranted punishments for being considered insubordinate or defiant. In some cases, the inmate may be placed in solitary confinement. Correctional officers who interact with the inmates on a daily basis, if not properly trained, may not recognize that the bizarre behavior of some inmates is a result of mental illness and may become frustrated when the mentally ill inmates do not respond properly to commands or are disruptive.

Inquiries into cases of mentally ill persons convicted of a criminal act who end up in prison rather than being given the care and treatment needed to address their mental health problems have resulted in court decisions favorable to the mentally ill prisoners. Mental Health America (MHA) (2015) is an organization that has a goal of assuring that the rights granted under the Eighth Amendment of the US Constitution to mentally ill persons incarcerated in correctional facilities will be adhered to by correctional administrators. In a position statement, MHA cites the US Supreme Court’s *Brown v. Plata* decision, in which the Court ordered more than 40,000 prisoners with serious mental health problems released from California correctional facilities because they were not receiving the “basic human rights” and minimum level of care guaranteed under the Eighth Amendment that prohibits cruel and unusual punishment.

The 2015 MHA call for action (MHA, p. 3) states,

MHA and its affiliates should work to inform members of law enforcement and correctional groups, judges and attorneys, mental health professionals and advocates, prisoners and their families, the community, and the media about the excessive number of persons with mental illnesses and addictive disorders in prison and jails and the inherent difficulties involved in providing decent and humane care to such persons in these settings, and should develop and advocate for effective strategies addressing these problems.

Carlson (2011) notes that some correctional jurisdictions have established separate facilities for criminal offenders who have been diagnosed as having mental problems. For example, the Larned Correctional Mental Health Facility (LCMHF) of Kansas houses the severely mentally ill inmates of the Kansas Department of Corrections. Cadue (2016, p. 1) writes,

LCMHF consists of a maximum-security central unit with 150 beds and a minimum-security Unit with 288 work detail beds. The facility’s Central Unit serves as a transitional unit for inmates who are not able to function in the general population of a traditional correctional institution for mental health reasons, but are not in need of psychiatric hospitalization. Inmates are assigned to this facility by mental health staff at other correctional institutions.

The inmates at LCMHF are provided with counseling and mental healthcare and treatment with the purpose of preparing the inmates to reenter their community on

release or in some cases to ready them for return to a traditional correctional facility. The Michigan Department of Corrections (2017, p. 1) reports that “approximately 20% of Michigan’s prisoners population is enrolled in a mental health program operated by MHS (Mental Health Services), ranging from brief counseling to inpatient residential placements.” Mental Health Services provides mental healthcare to eligible prisoners based on their needs. The programs consist of an Adaptive Skills Residential Program, Counseling Services and Intervention, a Crisis Stabilization Program, Acute Care, Rehabilitative Treatment Services, a Residential Treatment Program, and Outpatient Services.

It is difficult to ascertain what portion of the inmates of state and federal correctional facilities with physical health, mental health, addiction, or other problems are older inmates. However, unless they are incarcerated in a facility especially designed and programed for older inmates, the decisions on classification for living quarters, participation in special programs for the mentally ill, and other matters pertaining to their daily routine will be made by the administration, using the same criteria for decision-making that is used for all other inmates of all age groups.

## Special Facilities for Older Inmates

Research on older inmates (Kratcoski, 1994) focused on the satisfaction of older men and women incarcerated in state and federal correctional facilities. The state and federal correctional facilities in the study were selected on the basis of security level and the size of the inmate population. Inmates housed in facilities for women, as well as facilities for men, were included in the study. A total of 482 inmates and 62 corrections officers, supervisors, and administrators completed the questionnaire or were interviewed.

An analysis of the ways correctional administrators responded to the older inmate situation revealed:

- Correctional administrators did not change policies and operating procedures in any way to accommodate the older inmates. Their reasoning was that 90% or more of the inmates were of a younger age, and thus the limited resources of the facility should be directed toward programming for the general population.
- A few of the state legislatures authorized the construction of new correctional facilities or the conversion of existing facilities into institutions that would provide the special housing and programming for older inmates who had one or several handicaps, either physical or mental.
- Correctional administrators followed the standard procedures of integrating the older inmates with the general population, their housing units and programming being determined by the classification system used.
- A specialized unit was established within the larger unit. This approach was generally used in newly constructed facilities. The older inmates interacted with

other inmates in work, educational and recreational programs, as well as during meals (Kratcoski, 1994, pp. 508–509).

A comparison of responses of older inmates housed in special facilities or units and those housed in the general population on several questions (Kratcoski, 1994, pp. 509–510) revealed:

- The large majority of inmates in both types of institutions claimed that they got along well with other inmates and were never threatened or victimized by the other inmates. However a larger proportion of those housed in the general population units stated that the younger inmates were more aggressive and violent.
- A significantly larger proportion of those housed in the special institutions or units for the older inmates claimed to be in poor health and that their health had deteriorated since they came to the prison.
- Those who were institutionalized for the first time had more adjustment problems than those who had been previously institutionalized, regardless of the type of institution in which they were housed.
- Older men housed in specialized units or facilities were more satisfied with their living quarters, work assignments, programming, and the recreational activities than were older men housed in the general population.
- Older women (none were in special units or facilities) were generally dissatisfied with their living quarters, recreational activities, programming, and relationships with their fellow inmates. They cited insufficient space, poor ventilation, excessive noise, lack of privacy, and the hostility of younger inmates as major reasons for their dissatisfaction.

The Federal Bureau of Prisons (FBP) and state corrections departments have established correctional facilities that are designed to house inmates with physical health problems. For example, the FBP has six comprehensive health facilities (CHU) located throughout the United States. The Fort Worth, Texas, CHU (FBP, 2017, p. 1), a co-institutional facility, is designed to house inmates with ongoing medical health problems for which their medical care needs exceed what can be provided in a regular FBP correctional facility. The inmates at the Fort Worth facility are able to attend to their own needs such as personal hygiene, eating, and dressing and even are able to complete limited work assignments. However, they have one or more handicaps, such as those related to walking, hearing, seeing, and internal problems that require 24-h medical coverage provided by the staff or outpatient healthcare providers.

The Federal Medical Center, located in Lexington, Kentucky (FMC Lexington, p. 1), houses 1356 inmates at the main facility and 305 at the camp. FMC Lexington houses both men and women inmates. Similar to other Bureau of Prisons medical centers, the operations of the facilities are similar to those of other federal correctional facilities. The inmates who are able to work have work assignments, there is an extensive educational program for those who would benefit by furthering their education, treatment programs for special needs are offered, and there are a number

of recreational programs. Work and recreational programs are designed to encourage the participation of all inmates, even those with physical handicaps. Similar to other BOP Federal Medical Centers, 24-h medical service is available, and extensive cooperative agreements with medical and healthcare agencies located in the community have been made to provide outpatient care for the inmates who are in need of more extensive medical care than that provided at FMC Lexington.

## Summary

Although the proportion of the total crimes committed by older persons has increased significantly during the past several decades, old age has not been a key factor in determining the response of justice agencies. Research on sentencing of those older offenders convicted of a crime reveals that the sentence received corresponds to the type and severity of the offense. In cases in which the offense is minor, such as petty theft, and mitigating circumstances are considered, the older offenders might receive a less harsh sentence than those in other age categories who were convicted of the same offense. On the other hand, some research would suggest that the older offender is given a harsher sentence for some offenses, such as child molestation, than the sentence given to younger offenders who have been convicted of the same offense.

Information on the characteristics of the older offender suggest that the typical older offender will have more problems with such matters as physical health, mental health, alcohol and drug addiction, employment, and housing when compared with the criminal offender in other age groupings. Such programs as diversion from jail and participation in a drug court or a mental health court, community correctional programs such as probation, and placement in a community correctional facility rather than being sentenced to prison are likely to be quite beneficial for the older offender. Such programs were not specifically created for the older offender. A large proportion of older offenders have many problems that must be addressed, and the services needed must be provided by agencies other than justice agencies, because the personnel and resources needed to address the problems can best be found in a community setting rather than an institutional setting.

In some cases the older offender is sentenced to prison as a result of laws that require a prison term for specified offenses, or in some cases, an institutional setting is the best alternative. For example, for protection of the community, those older criminal offenders who have very serious mental health problems are likely to be sentenced to a mental facility that houses criminal offenders. Typically, while in prison, the older offender will be housed with inmates of all age groups and participate in the same activities as inmates in other age groups. However, there are examples of correctional facilities designed and administered specifically for the needs of older inmates.



## Discussion Questions

1. What are the major reasons for the increase of older criminal offenders in the criminal justice system?
2. Discuss the reasons why a public health approach to dealing with older offenders with mental health problems makes more sense than a criminal justice approach.
3. Briefly describe the stages of the Sequential Intercept Model. From which stage in the intercept process would the majority of older offenders be most likely to benefit?
4. What are the major benefits to the community and the offenders whose offenses are related to drug or alcohol abuse if they are to supervised and treated in a community residential facility such as Oriana House?
5. What are the major differences between community correctional facilities and facilities such as halfway houses?
6. What are some of the pros and cons for establishing correctional facilities exclusively for older inmates?
7. Based on the research cited in this chapter, what effect does the age of the offender have on the sentencing decisions of judges who sentence older persons convicted of crimes?
8. Describe the typical characteristics and the process followed for those offenders referred to drug courts.
9. Describe the typical process followed in “problem-solving courts.” Based on the research cited in the this chapter, list some of the major benefits of problem-solving courts (drug, mental health courts) and some of the major problems associated with such courts. Would it make sense to establish special courts for older offenders?
10. Discuss the benefits of using a statewide risk-needs classification and case management system in the supervision and treatment of criminal offenders placed on probation or parole (post-release supervision). Are there disadvantages of using the same standardized model in all of the political jurisdictions throughout the state?

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# Chapter 13

## Management and Care of Older Offenders with Mental Illness (OOMI) in the Criminal Justice System



Michele P. Bratina

### Introduction

Over the past century, the US population has seen a remarkable increase in the average life span for adults (49 years in 1900 vs. 78+ years in 2012; Arias, Heron, & Xu, 2016). As a result, the proportion of the population of older adults aged 60 and over in 2015 is projected to double by the year 2050—from 12% or 900 million to 22% or two billion people (World Health Organization [WHO], 2016). Given intersecting relationships between the aging process and changes in socioeconomic status, physical health, mental health, and overall emotional well-being, there are a host of issues to consider as communities prepare to meet the needs of this growing demographic group. Such needs may challenge traditional resources and may include specialized housing, employment, transportation, public welfare (prolonged income and other benefits), and continuity as it relates to accessing physical and mental health-care treatment services over the extended life course (Aday & Krabill, 2006).

