

# A Shared Concern

Newsletter of the B.C. Coalition to Eliminate Abuse of Seniors

Volume 12, No. 4

Autumn 2004

## SCENES FROM THE CONFERENCE



Photo by Nanette Caldwell

Yvonne Kennedy, Consultant,  
Past Administrator of a Care  
Facility



Photo by Gilllean Chase

D.R. (Doug) Wheler, RCMP in charge of  
operations, chats with Inspector Jacqueline  
McGrath of Dumfries, Scotland.



Photo by Gilllean Chase

Trevor Caldwell piped in  
panelists and dignitaries.



Photo by Nanette Caldwell

(L to R) Tricia Alford, BC CEAS Executive Assistant; John Oostenbrink, Treasurer; Joyce Schmalz, President;  
Tony Angel, Secretary; Bill Summersgill, Vice-President

# FROM THE PRESIDENT

The year was memorable indeed, having presented interesting challenges, exciting new visions and some frustrations! I wish to express my appreciation of those whose continuous commitment has contributed so much to the reputation and growth of our organization. Carol Ward-Hall, Executive Director and Tricia Alford, Administrative Assistant; as well as Vice-President Bill Summersgill, the Executive Committee and Board members for their trust, support and co-operation.

I wish to acknowledge lawyer Patricia McDonald and Project Coordinator Kathy Doerksen for the success of the Seniors and the Law Project. Their work has certainly broadened our horizons.



Rae Dixon, Executive Committee and Chair of the B.C. CEAS Multicultural Advisory Council, and Jill Hightower, Past President of BC CEAS, both members since 1999, have now resigned. I will sincerely miss their knowledge, expertise and wisdom. Our best wishes and thanks to you both!

Nasser Amiri Ph.D., continues to be our Legal Information Counsellor. His vast experience, wise counselling and skillful advocacy in reaching out to individuals in crisis and in working with community agencies and organizations make him a major asset to BC CEAS!

Mary Martin-Sharma, who coordinates the volunteers of the Scotiabank sponsored “*ABCs of*

*Fraud*” program, will also be presenting the new “Protect Your Money” B.C. Securities Commission program. I wish her continued success.

I also wish to thank the Multicultural Advisory Committee, whose members from diverse cultures work with Board members to discuss the issues of abuse to seniors and cultural diversity programs for our organization.

There were several items that made the year memorable.

**Strategic Planning**, funded by Health Canada, was not a simple undertaking. Aply guided by Consultant Penny Handford to create a five-year plan for BC CEAS, Board members, Staff, Consultants and Volunteers enthusiastically participated. The task now is to fulfill the planned objectives.

**Conversion to Computerized Accounting System**. Initially, this created a great deal of work for the bookkeeper especially hired to do the conversion and for the training of our office staff. This improved and much-needed system is now working well.

**The Toll Free Telephone Line**. Its worth is endorsed by the recorded 72% increase in calls

## A Shared Concern

**A SHARED CONCERN** is sponsored by **Scotiabank**, and is published quarterly by **BC CEAS**, the British Columbia Coalition to Eliminate Abuse of Seniors.

Your comments and enquiries are welcome. While BC CEAS welcomes contributions to the newsletter, the views expressed by contributors do not necessarily represent the views of the Board of Directors or the staff of the Society.

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Editor: **Gillean Chase**  
Design: **Les Gallus**

Next deadline for submissions: Jan 23/ 2005

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# FROM THE EXECUTIVE DIRECTOR'S DESK

The main activities of BC CEAS are prevention of abuse, intervention, education, advocacy and support, networking and promoting awareness of the needs of abused seniors to community, service providers and government. Over the last three years we have expanded our role to include more direct service, through our provincial information and legal advocacy line and two legal clinics for seniors in the Lower Mainland.

We continue our networking and alliances around the province with community organizations, agencies, seniors' groups and government. This increases our ability to build awareness about abuse of seniors, work together wherever possible and offer more referrals to abused seniors within their own communities.