This chapter provides a framework for understanding issues and challenges as faced by older offenders with mental illness (OOMI). It summarizes the literature in relation to the prevalence of mental health and related problems among older adults—and, in particular, the mental health needs of the geriatric incarcerated population. It also examines the current response to these needs by the criminal justice system and offers suggestions for the implementation of effective services.

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## Prevalence of Mental Health, Substance Abuse, and Traumatization

While the majority of older adults have relatively good mental health, “Over 20% of adults aged 60 and over suffer from a mental or neurological disorder (excluding headache disorders)” (WHO, 2016, para. 3). There are also significant cumulative effects of the lived experience for aging adults that lead to an increased vulnerability for the late onset of psychological and neurological conditions (and physical health problems) of varying severity; such conditions present the need for specialized services in the community (Aday & Krabill, 2006). This is particularly true for older adults who have been exposed to a compilation of early adverse traumatic events but who were somehow overlooked, undiagnosed, and reluctant to engage in treatment for a variety of reasons, including perceived stigma as it pertains to mental illness (Seligowski, Spiro, & Chopra, 2016; Maschi, Sutfin, & O’Connell, 2012).

According to the World Health Organization, the most common neuropsychological disorders diagnosed in individuals over 60 include dementia and depression (WHO, 2016). Anxiety disorders affect about 3.8% of older adults, and approximately 1% are affected by substance use problems—substance abuse also being overlooked and misdiagnosed with this population. Moreover, individuals aged 60 and older account for approximately 25% of all self-harm-related deaths (WHO, 2016, para. 3), with older males having the highest rates for suicide of all age groups (Centers for Disease Control [CDC], 2008).

Oftentimes, symptoms of mental health and cognitive conditions (depression, in particular) may be attributed to frailty or physical disabilities, and therefore, older adults can suffer prolonged periods without proper treatment. Lack of treatment engagement is particularly concerning since depression has been noted to exacerbate physical health conditions often diagnosed in the aging population, such as heart disease, stroke, and diabetes (National Institute of Health [NIMH], 2016).

Some additional risk factors related to mental health and substance use-related disorders among the elderly at any point in time include limited mobility and the subsequent inability to live independently, having poor physical health and chronic pain, and current exposure or vulnerability to stressors such as bereavement and victimization (Beristianos, Maguen, Neylan, & Byers, 2016; CDC, 2008). There is a growing body of literature regarding trauma and polyvictimization<sup>1</sup> as experienced across the life course, and studies suggest that a sizeable proportion of older offenders have significant histories of multiple victimizations and resultant trauma (*see* Box 13.1) (Maschi, Zgoba, Gibson, & Morgen, 2011; Ramsey-Klawnsnik & Heisler, 2014). Furthermore, research on the geriatric population reveals that one in ten individuals has been exposed to some form of elder abuse, including emotional abuse, physical violence, abandonment, neglect, or exploitation (sexual or financial) (WHO, 2016).

Older adults who have experienced significant and frequent traumatizing events are especially likely to also experience economic hardship and obstacles to stable

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<sup>1</sup>A concept well-referenced in the field of child abuse which refers to a person who is exposed to and/or experiences multiple or varied forms of violence, crime, and abuse; multiple victimizations.

### **Box 13.1 Research on Posttraumatic Stress Disorder (PTSD)<sup>2</sup> among Older Adults in Community and Correctional Settings**

#### ***Rates of PTSD in the General (Community) Population***

- Between 1.5% and 4% of individuals aged 60 and older have reported *current* PTSD, and 8% reported *lifetime* prevalence, generally.
- In one study of older male combat veterans (median age = 71), findings indicated a *lifetime* prevalence rate of 53% and 29% for *current* PTSD.
- In one community-based study of older females (mean age = 70), 72% of respondents reported having experienced at least one type of interpersonal trauma throughout their lives.

Source: Kaiser, Wachen, Potter, Moye, and Davison (2017).

#### ***Rates of PTSD for Incarcerated Persons***

- Approximately 48% of female inmates and 30% of male inmates report a *lifetime* prevalence of PTSD; data suggest that sexual assault is the type of experience most likely to result in PTSD for both men and women who are justice-involved

Source: Reichert & Bostwick (2010) and Wolff, Huening, Shi, and Frueh (2014).

housing, income, and overall well-being (Gross, 2007). For these reasons, it is increasingly important for the early identification of mental health and related social problems and needs among aging adults, so that treatment engagement can be encouraged and services can be rendered in the community setting, if at all possible.

## **Utilization of Mental Health Services/Treatment Engagement**

For many individuals in both community and correctional settings, behavioral health treatment is one of the primary pieces in the recovery process and may include medication management, counseling or therapy, substance abuse services, case management, and a host of other educational and therapeutic interventions (Bratina, 2017; National Alliance on Mental Illness [NAMI], 2017a, 2017b).

As defined by the Substance Abuse and Mental Health Services Administration (SAMHSA), for adults (18 years of age or older), mental health service utilization is related to the receipt of treatment or counseling for any problem with emotions, nerves, or mental health that was not related to substance abuse; treatment may be

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<sup>2</sup>The DSM-5 indicates that PTSD may be diagnosed when a person experiences debilitating fear, anxiety, or avoidance as related to situations (“triggers”) that remind the individual of a traumatic event. Projected lifetime risk for PTSD at age 75 is 8.7% in the U.S.

rendered in any inpatient or outpatient setting and may or may not involve the use of prescription medication. According to results of the 2013 National Survey on Drug Use and Health (NSDUH), the number of adults who received treatment or counseling for past-year (2012–2013) mental health issues was 34.6 million; counseling was 38.1—increasing to 45.0% for those who had a “severe impairment” (SAMHSA, 2014). The utilization of mental health services varied among adults in 2013. Adults who used mental health services the year under evaluation were more likely to have serious mental illness and engage in outpatient treatment and least likely to be hospitalized in an inpatient facility. There were also utilization differences by gender, with females being more likely to engage in services, regardless of type.

Depending on funding and resources available in the locale, mental health and related treatment programs have been perceived as barely adequate in their ability to respond to the complex needs of the population; this may be due to a number of unavoidable barriers, including cost, lack of communication between providers-agencies, training deficiencies, and the absence of structured programs, to name a few (Aday & Krabill, 2006; Gross, 2007). There is also the high likelihood that individuals with mental health issues will not actively seek out services due to symptoms that are characteristic of their illness, personal financial barriers, or restrictions or because they do not have the knowledge as to available services (Hartford, Carey, & Mendonca, 2006). Lack of treatment engagement for older adults has been attributed to reasons related to fear of stigma and ridicule (Kaiser et al., 2016). Unfortunately, older adults with untreated or undertreated mental health-related problems may find themselves in a state of crisis, which could place them at an increased risk for encounters with law enforcement and further engagement with the criminal justice system. The following fictional account (Box 13.2) is illustrative of this point.

### Box 13.2 The Case of “Alice”

Alice, a 70-year-old woman, has been residing at a nursing home for the past 3 months since her husband of 45 years died of cancer. As a young adult, it was suspected that she might have *major depressive disorder* (MDD, major depression), but she has never been formally diagnosed nor treated for the disorder. Alice is presently showing early stages of *major neurocognitive disorder* (dementia)<sup>3</sup> while also battling a recent diagnosis of heart disease. Her son, Alex (an only child), travels often for work and is unable to care for his mom at home—though he tries to visit her at least once every 2–3 weeks when he is in town. For the past month, and for periods of about 2–3 days, Alice has refused to leave her room—preferring to remain in bed mostly and barely eating the meals brought to her by staff. Recently, the staff at the nursing home had

(continued)

<sup>3</sup>In the most recent iteration of the Diagnostic Statistical Manual, the DSM-5, dementia has been categorized as a major neurocognitive disorder (NCD) that is characterized by an acquired cognitive decline in one or more of the following cognitive domains: Learning and memory; Language; Executive function; Complex attention; Perceptual-motor; or Social cognition. Prevalence rates of dementia rise steeply with age, ranging from affecting 5–10% of individuals in their 70s to proportions of at least 25% and greater of individuals in their 80s and beyond (American Psychiatric Association, 2013).

**Box 13.2** (continued)

organized a card game for the residents, and Alice showed interest in playing. For luck, she carried to the table an old rabbit's foot keychain that her son had given her years ago. Throughout the course of the games, she kept the keychain on the table and grasped onto it periodically. About 2 h into the activity, Alice left for the restroom; when she returned, the keychain was gone. Visibly shaken, Alice promptly stood up from the folding card table and attempted to push it over, causing cards and other items to fall to the ground and some of the other residents to become frightened—especially the three who were at her table. She began to stare at another female resident who had been sitting across from her and admiring the keychain—at one point asking to hold it (to which Alice refused). Now, Alice was convinced this woman, Ruth, stole her keychain, and so she began screaming accusations and frantically pacing back and forth, becoming increasingly disruptive. Staff became extremely uncomfortable with this response, and, although they began to calm Alice down, a resident called 911 and told the dispatcher that someone “was being attacked.” Soon after, four police officers arrived and two attempted to convince Alice to move into another room so that they might talk with her; the other officers spoke with staff and a few residents. Alice would not comply with the verbal requests to follow the officers and, instead, began moving around the room screaming obscenities and flailing her arms, knocking into cabinets and other items, and, last, striking one of the police officers with the back of her hand.

Over objections from staff and Alice's son, who had just recently arrived and spoke with one of the officers about his mother's mental health status, the officers decided Alice posed a great enough risk to herself and the other residents. Consequently, after a brief struggle to get her to comply, the officers transported Alice to the local ER for an involuntary mental health evaluation and possible detainment for up to 72 h.<sup>4</sup>

The irony of Alice's story is that this encounter with police and subsequent detainment (involuntary commitment) at the hospital may lead to effective treatment and management of her mental health issues. In fact, police and other first responders have often referred to detainment of persons with psychiatric symptoms as *mercy bookings* (Reisig & Kane, 2014). This reality leads one to consider the following questions: Is Alice truly a criminal or a mentally ill individual who committed a criminal act (assault/battery) due to symptoms related to the nature of her illness? Should the police have taken her to jail for booking instead of the hospital for evaluation? How does the criminalization of mental illness further stigmatize this population? What kind of training to criminal justice actors need to more effectively respond to the specialized needs of this growing population of adults?