**Planning for the Future:** Last year we undertook an organizational review looking at our strengths and challenges as an organization. Using the results of the review, we prepared a Strategic Plan for 2004 to 2009, on the breadth and focus of our work, on governance and building organizational capacity, financial resource development, public relations and marketing strategies. We are now hard at work on these goals and objectives.

## Four of our Programs:

**Legal Information and Advocacy:** The goal of this program is to provide legal information, referral and legal advocacy to seniors, community agencies and organizations, government departments, Community Response Networks, Victim Services, and others throughout the province, who call our Information and Referral line. During the three years we have been operating this program, we have received 6,252 calls. The percentage of calls received by gender are

approximately 71% from senior women and 29% from senior men. This year, calls to our toll-free line increased by 72%.



**Seniors & the Law:** This year was our third and final year of the program. Its aim has been to strengthen and enhance the ability of communities to respond to the legal needs of seniors; to ensure that B.C. seniors have access to legal information, legal assistance, advocacy and protection of their rights. During the last three years, we have visited many communities and advocates for seniors around the province. This project has increased legal advocacy and support for seniors within their own communities.

**The Community & the Justice System Working Together as Partners:** In this one-year project, we are working with our community partners to learn how the existing

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Photo by Gillian Chase

The Honourable Ida Chong, Minister of State, Women's and Senior's Services, presents a \$5,000 cheque to BC CEAS' President Joyce Schmalz to assist with conference costs.

which originated, not only from individuals, and not entirely within the province. We thank the Law Foundation of British Columbia for acknowledging the importance of the Legal Information and Advocacy program by renewing it for another year.

**Office of the Assisted Living Registrar.** Susan Adams, following her appointment as Registrar,

met with our Executive Committee to listen to our concerns and suggestions for residents of assisted living. When she set up an Implementation Advisory Committee, our Executive Director was appointed as one of four Community Representatives, recognizing BC EAS as a strong voice for seniors.

**The BC CEAS Website** is being constantly updated, adding new detailed information, links and projects. The worth of this source of information is confirmed by the many responses already received about our website.

**The Seniors and the Law Manual** is a 300 page training manual, dealing specifically with seniors' legal issues. It is the culmination of a three year project. It will be made available to Community Response Network members, seniors' advocates and assisting agencies.

Hence my optimism for 2004-2005. BC CEAS has come from a most humble beginning; and I reflect on its accomplishments and the committed people who have made it possible.

*Joyce Schmalz,  
President, BC CEAS*



## **NEW MEMBERS OF BC CEAS**

*August onwards*

**Bernice MacLeod** . . . . . Burnaby

**Donna Sambolec** . . . . . Burnaby

**Donald Winch** . . . . . Burnaby

**Heather Von Ilberg** . . . . . Nelson

**Teresa Robitaille** . . . . . North Vancouver

**Powell River Assist  
Community Response  
Network** . . . . . Powell River, B.C.

**Lorraine R. Hudson** . . . . . Port Hardy

**Astrid Egger** . . . . . Queen Charlotte City

**Elizabeth Morgan** . . . . . South Surrey

**Corrine Parrott** . . . . . Surrey

**B.C. Institute Against  
Family Violence** . . . . . Vancouver

**Crossreach Project  
of Vancouver** . . . . . Vancouver

**Dena Dawson** . . . . . Vancouver

**New Chelsea Society** . . . . . Vancouver

**Canim Lake Band** . . . . . 100 Mile House

## **THANK YOU FOR YOUR DONATIONS**

**Dolores Andreassen**

**Pat Edge**  
*Birthday Fund*

**John Oostenbrink**  
*Birthday Fund*

**Margaret Ramsay**

**From the Executive Director's Desk (cont'd from p. 3)**

policy guidelines and relationships between police, designated agencies and people in communities are working; and to identify and address areas in need of further education and support; to review training manuals and recommendations for police in other jurisdictions to see what material would be suitable to use or adapt; and to determine what additional materials would need to be added for police training in British Columbia. We will develop additional materials for seniors and the community to increase access and use of the Justice System.

**Presentations for Seniors:** BC CEAS's 20 trained senior volunteers gave three interactive presentations to groups of seniors. **Scotiabank's ABCs of Fraud Program** has the goal of making seniors 'a tough target to fraud and scams'. Our volunteers have spoken to over 13,000 seniors during the six years that we have been presenting this program. **Money Matters for Seniors** informs seniors about prevention of financial abuse and ways in which they can protect their money, property and independence. The **B.C. Securities Commission's 'Protect Your Money' Program** raises the awareness of seniors about the issue of investment fraud and ways to protect themselves.

**We wish to acknowledge our funders,** without whose financial assistance we would not be able to

offer our programs, educational materials, presentations and workshops. Among these are:

- The B.C. Gaming Commission
- The Law Foundation of British Columbia
- The Bank of Nova Scotia
- The B.C. Securities Commission
- The Community Health Grants from Fraser Valley Health Authority, Burnaby and Surrey
- The City of Burnaby
- The Seniors' Foundation of British Columbia
- Health Canada
- Invest Investments Ltd. and
- The Capilano Lions Club

**I wish to express my sincere thanks to:**

- all the Board Members for their hard work and dedication throughout the year;
- our employees and consultants for your work in helping to prevent abuse of seniors;
- our volunteers for your excellent presentations to seniors and service providers; and
- our Multicultural Advisory Committee who guide us on diversity issues.

*Carol Ward-Hall,  
Executive Director, BC CEAS*



<b>GRANTS FOR THE CONFERENCE</b>	
<b>B.C. Securities Commission</b>	.....\$1,000.00
<b>Ministry of Women's &amp; Seniors Services</b>	....\$5,000.00
<b>City of Burnaby</b>	.....\$1,000.00

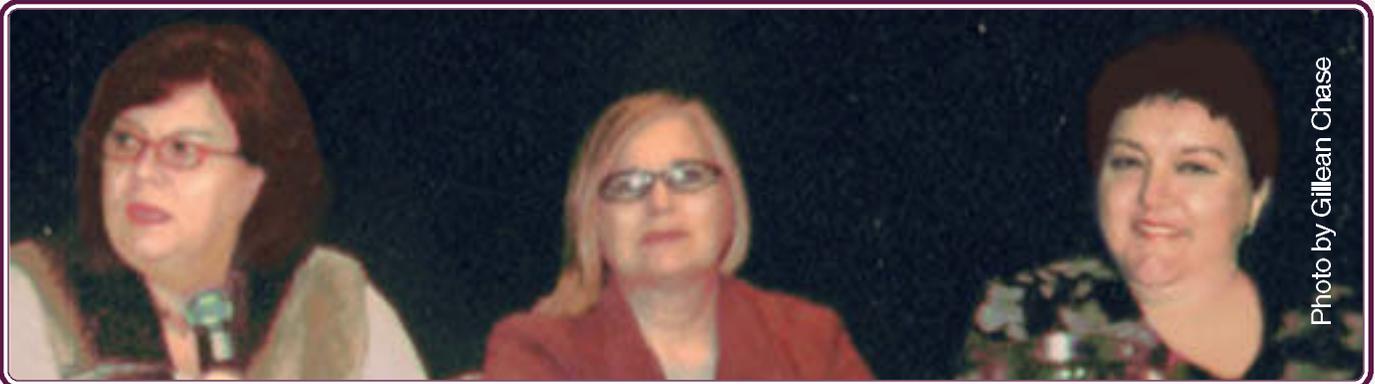
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# LUCY BLOGG'S STORY: THE LEGAL IMPLICATIONS OF SENIOR ABUSE

Written by Gillean Chase, with the role play edited/adapted from notes provided by BC CEAS.



Jacquie Stevulak, North Vancouver Restorative Justice Society; Kathy Doerksen, CRN Mentor; Cindy Stogren, Manager of Victim Services, Surrey, discuss the Lucy Blogg roleplay.

A role play about an 82 year old woman, Lucy Blogg, and her unscrupulous daughter, Margaret, set the stage for the BC CEAS Conference at the Hilton Vancouver Metrotown Hotel on October 15-16, 2004. The role play, written and acted by President **Joyce Schmalz**, was an opportunity for registrants of the BC CEAS Conference to examine various crimes against seniors. Civil and criminal offences are often perpetrated by family or trusted caregivers, who bring a sense of entitlement to their legal and familial obligations.