<sup>4</sup>While fictitious, Alice's story is based on a real event that was recently reported in the *New York Times*. In the *Times*' account of the facts, the woman was handcuffed and placed in a patrol car after the incident (an alleged attack on another resident at an assisted living facility), and was released from the hospital 7 h after she was initially detained for psychiatric evaluation.



## Justice-Involved Offenders with Mental Illness (OOMI)

Alice's story represents one possible outcome of a crisis encounter involving an older adult with mental health-related issues whose behavior, most likely related to symptoms of their disorder(s), makes them especially likely to make contact with law enforcement. The truth is that many OOMI do not fare well during such encounters. In fact, recent arrest statistics suggest that, despite drops in overall arrest rates over a 10-year period (2002–2012), the proportion of arrests involving individuals aged 55 and over has actually *increased* by 23% and, for those 65 and older, by 28% (Span, 2017). The reasons for this trend are not clear, as research on offender age as it pertains to police arrest decision-making is limited. Nevertheless, available reports indicate that there are a number of offender and incident characteristics, aside from age, that might contribute to police use of discretion in the arrest decision, including gender and demeanor of the offender, nature/seriousness of the offense, and community priorities (Aday & Krabill, 2006). In some cases, police may view their role as protectors of those who appear unstable and unable to care for themselves. In this way, they might respond more leniently toward older adults with whom they encounter when the offense is viewed as less serious (e.g., vagrancy or public intoxication) (Aday & Krabill, 2006; Brown, 1998). Conversely, some police may treat older offenders more harshly even for behaviors that appear to be less serious—especially if the individual is a repeat offender who has become a nuisance to the police and threat to the community (Aday & Krabill, 2006; Span, 2017; Wilbanks, 1988).

In the narrative presented above, Alice is depicted as having some kind of support system in place (e.g., her son). Unfortunately, many older adults with behavioral health and cognitive disorders who become entwined in the criminal justice system are forced to navigate multiple systems of care on their own and without financial means or access to other resources and supports (Aday & Krabill, 2006). Furthermore, in some cases, police or other first responders lack the experience, training, and knowledge necessary to more safely respond to calls involving older citizens who may have a host of issues related to aging and behavioral disorders (Gross, 2007). In such cases, older adults may face an increased risk for the possibility of an arrest, injury, or even death during an encounter with law enforcement (e.g., Beaufrère, Belmenouar, & Chariot, 2014). The following sample of incidents involving police and aging persons was retrieved from the national news and illustrates the need for specialized training as related to assessment of the behavior and motivations of older offenders.

- A 66-year-old Deborah Danner of Bronx, New York, who suffered from schizophrenia (and who had previous encounters with police due to her illness), was shot and killed by police Sergeant Hugh Barry after an altercation in her NY apartment. Barry and other officers were responding to a 911 call from a neighbor who stated that Danner was acting erratically. When police arrived at her apartment, they reportedly found Danner in a state of agitation, first holding a pair of scissors then a baseball bat, which she swung at Barry before he shot her twice (Rosenberg & Cohen, 2017).



- A 91-year-old resident of an assisted living facility in Florida was tased by police when punching, biting, kicking, and screaming at staff while demanding to leave the facility. The man was suffering from dementia (“Punta Gorda officer”, 2017).
- An 87-year-old Oregon woman with heart disease (and a pacemaker) who was believed to be suffering from dementia was tased by police in an altercation on her property that ultimately involved a call to the police. After she refused to comply with a police order to put down a semiautomatic handgun, the woman was tased and subsequently died at the hospital (Bella, 2010).
- A 73-year-old unarmed man with early stages of dementia was shot and killed by police in California near his home. Police were responding to a 911 call that the elderly man had a gun and that he was standing in a neighbor’s driveway shortly after midnight. When the suspect did not respond to police orders to stop and remove his hands from his pockets, deadly force was employed. No gun was found on the scene, but instead, a wooden crucifix for which the deceased man had in his possession (Almasy & Cuevas, 2016).

Despite the egregious nature of these incidents, there are theoretical reasons and some research support which suggest that police have been traditionally lenient when dealing with aging offenders (Aday & Krabill, 2006; Miller, 2011; Sugie, 2017). Again, depending on several factors, including the demeanor of the offender and the nature of the offense, police in most locales have several available options in terms of disposing of or diverting a case where mental health or cognitive ability may be in question, including the option to transport someone to a psychiatric crisis unit (voluntarily or involuntarily, if certain criteria are met) for a mental health evaluation (Bratina, 2017). If it is decided that arrest is the preferred option, officers should still be cognizant of potential risks of injury or death associated with the initial period of custody and detainment for the aging offender, and if possible, consideration should be given to specific physical and mental health needs (Beaufrère et al., 2014).

## **OOMI Incarcerated**

Representing almost 20% of state and federal inmates, the geriatric inmate population is currently two to three times greater than what it was a decade ago (Office of the Inspector General [OIG], 2016; Maschi & Aday, 2014). Some of the reasons for this steady increase have been previously stated, and include an increase in the average life expectancy and a diminishing access to financial and other resources (employment, health care, housing options) for this group, which may lead to isolation from the larger society and participation in crime as a means of necessity (Sugie, 2017). For some older offenders, their offending behavior may be the result of untreated (or undertreated) trauma and mental health-related issues that led to a crisis event (violent or non-violent) involving the police and the need for secure detainment. Moreover, for others, the passage of “tough-on-crime” policies and stricter sentencing practices of former decades has resulted in them serving maximum sentences, thereby aging in prison with no prospect of parole (Nellis, 2010).

Regardless of the pathway to incarceration, the broad array of needs specific to the geriatric inmate population require correctional administrators and staff to respond to unique challenges, including:

- Provision of and access to adequate health care during confinement (including medical and mental health treatment and medication)
- Provision of programming for older inmates with histories of trauma/substance abuse
- Provision of structural or environmental accommodations/needs (e.g., housing for persons with disabilities)
- Offending and victimization among inmates and staff
- Terminal illness, stressors related to death and dying, and related policy decision-making (e.g., compassionate release)

While all of these issues create the need for administrative policy, staff training, and the need for avenues of financial support and other resources to more effectively manage and rehabilitate geriatric offenders, the costs to address and maintain proper intervention are substantial. Consequently, due to creative but largely unsuccessful methods to save costs (e.g., outsourcing psychiatric and medical care, requiring geriatric inmates to go off-site for certain procedures), there are incredible wait lists for treatment and other services and a perception—held by inmates and some members of the general public—that correctional facilities are failing in their duty to address the needs of aging inmates (Office of the Inspector General, 2016).

## **Costs of Incarceration**

The average cost of incarceration reported at the federal level for any inmate was approximately \$31,000 in 2015 (Department of Justice, 2015). By comparison, the annual cost of housing an elderly prisoner is approximately \$70,000 (Human Rights Watch, 2012). As previously stated, similar to differentials in the community setting, a primary reason for the disparity in prison expenditures relates to the increasing number of older inmates who are serving life sentences and unique needs of the aging population—in particular, complex physical and mental health needs and terminal diagnoses (Maschi, Viola, & Sun, 2013).

## **Physical and Mental Health Needs of an Aging Inmate Population**

Overall, older inmates are far less healthy than their younger incarcerated counterparts and their peers in the community setting. In particular, deficits related to the normal process of aging—such as sensory impairment, decreases in agility, and a loss of stamina—make adjustments to extreme environmental changes (such as

those present upon initial confinement in a jail or prison) increasingly complex, if not dangerous. For example, a loss of balance and sight degeneration may lead to falls, increasing the risk for significant injuries (Gross, 2007). Furthermore, extreme temperatures have been noted in correctional settings throughout the states, often causing inmates to suffer serious harm and, in some cases, death due to conditions such as heatstroke or hyperthermia (Blinder, 2016; Burnett, 2016). Due to weakened immune systems, older inmates are also especially susceptible to chronic illness and communicable diseases during their incarceration. The most frequently cited health conditions found among them include cardiovascular, musculoskeletal, respiratory, and psychiatric disorders; diabetes and hepatitis C are also found to be prevalent (Hayes, Burns, Turnbull, & Shaw, 2012; Gross, 2007).

Compared with the non-incarcerated aging population, older inmates are more likely to have a mental health-related disorder, including mood disorder, anxiety disorder, psychotic disorder, major depressive disorder (MDD), and personality disorder, as well as co-occurring substance use disorders. Particularly, depending on the data source, estimates show up to 20% of jail inmates, and 24% of state prison inmates report recent histories of having a diagnosable mental health condition, figures that are higher than the general population, and may even be conservative estimates (NAMI, 2013). For example, in their study of federal, state, and jail correctional populations, James and Glaze (2006) collected data derived from offender mental health history information and clinical interviews. Their conceptualization of “mental illness” not only included recent history but also current symptoms experienced; as a result, their findings indicated that rates of mental illness were 64% in jails and 56% and 45% in state and federal prisons, respectively. Older inmates experience significant risk factors and have also been found to commit suicide at a slightly higher rate than their younger counterparts (Gal, 2003). *See* Box 13.3 for gender-specific factors among incarcerated OOMI.

Rates of dementia among geriatric inmates are also expected to be higher than in the community setting due to biological and physical health deterioration and an accelerated aging process that is argued to be resultant from the extreme psychological and environmental risks of confinement (Gross, 2007; Maschi, Kwak, Ko, & Morrissey, 2012). Though an understudied area, existing data indicates prevalence rates that range between 1% and 44%, depending on characteristics of the correctional setting (Maschi et al., 2012).

### **Box 13.3 Gender-Specific Issues**

Some of the issues found in common among incarcerated older women include chronic health conditions, histories of frequent victimization and traumatic events (sexual and physical abuse), high rates of mental health issues, and problems negotiating health care. In terms of major health problems, a substantial number of females suffer from either high or severe levels of depression, anxiety, and interpersonal sensitivity (Covington, 2001). With multiple health problems, many elderly female inmates report an increased fear of victimization, and that they do not receive (or are discouraged from seeking) adequate medical care (Reviere & Young, 2004; Williams et al., 2006).

## Service Engagement

Data derived from a survey of adult state and federal community and confinement-based correctional facilities in the United States in 2000 indicated that an estimated 191,000 of the inmates surveyed had self-reported some form of mental illness as of midyear. Among the 191,000, 1 in every eight was receiving some type of mental health service. The data were further broken down by type of treatment, and reports indicated that a total of 1.6% of inmates across reporting institutions ( $n = 17,354$ ) had received 24-h mental health care, 12.8% ( $n = 137,385$ ) received therapy or counseling, and 9.7% ( $n = 105,336$ ) had received psychotropic medication for their mental health-related illness, compared with 5% of the non-incarcerated population of persons with mental illness (PwMI) (Beck & Maruschak, 2001).

For a variety of reasons, mental health programming and related reentry services have not been prioritized in jail and prison settings, and therefore, issues such as a high incidence of mental health disorders and significant histories of trauma that far surpass that of their non-incarcerated counterparts have further taxed resources that were already sparse. Moreover, research suggests that offenders with mental illness are quite difficult to treat (Morgan et al., 2012), if not resistant to treatment overall (Lamb & Weinberger, 1998). Based on this resistance, and coupled with unique criminal histories that indicate the potential for violence (James & Glaze, 2006; Lamb & Weinberger, 1998), mental health providers are often reluctant to treat them to begin with (Lamb, Weinberger, & Gross, 1999). As a result, a growing number of justice-involved persons with mental illness needing treatment have not been able to obtain it to the extent necessary—an outcome that reflects the non-institutionalized population experience.

In contrast to offending populations without mental illness, the lack of program and service engagement for this group is sometimes related to collateral consequences of their incarceration or other involvement in the criminal justice system, such as the loss of Medicare, Medicaid, or disability benefits (NAMI, 2017a, 2017b). Since research indicates that inmates who have mental health problems are likely to spend an average of 4 months longer incarcerated than those without (James & Glaze, 2006), the urgency of treatment becomes more imminent.

Furthermore, research has revealed an accelerated aging process among prisoners, which may be credited to high-risk personal histories and further aggravated by the conditions of confinement and lack of adequate health services (Courtney & Maschi, 2013). For example, like their younger counterparts, incarcerated OOMI are likely to encounter a break in the continuity of medical or mental health care they had received in the community and a weakening support system over the period of their incarceration. In relation to general day-to-day life in a correctional setting, older inmates who are particularly vulnerable (having physical or other disabilities) are oftentimes subjected to various forms of victimization and emotional distress (Aday & Krabill, 2006; Gross, 2007; Maschi et al., 2011). To exacerbate these conditions further, correctional staff are often inadequately trained in the context of addressing aging inmate needs, which results in increased costs due to unaddressed physical/medical services and physical accommodations (OIG, 2016).

## Collaborative Research with Aging Inmates in Pennsylvania

In an attempt to extend the research base, this author and a colleague from the field of social work/gerontology, Dr. Charlene Lane, collaborated on a research project in 2015 with inmates in the state of Pennsylvania. In particular, we collected data from geriatric inmates (conceptualized as adults 55 and older) who were incarcerated at four prisons located in various parts of the state. These specific locations were selected for two primary reasons: (1) to collect data from equal proportions of male and female older offenders and (2) the selected facilities were reported to hold the largest proportion of inmates aged 55 and older due to available accommodations specific to this population. The primary purpose of the study was to explore perceptions of aging in prison among older inmates, with particular focus on the inmates' physical and mental health status, as well as their perceptions of available services in response to these issues. Specifically, we were interested in answering the following research questions:

1. How do older incarcerated adults feel about aging in prison?
2. Do older incarcerated adults perceive their physical health needs are being met?
3. Do older incarcerated adults perceive their mental health needs are being met?

Over a 6-month period between December of 2014 and March of 2015, the research team met with 91 inmates who volunteered to participate in the study. As anticipated, participants included a relatively equal distribution of males (42 or 47%) and females (48 or 53%) (Gender was missing in one case). Their average age was 63 years (one respondent was over the age of 80) and the majority (56%) identifying as non-Latino and Caucasian/white. To address the research questions, we designed a questionnaire which contained a mix of closed- and open-ended questions; semi-structured interviews were conducted by both researchers to clarify survey responses and to allow respondents at all four facilities the opportunity to share additional information.

Approximately 95% of the inmates who responded reported having one or more of the following medical conditions: heart disease (19%), high blood pressure (65%), diabetes (29%), glaucoma (8%), macular degeneration (9%), dizziness (22%), breathing problems (37% and 20% reported having bronchitis), diverticulosis (4%), arthritis (54%), stroke (8%), cancer (14%), and some other medical conditions (41%). Close to half of all respondents (48%) reported they had been diagnosed at some point in their lifetime with an emotional or mental health problem; in fact, 22% reported having been hospitalized for mental health-related problems, and almost 30% reported having received community mental health services prior to their most recent incarceration. Thirty-four percent indicated that they were currently experiencing depression and anxiety, and 76% of the inmates indicated they were currently taking medication for mental health-related issues. The majority of the inmates in our sample reported a history of drug usage (63%), and 34% indicated they had used for a period of over 15 years. The most popular drug of choice was alcohol (43%), followed by marijuana (23%), heroin (17%), prescription drugs (6%), hallucinogens (3%), and "other" drugs (9%).

A preliminary analysis of responses to additional questionnaire items revealed findings consistent with those reported in previous research with OOMI, including an array of issues that seem to revolve around the following three themes:

- Substantial history of co-occurring substance and mental health issues (sometimes undiagnosed) prior to incarceration
- Unmet medical needs/inadequate services while incarcerated
- Unmet mental health needs/inadequate services while incarcerated

### *Medical Needs*

As it pertains to the participants' medical and physical needs, there were mixed feelings expressed. In this case, older adults interviewed perceived that they are a population forgotten by the larger society because of dual stigmatization related to their age and criminalization. They expressed frustration in relation to what they perceived as a long wait time to receive medical attention, and some attributed this to perceptions held by the individuals who provide services. For example, there were several participants who expressed the belief that their medical needs—such as the need for dentures and updated prescriptions for eyeglasses—were not being adequately met because of society's view of crime and criminals, for which they ascribed as demeaning and dismissive.

### *Mental Health Needs*

A substantial number of inmates expressed the belief that they were appropriately medicated for psychiatric-related disorders while incarcerated; in fact, some revealed that their incarceration led to diagnoses and treatment they would not have otherwise received in a community setting. Nevertheless, they had concerns about therapeutic needs that were not being met, including a lack of available programs for which they were eligible to participate. Moreover, there was some concern about continuity of care beyond the prison for those who would be released. They also speculated as to whether more accessible and effective health care in the community with regard to medications, treatment, and other services might have prevented the behavior that led to the most recent incarceration. Many inmates with and without mental health concerns reported remorse as it pertains to "getting caught up in the wrong crowd."

During some of the discussions, participants revealed reasons for initial incarceration that differed across gender lines. For example, there was a larger percentage of female inmates who disclosed being victims of physical trauma (physical and sexual abuse), which they attributed to their involvement with the criminal justice system and subsequent incarceration. Conversely, their male counterparts were more

likely to attribute their incarceration to gang affiliations, murder, and other circumstances related to interpersonal violence. While further examination is certainly warranted for factors leading to incarceration for both males and females, the substantial proportion of incarcerated women who reported histories of abuse and trauma is especially troubling—in particular, since trauma-informed treatment is still lacking in correctional settings to a large extent (OIG, 2016). As will be revisited below in the chapter summary, further research is necessary to determine long-term effects of early trauma on older females who are incarcerated and the most effective response in terms of treatment and the provision of immediate needs and services.

## Summary

A significant growth in the US population of older adults has resulted in a significant increase in the number of geriatric individuals who are entering the criminal justice system, through increasing numbers of arrests and, for some, incarceration (Aday & Krabill, 2006; Gross, 2007). As a result of this growth, the prison system is experiencing a huge strain in terms of its ability to provide necessary and adequate resources and related expenditures. In particular, compared with their younger counterparts, aging inmates are more costly to incarcerate due to increasingly complex medical needs—including physical and mental health-related conditions that are oftentimes co-occurring with substance abuse/addiction (OIG, 2016). Prior to incarceration, many geriatric inmates have very high rates of health risk factors, some of which are related to environmental stressors and adverse events including trauma and victimization that may have occurred early and persisted over the life course; due to lack of engagement in treatment in the community, many of these problems follow them into the criminal justice system (Maschi et al., 2011).

Sadly, the aging population in prisons and jails does not have access to adequate medical and mental health treatment and services because of the lack of financial support, space, or physical accommodations that would help make the facility conducive to the mobility needs of aging offenders. Furthermore, even if the resources were available, many facilities lack the institutional staff and/or staff lack the specialized training that is necessary to implement more effective methods of managing this unique population (OIG, 2016).

## *Policy Recommendations*

Based on gaps and identified needs in the overall system of care as pertaining to responding to the needs of older offenders with mental illness (OOMI), the following section outlines three specific policy goals that should be incorporated into the development of a comprehensive system of care. This information, as presented, can be used to more effectively identify persistent goals, objectives, and strategies that are reflective of the prioritized needs of this population.



## ***Compassionate Release Programs***

One response to the growing geriatric population—in particular, those who exhibit serious health conditions—has been the implementation of policy that provides for what is referred to as *compassionate release*. Compassionate release allows for the furlough or early release of inmates diagnosed with terminal or chronic long-term illness, and reentry program changes to accommodate the needs of this group. Underlying reasons for the development and incorporation of such programs really relate to cost savings and more effective correctional management—in brief, reducing overcrowding (OIG, 2016).

Unfortunately, due to the adoption of a restrictive set of criteria that many potentially eligible inmates cannot meet (e.g., age limits, non-violent offense, served more than 50% of sentence), and confusion among staff as to eligibility requirements as a result, compassionate/early release programs have rarely been used. For example, as of 2013, the Federal Bureau of Prisons has released only about 3% of all eligible inmates who applied for the program, primarily due to concerns for public safety and recidivism and new provisions which included age and other restrictions (OIG, 2016).

On a positive note, developing research related to these programs has revealed minimal recidivism rates (in particular, with respect to aging offenders), substantial cost savings, and reductions in overcrowding that warrant consideration by correctional administrators. Further, recommendations have been made to expand these policies, reducing the restrictions that preclude eligibility for many older offenders (50+) and increasing the number of applications submitted (OIG, 2016).

## ***Mental Health Training for Criminal Justice Practitioners***

Public safety officials, including correctional staff, security agents and emergency medical personnel, firefighters, and law enforcement officers (LEOs), are often the first to respond when a person is experiencing a mental health crisis. Furthermore, unless reentry services are implemented during one's period of incarceration and treatment services are received soon after release (within 2 weeks), the same individuals who may have been stabilized while inside the institutional setting may quickly decompensate in the community, thereby becoming at risk for repeated encounters with justice and other systems of care (e.g., public welfare). Unfortunately, some first responders may feel ill-prepared to handle these types of encounters given a general lack of knowledge as to signs and symptoms of mental illness and a number of other factors that present themselves in a crisis situation. In fact, despite an increase in police encounters with persons in crisis, it appears that only minimal attention is directed in police training to dealing with individuals who might be experiencing mental health issues.