In the Lucy Blogg scenario, Margaret has had Power of Attorney (POA) since the death of Lucy's husband five years ago. Last year, Lucy broke her hip and the wrist of her right hand in an accident while shopping. After her release from hospital, she lives in her daughter's house, and no longer in the small town in the Fraser Valley where she had the support of her church and community. While Lucy was in hospital, and without consulting her, Margaret sold her mother's house, furniture and many of her personal possessions.

## **Money, money who's got the money?**

One day, Lucy receives a telephone call from Ali, the customer services manager at her old bank. He tells her that six months ago, Margaret opened a savings account in Lucy's name and deposited a cheque made out to Lucy in the amount of \$300,000. Three days ago, her daughter withdrew

the whole amount by certified cheque, made out to a real estate development company on Vancouver Island. Ali, played by **Nasser Amiri**, asks Lucy if she wants the emptied account closed. She tells him that she wants it kept open and the money restored to the account. However, she has given Margaret POA, and Ali does not feel called upon to act. He asks her if she is not checking over her bank statements, which are mailed to her at Margaret's address, and we learn that Lucy is receiving neither her bank statements nor her pension cheques.

## **Too stupid to manage her own finances**

When Lucy confronts Margaret about her financial affairs, Margaret says that she has been acting in her mother's best interest. For example, if Lucy's Guaranteed Income Supplement (GIS) earned bank interest, her supplement might be cut, her care and medical supplies might cost more and she could even pay more income tax. Margaret accuses her mother of not understanding business and being too stupid to manage money. According to Margaret, the \$300,000 has been "hidden" from the government until Margaret and Jim sell their house and move closer to Victoria when Jim retires. Margaret tells Lucy that if she wants the money after they move to another house, she can have it, and "give it all to the government, if that is what you want".

## Lucy Blogg's Story (cont'd from p. 6)

Lucy insists that she wants the money returned to her bank account. She also wants the money Margaret has realized from the sale of her furniture and personal possessions. At this point, Margaret shakes her mother and angrily threatens to "put her in a home", as she and her husband Jim have consistently threatened to do.

### A Host of Crimes

The audience was then broken down into working groups to identify the kinds of abuse demonstrated in this role play and to problem-solve about what they themselves, and their communities, could offer people like Lucy. They were recalled by moderator **Pearl McKenzie** to identify the crimes committed and to offer recommendations for people in Lucy's situation.

Among the crimes listed were **theft of property and financial assets, breach of the fiduciary obligations** of a POA, **forgery** of an adult's signature and **altering documents, conversion by a trustee** by changing ownership of the adult's money or assets to themselves, or using the adult's assets for their own benefit. Other crimes were theft of pension cheques and violation of the postal act in **misappropriating someone else's mail**, as well as physical and emotional abuse and isolating the senior from her support group/community. **Assault** is a criminal offence, as is uttering threats, or **intimidation** to compel someone to do something against his/her will.

Additional offences become evident as the role play continues.

### Neglect or Self-Neglect?

Margaret and Jim's new house on the golf course is almost ready. Margaret contacts her local health authority and asks them to assess Lucy for facility care. This assessment reveals that she is undernourished, unable to walk without assistance, exhibiting signs of depression and confusion, and in urgent need of medical attention. Lucy claims that she is being neglected; Margaret alleges that her

mother refuses to eat or to see a doctor. Lucy is admitted to the care facility.



Nasser Amiri as Ali the Banker

A month later, Margaret comes for her first visit. Lucy begs Margaret to give her back her money so she can go home to the Fraser Valley. Margaret presents some papers, alleging that signing the document will mean that the funds will be transferred back into Lucy's account. Overjoyed, Lucy signs the document without reading it, but when she tells the director of the facility that her daughter has returned her money to her, she finds out that what she signed is a transfer of ownership of her Buick to Margaret's husband.

Margaret explains Lucy's obvious upset by telling the director that Lucy is delusional and out of control. She says a lawyer has advised her to

have Lucy declared incompetent.