Two popular programs that have been used in the United States with reported success include Crisis Intervention Team (CIT) training and Mental Health First Aid (MHFA). CIT is delivered over the course of a 40-h week. Various training modules are facilitated and delivered by law enforcement personnel, community mental health professionals, family and consumer advocates, and experts in related fields and consist of a variety of topics including (a) signs and symptoms of mental illness, (b) types of psychotropic medications, (c) de-escalation techniques, and (d) interaction with PwMI who are not currently in crisis. The program is predominately used to train police and other traditional first responders, although a diverse group of police/correctional staff/mental health professionals have completed the course (Bratina, 2017). Mental Health First Aid (MHFA) is an 8–12-h training course on basic signs and symptoms of mental health problems. Specific training modules (topics) include anxiety, depression and mood disorders, psychosis, substance abuse disorders, and trauma (Bratina, 2017). While MHFA has been marketed generally to the public at large, although, specialized courses/modules have recently been developed for educators and public safety personnel. Although the length of the training program, the audience, and some of the content differ, both of these programs generally provide modules that cover topics central to more effectively responding to the needs of offenders with mental health problems; in fact, CIT programs have incorporated modules specific to crisis response involving older persons with cognitive impairments (Alzheimer's and dementia) (Bratina, 2017).

The viability of implementing programs such as CIT and MHFA will depend on available resources, extent of community support, and department or agency culture/philosophy. Given liability issues in relation to high-profile instances of alleged mistreatment of offenders with mental illness, administrators in some jurisdictions have explored mandated training of staff. For example, police and corrections officials in Rhode Island and Pennsylvania have required and administered versions of both CIT and MHFA to law enforcement and correctional staff with positive outcomes (Gourlay, 2016; Zoukis, 2017). Consideration should be given to the specific needs of staff in relation to more effectively responding to and managing of this population of offenders. To promote safe and effective management, diversion, and reentry of OOMI in any given environment, it is highly recommended that first responders become properly trained on the de-escalation of a crisis, the identification of the manifestation of psychiatric problems, the signs of age-related cognitive impairment and physical health conditions, and the proper utilization of less-than-lethal weapons.

### ***Trauma-Informed Care***

Research suggests that older incarcerated adults bring with them significant histories of trauma and polyvictimization that continues with incarceration. In particular, there is significant work that still needs to be done in reference to addressing the mental health needs of female inmates, many of whom disclosed being victims of

sexual abuse and domestic violence which can potentially lead to late life posttraumatic stress (Reichert & Bostwick, 2010). Without treatment, males and females with PTSD are at high risk of demonstrating violent behavior (Fournier, Hughes, Hurford, & Sainio, 2011). A trauma-informed care approach recognizes the intersection of trauma with many health and social problems for which people seek services and treatment (Bowen & Murshid, 2016). Trauma-informed care is conceptualized as an organizational change process which is grounded in four assumptions that are intended to promote healing and reduce the risk of re-traumatization for vulnerable individuals:

1. Realize the impact of trauma and also understand recovery.
2. Recognize symptoms in clients.
3. Respond to applying policy and procedure.
4. Resist the re-traumatizing of individuals (Substance Abuse and Mental Health Services Administration [SAMHSA], 2016).

Within this framework, SAMHSA has outlined six core principles of a trauma-informed care approach to recovery, which include safety; trustworthiness and transparency; peer support; collaboration; empowerment, voice, and choice; and the intersectionality of identity issues (cultural, historical, and gender-based) (Bowen & Murshid, 2016). These core principles are briefly discussed below.

*Safety* refers to treatment programs designed to keep the consumer out of danger and to prevent further trauma from occurring.

*Trust and transparency* pertains to the extent to which the agency is transparent in its policies and procedures while maintaining the goal of building trust with staff, clients/consumers, and the community members.

*Peer support* involves the development of linkages between persons who have common lived experiences (e.g., histories of trauma and behavioral health problems) and the practice of sharing knowledge and experiences as part of treatment and recovery (Bratina, 2017).

*Collaboration* consists of staff viewing clients/consumers as active partners, which is often done through peer support, such as peer mentoring (Bowen & Murshid, 2016). *Empowerment* refers to the agency allowing the client/consumer to have a *voice* in the decision-making process.

*Recognizing cultural differences*, the last principle, has to deal with cultural differences that make each individual's treatment program unique. The key to treatment involves compassion and support, and effective approaches will be racially, ethnically, and spiritually relevant, as well as gender specific (Rosenberg, 2011).

In the context of responding to the needs of OOMI, a trauma-informed approach is highly recommended for several reasons, including to promote trust between offenders and criminal justice practitioners, to more openly and effectively determine the offender experience, and to determine if the use the offender has a history of trauma and abuse if so to use the information to help guide the treatment and to assure that the needs and services provided address the present issues. TIC also promotes staff well-being/well-care and the cumulative impact of trauma on the agency or organization (Bratina, 2017).

## Conclusion

Given the growth of this segment of the population, generally, and all of these challenges/issues in the community and in correctional settings, a growing number of studies have been conducted exploring the experiences of older adults aging in the community or in the justice system. Still, there is a need for more criminal justice-focused work in this subfield, as well as the development of joint research and multidisciplinary work that involves academics in criminal justice/criminology, social work, gerontology, and other relevant fields. It is anticipated that researchers and various other professionals will use the information presented in this chapter as an opportunity to engage in further dialogue regarding opportunities for research, teaching, and practice and to encourage the development of academic-community-based partnerships and programs that will assist older adults with mental health problems.

## Discussion Questions

1. In what ways can community-based services agencies accomplish more effective identification and intervention with older adults who have a history of mental health and/or substance abuse issues?
2. How might a caseworker or provider of services successfully overcome any obstacles to treatment engagement?
3. What are some of the challenges and needs of law enforcement officers who come into contact with OOMI who are experiencing a mental health-related crisis? What are some of the challenges and needs of OOMI who come into contact with law enforcement during a mental health crisis? Are these challenges and needs complementary or conflicting?
4. How might communities need to respond so that programs such as CIT and MHFA are successful at diverting OOMI from further penetration into the criminal justice system and maintaining safety for first responders, consumers, and community members?
5. What are some foreseeable challenges that could arise for correctional or mental health staff during the screening and assessment process for OOMI?
6. How might one's age and physical condition affect the classification process for department of corrections personnel?
7. Can you identify potential solutions to the challenges presented in the management and care of older incarcerated adults?
8. What are some of the possible arguments for the more frequent use of compassionate release programs with the geriatric inmate population? What might be some of the arguments against the practice? Which side do you most comfortably agree with, and why?

9. There are several challenges with regard to the training of police and other first responders (e.g., correctional staff) in mental health and substance abuse issues; based on your review of available resources, identify at least three of these challenges.
10. What solutions might you offer in overcoming the challenges you identified in the previous question?

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# Chapter 14

## Summary: Older Criminals and Victims



Peter C. Kratcoski

The contributors to the chapters of this book on older offenders and victims all alluded to the fact that the population of the world, and in particular the populations of the developed industrialized countries, are growing older. The portion of the population that will be aged 65 and above in countries such as Japan, the United States, and most of the European countries is expected to reach 20% or more in the near future. The contributors have demonstrated through examples and research findings the importance of exploring the criminal behavior and victimization of these older persons.

Over time, older persons have experienced changing roles in many societies. When the family was the major source of economic stability and governance of the members, each family member was expected to contribute to the welfare of the unit to the extent possible. The needs of older persons (parents, grandparents) were still provided for, even after the older person was no longer able to contribute to the economic welfare of the family unit. However, in present-day urban-industrial societies, the function of family in regard to governance and economic support has narrowed to the immediate members of the nuclear group. Older children, once they have departed from their home of birth, are no longer expected to provide food, clothing, and shelter for their elderly parents who are not able to care for themselves. In all developed countries of the world, governments have established various social security programs that are designed to assure that all citizens in need, including the elderly, will receive the basics in food, clothing, and housing that are needed.

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## Crimes Committed by the Elderly

Kratcoski and Edelbacher (2016, p. 60) completed an analysis of the elderly (aged 65 and above) who were arrested for one or more crimes in 2000 and the elderly who were arrested for one or more crimes in 2013. The information used to make the comparison was abstracted from the crimes in America report compiled by the Federal Bureau of Investigation. The data revealed that the arrests of older offenders (65+) for all types of serious crime had increased when the number of arrests of the elderly in 2000 was compared with the number of arrests of the elderly in 2013. Arrests of the elderly for fraud, forgery, embezzlement, drug-related offenses, receiving stolen property, liquor law violations, and family-related crimes increased significantly in 2013. There was a substantial increase in the number of older persons arrested in 2013 for both crimes against persons and property crimes.

How do these changes relate to criminal behavior of the elderly and the criminal victimization of the elderly? There are many situations to consider. First, a large number of the elderly are not living in poverty. They have made a considerable amount of money during their productive years and have either saved a large amount, made good investments, or have pensions that guarantee a steady income in their old age. In addition, the elderly are not expected to contribute to the economic welfare of their children, who normally have established their own households long before the parents reached old age. This group of well-off senior citizens is most likely to continue the lifestyle they had in the past. Rather than engaging in crime to provide for their basic needs, they are more likely to be the targets for victimization than to become criminals. However, it is not likely that they will be physically victimized, since they will tend to live in well-protected neighborhoods and will have a network of friends who have similar characteristics. Victimization of the elderly who are economically secure is most likely to occur through the intervention of criminal scammers in their lives, who attempt to convince the elderly that they should give away their money and other resources. These scams have been described by several of the contributors of this book.

In addition to the criminals who prey upon elderly persons to whom they are not related, immediate family members may also steal from their elderly relatives or use deceptive information to develop schemes to convince the elderly to turn over their assets. The supposition that the elderly who have secure incomes are more likely to be victims than perpetrators of crimes does not imply that the well-off elderly persons are crime-free. The factor of greed must be considered. For some, there is never enough money or property to satisfy their wants. For others, it is not so much a matter of collecting more wealth, but seeking more power and control over others.

The statistics and examples of the crimes committed by the elderly living in the several countries included in this book reveal that older persons engage in all types of crimes. Many multimillionaires have been convicted of white-collar crimes such as bribery, grand theft, embezzlement, price-fixing, money laundering, and crimes related to corruption of public officials.



Occasionally, older persons who are well-off become criminals through acts of physical violence, even the murder of another person as a result of an argument, jealousy, involvement in a romantic triangle, or accidentally killing a person while driving drunk. In the majority of these cases, with the exception of drunken driving, the victim is likely to be a family member, relative, or close acquaintance.

Global data on the proportion of the elderly in the various countries of the world who live in a state of poverty is not available. However, it is certain that a large proportion of them, even in the more prosperous countries such as the United States, have yearly incomes below the poverty line. For example, recent statistics (Proctor et al., 2016, p. 2) reveals that there were 35 million people in the United States with annual incomes below the poverty line in 2015. Poverty among the people aged 65 and older was 8.8% of the total number of those living in poverty in the United States. A report on Hunger in America 2016 (Hunger in America, 2016, p. 2) noted, "People 65 and older had a supplementary poverty rate of 13.7%, equating to 6.5 million people in poverty. Excluding Social Security from income would more than triple the poverty rate for this group, resulting in a poverty rate of 49.7%." The manner in which a low standard of living pertains to crime is complicated. A low standard of living does not necessarily predict that the person will engage in crime as a way to supplement income or to serve as the basis for income. However, a substantial body of research reveals a relationship between a low standard of living and the adherence to a culture of poverty as well as a culture of violence. The adherence to a culture of poverty as well as a culture of violence is based on the notion that some people who were socialized in such cultures, where crime and violence is a normal part of their lives, commit such crimes as theft, fraud, or assault out of necessity as a means to survival.

In regard to the elderly criminal, in Chap. 1, the author presents statistics and case examples that would imply that some older offenders committed offenses for most of their adult lives and would qualify as "career criminals" or "habitual criminals." For the large majority of these offenders who continued their criminal lifestyle into their senior years, "crime did not pay" since the profits from their crimes were not huge and in many cases a large proportion of their adult lives were spent in prison. However, the same reasons for committing crimes in their earlier life are still motivating them in their later years.

In Chap. 1, the author presents information on older criminals who have used their positions as corporate leaders, political leaders, professionals, or owners of businesses to commit crimes relating to corruption, fraud, price-fixing, and other financial crimes. For them, in many instances, "crime did pay." These individuals can also be considered career criminals to the extent that they probably engaged in the criminal activity as long as they had the opportunity, and even when their crimes were detected and they were prosecuted, the penalty was generally not so severe that it persuaded them to stop violating the law if they had an opportunity to continue their criminal activity.

Another category of older criminal mentioned in Chap. 1 is the situational criminal. A number of older people who have been law abiding their entire lives find themselves in situations that lead to behavior that is defined as criminal. The statis-

tics on the offense types of older offenders who are not financially secure reveals that the large majority of their offenses are property related, consisting of some form of theft, with reason given for committing the offenses being a need to steal or commit fraud in order to secure the basics needed to survive. The reality of their situations may not be as desperate as perceived by the older offenders, and in many cases the excuse is pure rationalization, but nevertheless these are the cases that the justice systems must deal with in responding to the older offender. Also, as indicated in Chap. 1, some situational older offenders who commit crimes against persons have lost some of their capacity to handle interpersonal relations, and thus in cases of a confrontation with others, they react with anger, aggressiveness, and violence. The data also reveals that in the large majority of the cases, the victim is a family member, relative, or close friend. Many times, drugs and alcohol are instrumental in causing the older persons to act in a violent manner.

Information on older criminal offenders from various economically developed countries through the world reveals similar patterns in regard to the older offenders. In those countries reported on in this book, including those of the European Union, the populations are becoming older, with an increasing proportion of the entire population in the older age category. In addition, while still a small portion of the total crime for a country, the amount of crime by the older age group is increasing. This is true even in those countries in which the total amount of crime is declining. The explanations for an increase in the amount of crime by the elderly are basically the same, regardless of the country. In addition to the fact that people are living longer, some older people have more opportunity to commit crimes than in the past because they are in the work force longer, older people tend to be more socially active than was the case for older people in the past, and older people tend to interact with a wider variety of associates and have opportunities to engage in types of crimes that were not possible for older people in the past, such as Internet fraud. These factors help to explain the growth of crime by the elderly.

In some cases, the same explanations for the growth in crime are applicable to all age groups. In Chap. 2, the author presents the relationship of crime to economic conditions in those countries that were devastated in World War II during the rebuilding of the governments and the economies. After the collapse of the Soviet Bloc in the late twentieth century, the more prosperous nations of Western Europe received millions of immigrants from Eastern European countries. The large majority of these new residents came with the intent of finding employment and hoping for a higher standard of living. Although there may have been some conflict with the natives as a result of differences in cultures, the vast majority of the new immigrants were law abiding and did not adhere to a criminal culture. After the creation of the European Union in the late twentieth century and the opening of the national borders of European countries, many of the European Union member countries experienced several waves of large numbers of people immigrating to the European Union countries. In some cases, they were being pushed out of their former country due to internal civil warfare, or political and religious persecution, and in other cases it was a matter of seeking better employment and a better standard of living than they had in the past. The effect the new immigrants had on the amount of crime

in those countries is difficult to ascertain. However, statistics on the trends in crime for the European Union countries reveal a decline in the amount of crime for more than the first decade of the twenty-first century.

It is expected that older persons will be responsible for a larger amount of the crime for the countries of Europe in the future because they will constitute a larger portion of the population. In regard to increases or decreases in the amount of specific types of crime, matters of opportunity to commit the crime, motivation to commit the crime, and ability to commit the crime all have to be considered in any attempt to explain crimes by the elderly. For example, older people living in a “gun-oriented” society such as the United States will no doubt have higher homicide rates for the elderly than a country in which there are many restrictions on gun ownership for the reason that it is more difficult for an older person to kill another with physical force, a knife, or some other non-firearm weapon than it is to kill with a firearm. As a larger proportion of the population becomes eligible for social security, medical aid benefits, and welfare programs designed to assist the elderly, the cases of fraud and other forms of theft are likely to increase among the elderly.

## **Criminal Victimization of the Elderly**

The types of criminal victimization of the elderly are similar in all countries. However, the amount of victimization of the elderly for each type of crime will vary by country depending on the laws and cultures of the countries. Kratcoski and Edelbacher (2017, p. 1) note, “Some of the major reasons for the increases in the amount of victimization of the elderly include the facts that some older persons are on limited incomes and are forced to live in high crime areas, older persons are separated from their families and do not have the support and protection of family members in times of need, many live alone and are dependent on others for services, many are in poor health, and other are easily “conned” because they are not knowledgeable about the numerous scams and fraudulent schemes that often target the elderly.”

The major sources of information on the amount and types of crime victimization experienced by peoples of countries throughout the world are reports to the police by crime victims, records from health institutions, reports in the mass media, and victimization surveys. The estimates of the *dark side* of criminal victimization, that is, the number of criminal victimizations that are never detected or recorded, are as high as four to one. Thus the actual number of people victimized by crime may be four times that recorded. Van Dijk (2016, p. 5) notes that it is very important for government officials to know the number of people who have been victims of crime. He states “First, crimes often inflict harm on ordinary people, and they could and ought to be prevented. If not most, of these crimes are never reported to the police and the victims of these “dark numbers” are unlikely to be offered any kind of services or specialized support.” Van Dijk (2016, p. 7) cites the 2011 report of the World Bank, in which it is demonstrated that high levels of serious crime in a coun-

try impede economic growth because of the deterrent effect on foreign and domestic investment. Developing countries affected by organized crime and violence are likely to have their development impeded, whereas those developing countries without major crime problems are likely to economically grow at a much faster rate.

## **Hate Crimes (Collective Victimhood)**

Many of the peoples of the countries throughout the world may have been the recipient of what is referred to as collective victimization. McNeill et al. (2017, p. 1) contend that, "Much current research on collective victimhood acknowledges the role of rhetoric but does not fully address the implications for micro-level variation in personal expressions of victimhood. The focus has tended to be on individual differences in collective victimhood where people may either see their group as the sole possessor of victim status or may incorporate other groups into an inclusive category." Green et al. (2017) note that individuals who are members of a racial or ethnic group that has been targeted by other groups for discrimination or hate crime may feel that they were victimized even though they have not personally experienced the victimization. For example, if a church in which the congregation is predominately African-American is destroyed by a bomb, African-Americans, regardless of the fact that they were not members of the church congregation nor even lived in the same community, still may feel that they were criminalized because the crime was directed at them collectively. When members of a racial or ethnic group view displays of hatred and violence toward their group by "hate groups" on television, they may be psychologically affected by the experience, even though they were not physically present at the event. Likewise, those who belong to the race or ethnic group of the perpetrators of the crime may experience some feelings of guilt just from being associated with the offenders, even though they had no involvement in the act. In addition, the status of ethnic and racial groups' power may change over a period of time. The group now in power may have been a minority group in the past and thus subject to discrimination and victimization in the past. The change in status of the ethnic, racial, and religious groups who voluntarily came to the United States seeking employment or political freedom best illustrates how group power positions can change over periods of time.

The majority of the states and the United States federal government have enacted laws pertaining to hate crimes. The Federal Bureau of Investigation (FBI, 2015, p. 2) states, "A hate crime is a traditional offense like murder, arson, or vandalism with an added element of bias. For the purposes of collecting statistics, the FBI has defined a hate crime as a 'criminal offense against a person or property motivated in whole or in part by an offenders bias against a race, religion, disability, sexual orientation, ethnicity, gender, or gender identity.'"

The hate crime laws enacted by the states are similar in content to those of the federal government, with the exception that they pertain to state law. They protect freedom of speech, press, and other civil rights of those who may express their dis-

pleasure with other races, ethnic groups, or religious groups and even allow the expression of hatred toward the group or an individual member of the group. To be considered a hate crime offender, one must violate a criminal law defining a specific act or fail to act in a manner prescribed by the law in addition to the expression of bias or hatred. The FBI (2015, p. 3) works with state and local law enforcement officials with the investigation of crimes that may have been motivated by bias or hate, many of which will be prosecuted in the state courts. Although, hate crime laws are enforced in the same manner as any other law that pertains to criminal activity, the penalties for those who are convicted under a hate crime statute are enhanced to account for the damage done to an individual or a group that is a victim of a hate crime.