So Margaret has added other crimes to her original theft of the home: **fraudulent misrepresentation**, trickery and deception regarding the documents she has Lucy sign, **failure to provide the necessities of life**, and **neglect**, as well as continuing to breach her fiduciary duties as a Power of Attorney.

### Why doesn't Lucy Blogg press legal charges?

Because the woman wants her daughter to inherit her assets after her death does not mean that Margaret should feel entitled to take what Lucy owns before she dies. This **sense of entitlement** by a loved one often leads to financial abuse. And just because a Power of Attorney has been given does not mean that it cannot be revoked. Lucy, however, wants her daughter to inherit her assets, so revoking the POA seems pointless to her.

Several of the justice representatives on the panel were asked what conditions would have to exist in order for charges to be brought against Lucy's daughter. **Sergeant Keith Robinson**, the Watch Commander of the Langley R.C.M.P., said the police would get involved if Lucy came in or telephoned them, or if a designated agency called to

## Lucy Blogg's Story (cont'd from p. 7)

alert them of a potential fraud. The police would have to prove the POA's **intent was to commit fraud**, or, alternatively, establish that Margaret was doing her best to fulfill her obligations as a trustee.

If a case is going to hold up in court, the trail of evidence would have to be provable through third parties, like a banker or the director of the care facility, and only in so far as the evidence can stand on its own, not become a matter of allegations made by one party against the other.

### But she shook me...

Even a clear assault may not be pursued in court, said Sgt. Robinson, unless there is a background of assault, as it causes grief to the victim when a loved one is arrested.

Also, although the Crown can proceed with a charge of assault without the consent of the victim, such cases are weakened by the reluctance of the victim to testify, or by the fear the victim may have for his/her safety in the future.

Robinson said that having Lucy sign away her ownership of her car is a clear-cut case of fraud and does address the issue of Margaret's intent to commit a crime. However, no one witnessed the actual signing of the document, so it is unclear if Lucy read and understood what she signed. She erred in trusting Margaret's word about what the document contained.

### Reasonable Doubt and the Public Interest

**Monty Carstairs**, the Senior Crown, Deputy Director, Commercial Crime Division, Criminal Justice Branch, made the following remarks: a Crown Counsel would have to believe that there is a **likelihood of a conviction beyond a reasonable doubt**, and that

it is **in the public interest** to charge the daughter with fraud. The Crown would have to establish that there was an abuse of a position of trust and that the senior's testimony could not be dismissed as a matter of poor memory or mental infirmity. Third parties would have to be called upon to corroborate the evidence presented and proof of ownership of the property would clearly need to exist. The intent of the trustee to commit extortion would have to be established beyond a reasonable doubt.

**Mary Tait**, the Deputy Regional Crown Counsel, Vancouver Region, Criminal Justice Branch, also offered the following observations: the director of the care facility did not witness the signing away of the car,

but can provide evidence about Lucy's emotional distress afterwards as possible proof of the misuse of a Power of Attorney. The Crown will need **medical evidence**, and since the facility has done a physical and mental assessment of Lucy Blogg, the argument could be made that her malnourishment and general weakness resulted from the POA's failure to provide the necessities of life. This might substantiate a breach of Margaret's fiduciary duties as a trustee. The daughter, of course, might argue that Lucy Blogg neglected to eat and that her mental state is delusional, "facts" she, too, would have to objectively establish in court.

The Crown would then look for medical personnel to rebut Margaret and enter details about Lucy's physical state when she entered care to argue for the inability of the trustee to provide the necessities of life. Section 718.2 of the Criminal Code recognizes that the age of the victim

is an aggravating circumstance when a perpetrator is in a position of trust.



Mary Tait, Criminal Justice Branch, Vancouver



Monty Carstairs, Commercial Crime Division

## Lucy Blogg's Story (cont'd from p. 8)

And of course, the police would have to recommend that charges proceed, as the court is the end of the line for legal redress. Margaret could be subject to search and seizure actions and to a freezing of her bank account if she is thought to have behaved in a negligent fashion as a POA.