A FBI report (2015, p. 1) on hate crime incidents reveals that there were 5850 incidents of hate crime reported in 2015. The number of offenses reported was 6885 (there may have been multiple offenses for a single incident). Of the total offenses, 65% were crimes against persons, 34% were crimes against property, and 1% were crimes against society. The number of victims was 7173 and the number of known offenders was 5493. The large majority of the incidents, more than 99%, were single-bias incidents, and the large majority (99%) of victims were subjected to single-incident hate crimes. Of the hate crime incidents, 56.6% were motivated by bias based on race/ethnicity/ancestry. Of these, 52.7% involved antiblack and African-Americans feelings, and 15.2% were motivated by antiwhite sentiments. The remainder, 31.6%, of the hate crime incidents motivated by race or ethnicity were directed toward Asian-Americans, Native Americans, Hispanic or Latino, and others. Of the hate crimes in which the bias motivation was based on religion (1354), the largest number 695 (51.3%) were anti-Jewish and anti-Islamic bias 301 (22.2%), and the remaining hate crime incidents motivated by a bias toward a religion of 27.5% were directed toward members of Christian religions and, in a small number of cases, Buddhists, Hindus, and others. The FBI (2015, p. 1) report on hate crimes revealed that of the hate crimes known, the victims were individuals in 83% of the cases, businesses or financial institutions were targeted in (5%) of the cases, government in (2%) of the cases, religious organizations in 3% of the cases, and society, public, and other or unknown in (7%) of the cases.

The hate crime statistics furnished by the FBI do not give the ages of either the victims or the perpetrators of the hate crimes. As a result, we do not know how hate crimes affect the elderly. However, one could surmise that a person targeted by a hate crime would not be chosen on the basis of his/her age, but, as with victims in other age groups, the crime would be motivated by a hatred or bias for the older person's racial/ethnic identity, religion, political party membership, or other factors that have been shown to be related to hate crimes. One can surmise that, in the United States, older persons were the victims of hate crimes in the same proportion as their proportion of the total population. With the fact that older members of a minority racial or ethnic group lived a major proportion of their lives before civil rights legislation and other laws providing for equal protection of all citizens were enacted, one could reasonably conclude that older members of racial and ethnic

minorities probably experienced some type of victimization many times in their lives before they reached the “senior” category.

In Chap. 7, the author explores the matter of elder abuse in communities of color in the United States. In a large number of the communities in which African-Americans and those of Hispanic origins reside, the elderly population may be victimized by way of poverty or housing exploitation and may be victims of crimes committed in their economically disadvantaged communities.

## Crime Victimization Surveys

Crime victimization surveys in which scientific research methods are used, such as those directed by the United Nations, the World Bank, and others, give valuable information on an estimate of the amount of crime, the types of crimes the victims have experienced, and in some cases the relationship between the offender/s and victim/s.

The most frequent forms of victimization are:

- Property crimes, such as theft, property destruction, and vandalism
- Frauds and scams, such as insurance fraud, homeowner repair frauds, and Internet scams of all types
- Physical violence, such as assault, robbery, and physical abuse

Although the perpetrators of physical violence and property crimes of theft are much more likely to be family members, relatives, and friends rather than strangers (Kratcoski & Edelbacher, 2017), the amount of violent crimes against the elderly committed by a stranger appears to be on the increase in some urban areas. For example, the New York City Police Department (Trefethen & Prendergast, 2016, pp. 1–2) reported that more than 1000 persons aged 65 and older had been assaulted in 2016, an increase of 16% from 2015, and the number of robberies of the elderly increased by 6.5%. The police reports on the older victims revealed that a large number of assaults and robberies occurred in public areas such as shopping centers, public transportation areas, and in the streets. In the case of Internet and telephone scams and fraud against the elderly, the offenders were predominately strangers to the victims.

A CVA 1995 report on world victimization revealed that 1.5% of the world population was the victim of assault. In the Eastern, Southern, and Western European countries, the percentage was much lower, 1.0% or less, whereas in the African, Central American, and Caribbean countries, the percentage was much higher. (In the case of Central America and the Caribbean, the percentage was 3.3, more than double the world average.) The report does not give a breakdown of the number of elderly victimized, nor the types of crimes of which the elderly were the victims, but one can assume that the rate is at least as high or perhaps higher than that for most of the other age groups.

A report on trends of victimizations against the elderly (Mason & Morgan, 2013) found that the rate of homicides against the elderly in the United States declined by more than 40% from 2003 to 2013. In the same study, the authors found that almost 2/3 of the elderly homicides occurred in the home of the victim or nearby. Kratcoski (1992) found that the majority of the homicides occurred in the homes of the victims, the victim and the murderer were married, in the large majority of cases the offender used a firearm, and the motivation given for the crime was generally an argument about some trivial matter. Abuse and neglect of the elderly is likely to be a growing problem in all countries throughout the world. As the older population of the various countries increases and lives longer, and as their health and mental capacities decline, they will be more dependent on others, either immediate family members or caregivers in residential facilities, to supply their daily needs. While the care they receive from either family members or from non-related care givers is generally up to standard, abuse and neglect does occur. The physical, psychological, and sexual violence against the elderly perpetrated by caregivers that occurred in a residential setting is discussed by several of the authors. In addition, elderly patients in hospitals and nursing homes are at times victimized through neglect by the omission of inadequate provision of necessary care to elderly patients.

## Factors Relating to Criminal Victimization

Not all old people are equally vulnerable to neglect and abuse and other forms of criminal victimization. Socioeconomic factors, gender, race, and the individual circumstances of those with a high potential for victimization must be considered. In regard to socioeconomic factors, a study by the National Institute of Justice (2001) found that the risk of elderly maltreatment is higher for individuals living in low-income households, individuals who are unemployed or retired, individuals who report being in poor health, individuals who have reported prior traumatic experiences, and individuals who have low levels of social support.

A study by Rosay (2016, p. 39) on violence against American Indians and Alaska natives found that more than 80% of American Indian and Alaska native women had experienced some form of violence against them during their lifetime. The types of violence experienced included sexual violence, physical violence, and stalking. In more than half of the cases, the perpetrator of the physical violence was an intimate partner, and in more than 2/3 of the cases of psychological aggression, the perpetrator was an intimate partner (Rosay, 2016, p. 2). The percentage of American Indian and Alaska native men who had experienced any violence against them during their lifetime was somewhat lower than that of women and significantly lower in cases of sexual violence, stalking, and physical and psychological aggression by an intimate partner. The study also reports (Rosay, 2016, p. 42), "The majority of American Indian and Alaska Native victims have experienced



violence at the hands of at least one interracial perpetrator in their lifetime—97% of female victims and 90% of male victims. Fewer American Indian and Alaska Native victims have experienced intra-racial violence in their lifetime—35% of females and 33% of male victims.”

Harrell (2017, p. 1), reporting on the National Crime Victimization Survey, cites statistics that show that during the period from 2009 to 2015, the estimates of non-fatal violent crimes against persons with disabilities were 2.5 times the adjusted rate of those persons without disabilities. Disabilities are classified according to six limitations, hearing, vision, cognitive, ambulatory, self-care, and independent living. Although old age is not defined as a disability, those in the older age groups have a high potential to be handicapped in one or more of the disability categories listed above as a result of the deterioration of physical and mental capacities brought about by the aging process. Both men and women with disabilities experienced significantly higher rates of nonfatal victimization in all categories than did those who did not have a disability.

In Chap. 7, the author explores the matter of elder abuse in communities of color in the United States. In a large number of the communities in which African-American and those people of Hispanic origins reside, the elderly population may be victimized as a result of their racial or ethnic origins through discrimination in employment opportunities, in housing, or in medical care, as well as being victims of crimes committed in their economically disadvantaged communities.

In Chap. 8, the victimization of the elderly in Japan is considered. The factor that makes the victimization of the elderly somewhat unexpected is the fact that Japan has had a long tradition of protecting and respecting older citizens, particularly the older members of the family. As Japan, particularly in the larger cities, has integrated many European and American features into its culture, the role of the elderly has changed, and much of the security older persons had experienced in the past has eroded.

In Chap. 9, the author focuses on elderly crime and victimization in England and Wales. It is noted that the elderly in these countries hold considerable assets. Many of the elderly, particularly widowed women, live alone and also suffer from physical and mental illnesses which make them easy targets for those who attempt to pilfer their resources through trickery or other means, such as breaking into their homes and stealing their belongings. The elderly are also vulnerable to exploitation through Internet scams and frauds.

In Chap. 10, the author provides information on the abuse and neglect of the elderly who are physically handicapped or who have lost some of their mental capacity and who reside in residential facilities such as nursing homes for the physically and mentally impaired. The elderly housed in hospitals, nursing homes, or various types of residential facilities and the elderly living in their own homes under the care of a professional caregiver are often the victims of both property crimes and personal crimes of violence. For the elderly in such situations, the offender/s usually are either family members, relatives, or close acquaintances. In some cases, the



victimization or abuse is deliberate, as when the caregiver deliberately steals from the older person, or, as a result of being angry with the patient's failure to respond to directions or take medicine, or when the patient appears to be determined to give the nurse a "hard time," the caregiver physically or psychologically abuses the patient. In other cases, the abuse is not a deliberate act on the part of the caregiver, but is a matter of an injury occurring during the performance of a normal routine duty. Residents of nursing homes and other residential facilities housing the elderly are at times physically or sexually abused by other residents. A report by the Department of Health and Human Services of Inspector General's Office (USA) (Alonso-Zaidivar, 2017, p. 1) indicated "More than 1 in cases of possible sexual and physical abuse against nursing home patients apparently went unreported to police, says a government audit that faults Medicare for failing to enforce a federal law requiring immediate notification." In the article the author states, "The federal statute has been on the books more than five years, but investigators found that Medicare has not enforced its requirements to report incidents to the police and other agencies, or risk fines of up to \$300,000."

In addition to being victimized within the residential facility, others who have been entrusted to manage the elderly's estates, such as attorneys, persons given the power of attorney, and even close friends, have been known to victimize the elderly through theft of assets, fraud, and other devious methods.

In Chap. 11, the author relies on a number of United Nations Commission reports and other research surveys to show the extent of victimization of elderly women and widows in underdeveloped and developed countries throughout the world. In some countries, even though laws were passed prohibiting the criminal acts against older women and widows, the laws are mostly ignored, and practices based on traditions and culture that lead to physical punishment, seizure of property, poverty, forced prostitution, forced marriages, and even exclusion from the community are followed. The victimization of elderly women and in particular those who are widowed is considered with specific reference to Europe, Asia, and Africa. The factors that make elderly women, particularly widows, more vulnerable to becoming victimized relate to several factors. First, they were probably socialized in a culture that followed the traditional norms of the male being the chief breadwinner, authority figure, and decision-maker of the family, and if that person is no longer in the picture, the older woman must now make the decisions, particularly regarding finances, by herself. In addition, the amount of income available to meet the day-by-day expenses has decreased as the cost of living has increased. Situational factors, such as living alone, residing in a deteriorating neighborhood with high amounts of crime, and not having a network of friends who can offer assistance, are all factors that increase the vulnerability of older women to be physically harmed and to be the victims of various scams and theft.

Research reveals that, for offenses involving older victims, the perpetrator is most likely to be a family member, relative, or close acquaintance for both violent crimes, such as assault and homicide, and for property crimes, including all forms of theft.

## **Role of the Older Victim in Criminal Justice Process**

In the United States, the states as well as the federal government have enacted legislation that provides for victims of crimes to be involved in the criminal justice processing of the persons who have victimized them. Jerin (2009, p. 303) notes, “The new victims’ rights impact three concerns of crime victims. The first concern is providing government sponsored services and program for victims. These programs include compensation programs and victim/witness programs. The second concern is the right of victims to be informed of and participate in the criminal justice process. The last concern is for the protection of current and potential crime victims.”

The victims’ rights movement that emerged out of desire to change the role of the victim in criminal cases by making the victim a more active participant in the process during the 1960s has continued to grow up to the present time. For example, in Ohio a crime victims’ bill of rights law has gained enough signatures to be placed on the ballot as an amendment to the state constitution. Johnson (2017, p. B3) states, “The proposed amendment would, according to backers, give crime victims ‘the right to notification of all proceedings as well as be guaranteed the right to be heard at every step of the process’. Victims would have the right to have input on all plea deals for offenders as well as the right to restitution resulting from the financial impact of the crime.” The proposed constitutional amendment for Ohio, if passed by the people, would assure that victims of crime would be able to play a greater part in the criminal justice process. Such rights as those mentioned above are already granted by either statewide legislation or by local, county, and municipal laws. Elderly crime victims often need special care. As noted in earlier chapters, some elderly victims of crime are victimized by their family or caretakers in their own homes; others are physically and psychologically victimized when out of home residents in a hospital, nursing home, or care facility; and others may be the victims of theft. Some are not even aware of being a victim, due to a loss of mental capacity. Victims’ rights organizations responsible for providing services are recognizing the need for having advocates that specialize in servicing the needs of the older victims of crime.

## **Criminal Justice Response to the Older Offender**

In Chap. 12, it was noted that older persons have been convicted of every crime that exists in the criminal codes from first-degree murder to the lowest level of misdemeanor crime, such as vagrancy. Some older offenders have been committing crimes most of their adult lives, but others, perhaps the large majority, were convicted of a crime for the first time later in their lives. In responding to the crimes of the elderly, the individual circumstances must be considered.

Those responsible for applying the law to criminal offenders, such as police, prosecutors, and judges, must rely on the criminal and penal codes that apply and the policies and operating procedures governing their organizations, as well as the input they receive from those who provide assessments of the offender's potential to harm the community if given an opportunity to remain in the community. In addition, the needs of the offender may be taken into consideration in the determination of the appropriate manner in which a criminal offender is punished.

The current trend in the United States for those with special needs is to divert the offender from the official criminal justice process. Diversion can take place at every phase of the criminal justice process. If the option is allowed in the jurisdiction in which they are employed, the police divert those they recognize as having mental problems or drug and alcohol problems away from jail to a shelter, hospital, or community treatment center.

Special problem courts (dockets) have been established for drug and alcohol offenders, mental health courts process those offenders with mental problems, family courts have been established for domestic violence offenders, and community courts service those who have committed any of a wide variety of minor criminal offenses. The criteria for admission to a special problem court will vary, depending on the jurisdiction of the court. In addition, participation is voluntary. Those selected for a special problem court must agree to adhere to a specialized treatment program aimed at eliminating the source of the problem that brought them into contact with the law. The sentencing judge might base a decision to handle an older person in a special problem court on the knowledge that, if sentenced to a secure correctional facility, the treatment programs the person needs would not be available.

None of the special courts mentioned were specifically developed for older offenders. The age of older offenders is only considered in the context of their ages for their first criminal conviction or first time being incarcerated or placed on probation. However, since an individualized treatment plan is developed for each participant, the older age of the participant will generally be a factor in the specifics of the supervision and treatment plan, particularly if the older person is physically or mentally handicapped.

The large majority of offenders convicted on a criminal offense, regardless of their ages, are placed on probation. Probation is a community-based sanction consisting of the offender being allowed to remain in the community under the supervision of a court official, in lieu of being incarcerated in a secure correctional facility. The probationer is expected to adhere to a number of general and special conditions, and if the conditions are violated either by the commission of a new criminal act or failure to adhere to the rules of conduct specified, the sentencing judge can revoke the probation and send the person to prison.

In considering the situations of convicted offenders with special needs, as is the case of many of the older offenders, the judge may opt for probation rather than diversion for several reasons. First, the judge can order treatment for drug or alcohol addiction, mental health, or physical health problems as a special condition of

probation. Second, the court has developed arrangements with various hospitals, social service agencies, and mental health counselors and will be assured that those needing specialized treatment will receive it. Also, the older offender is likely to be eligible for medical benefits to cover the cost of the special treatment. Since many older offenders need assistance in regard to travel to and from meeting places, maintaining a residence, and obtaining the daily needs of food, the community supervision plan might require residence in a halfway house or community treatment center.

Secure community correctional facilities have been established in several states. The rationale for establishing such facilities centers on several factors, including the fact that some criminal offenders need to be placed in a secure facility because they are likely to pose a threat to the community or, because of the specific nature of their offense, they would likely benefit from the treatment and support of family if placed in a community setting.

For example, there are 19 community corrections centers in the state of Ohio. These facilities are located in various sections of the state, generally in a large- or medium-sized city. A community corrections center generally serves several counties. They are funded by the state but administered by a local board of directors, which includes representatives from the judiciary of the counties and other local officials. The community corrections centers located in Ohio accept a wide range of types of offenders and offer many types of treatment programs. For example (Kratcoski & Edelbacher, 2017, p. 167), the offenses of the residents of the Community Corrections Association Incorporated located in Youngstown, Ohio, include drug offenses, property offenses, fraud, firearm offenses, and offenses relating to computer and Internet scams. Those convicted of crimes that require a mandatory prison sentence are not accepted, and some types of sex offenders, as well as some offenders convicted of serious violent crimes, are excluded. The CCA also accepts some categories of offenders convicted and sentenced under federal laws.

Typically, community corrections centers will offer a variety of treatment programs, including those related to educational matters such as GED, vocational training, preparation for employment, cognitive-based counseling such as anger management, developing parenting skills, and substance abuse treatment. Residents with physical or mental health problems are either serviced by specialists who provide the service within the facility or at a location outside of the facility.

A community corrections center is the ideal setting for those older offenders who need a more secure placement than that which can be provided through typical community corrections case management. This is especially true for cases in which the individual is in need of special treatment for substance abuse, including alcohol, physical health treatment, and mental health treatment. It is possible that the treatment needed would never be given if the older offender was not provided with the treatment while under supervision.

## Older Inmates in Correctional Facilities

Minton and Zong (2015, p. 1) note that on any given day, there are one and one fourth million offenders housed in county, state, and federal jails and correctional facilities in the United States. Although the number of older inmates constitutes a small fraction of the total (approximately 2%) incarcerated, the older inmate population has grown in recent years and is expected to continue to increase in the future. In 2017 (BOP Statistics, p. 1), there were more than 10,000 inmates aged 61 and above housed in the US Bureau of Prisons (BOP) facilities. Those aged 61 and above represented more than 5% (2.8% aged 61–65 and 2.5 % aged 65 and above) of the total BOP inmate population. The reasons for the growth, discussed in earlier chapters, consist of a larger older population that has been convicted of crimes; state and federal sentencing guidelines that require long-term imprisonment for specified offenses, resulting in a larger number of inmates growing old in state and federal correctional facilities; and other factors, such as periodic changes in correctional goals and policies. For example, the adoption of a “just deserts” approach could result in the elimination of such correctional practices as parole, “good time,” and prison programs designed to provide an inmate with the tools needed to make a satisfactory adjustment in the community after release.

As a result of US Supreme Court cases and state legislation, correctional administrators are required by law to provide basic standards for living, including food, clothing, housing, and medical care. For a large number of the older inmates, the provision of medical care is necessary for their survival. Carson (2015, p. 1) estimates that almost one third of the older inmates housed in correctional facilities in the United States have some form of physical ailment or mental illness that requires special treatment. The U.S. Bureau of Prisons Statistics (2017a, p. 1) has five institutions designed as medical facilities located in the various sections of the United States. For example, U.S. Bureau of Prisons (2017b) the Federal Medical Center located in Lexington, KY houses male and female offenders who were sent to the facility as a result of having a specific physical or mental problem. Many of these residents are older men and women.

## Discussion Questions

1. Discuss the factor that may contribute to an older person becoming a victim of crime.
2. Discuss some reasons why the amount of crime committed by the elderly is expected to increase in the future.
3. Discuss the meaning of the concept “the dark side of victimization.” What methods are used to discover the true amount of criminal victimization?
4. Discuss the functions of community corrections centers. Discuss the differences in structure and operations between community correctional centers and

- secure correctional facilities. Why are older offenders more likely to benefit from placement in a community corrections center rather than a secure correctional facility?
5. Discuss the functions and procedures followed in special problem courts (dockets). In your opinion would special court dockets for older offenders be beneficial to the older offenders and the community?
  6. Discuss the process followed when an alleged criminal offender is diverted from the formal criminal justice. What types of older offenders would most likely benefit from being diverted from the system, and what types of older offenders would more likely benefit from being processed through the system rather than being diverted?
  7. Discuss the factors that may relate to the victimization of older persons housed in hospitals, nursing homes, or other residential facilities.
  8. Discuss the most frequent relationship of offender and victim in violent crimes committed by older persons. In what types of crimes committed against the elderly will the offender most likely be a stranger?
  9. When comparing the trends in crimes of the elderly in various countries, why is it important to have some knowledge about the traditions, cultures, governments, and economic development of those countries included in the comparisons?
  10. What are the major sources of information on crime, criminal activity, and victims of crime (amount, types of crimes, arrests, victims) in the United States?

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