### Partners in Justice

BC CEAS not only invited representatives of the Crown and police to the October 15-16 Conference, called *The Community and the Justice System Working Together as Partners*, but those involved in Victim Services and Restorative Justice, a past administrator of a care facility, and a person in charge of program integrity for CPP/OAS programs. Community Response Networks (CRNs) and health authority personnel were also represented to reflect the various perspectives and mandates of helping agencies.

The comments of **Justice Wallace (Wally) T. Oppal**, of the Vancouver Appeal Court, will be presented more fully in a separate article in this newsletter (p. 17). He commented on the nature of crimes involving seniors, and on sentencing variables in these matters.

### Victim Services Programs

Another significant panelist speaking on behalf of the justice system was **Andrea Rolls**, the Policy/Program Analyst of the Ministry of Public Safety and Solicitor General, Victim Services Division. Although several audience participants recommended that the Crown Victim Services Program be re-established, Rolls indicated that that is not likely to happen.

She said that 150 police/victim services programs remain across the Province, and that Victim Services workers are skilled professionals who regularly upgrade their training to work more effectively with elderly victims of crime. The Ministry confers with Pearl



Mike Trump, Deputy Director  
Police Academy

McKenzie, a frequent consultant of BC CEAS, on issues affecting victims of crime, as well as with other experts in the field.

Outreach workers attached to the victim services project would work out arrangements for emergency beds in community-specific transition houses. The Crown Victim Assistance Program is now combined with Victim Services and helps victims apply for benefits and cope with the trauma of victimization.

Rolls indicated that the Crimes Against Women in Relationships policy in B.C. is good, and that perhaps such a policy could be put in place for elders, if a protocol can be developed to deal with crimes against seniors.

### Re-education in Social Issues

Inspector **Mike Trump**, Deputy Director of the Police Academy, Justice Institute of British Columbia, pointed out that, as baby boomers retire, the public will soon be dealing with the inexperience of police officers when it comes to crimes against women, children and seniors. Pension concerns have led to serious attrition of experienced police personnel, and relevant CRNs and designated agencies are going to have to be involved in pushing for continuing sensitization of the police force around social issues. Even though abuse and sexual exploitation issues are now out in the open, officers must be trained to recognize issues of abuse and prevent them from accelerating.

One visit by a police officer to a home has to be placed in the context of whether or not there have been other reports of domestic violence at that address. As well, handling a call from the victim of physical abuse who repeatedly does not wish to pursue the matter in court may lead to the disenchantment of police



Andrea Rolls, Policy/Program  
Analyst, Victim Services Division

## Lucy Blogg's Story (cont'd from p. 9)

officers about recommending that the Crown prosecute the offender.

Trump indicated that the new crop of police officers has an average length of service of a year and a half on the force. This factor of police inexperience and the need for helping agencies to be involved in the education of police personnel was also reinforced by Sgt. Keith Robinson, the Watch Commander of the Langley R.C.M.P. We may unfortunately be entering a time of renewed police education about the social implications of these crimes.

And what of the role of designated agencies, health authorities and CRNs in advocating for the abused senior?

### Do No Harm

**Marcia Carr**, the Coordinator of Acute Geriatric Care, must speak in support, and on behalf, of a team. That team requires communication and connectedness to deal with matters of abuse, neglect and self-neglect.

The first principle of intervention, she states, has to be **Do No Harm**. The institution must deal with things from a systemic perspective and help the senior find a personal voice. Clients are encouraged to make choices on their own behalf. Awareness about the issues of a client involves mentoring and revisiting these choices; and the presence of CRNs is essential to sustain the client's voice/expressed wishes.

The team must **communicate, collaborate and cooperate**. Expectations for self-management must be made clear to the client; and health resourcing by the designated agency or CRN must happen to best provide balance and support. Carr said that brainstorming should be frequent, and that there needs to be forward movement, or a



Terri Watts, Risk Management and Program Integrity, ISP

client's situation and health can deteriorate.

Certainly this is what happens to Lucy Blogg. Devastated by her daughter's malice towards her, Lucy Blogg dies in the care facility. Though she is a fictional character, she is modelled upon many other women who did not find the support for communicating their choices or have an advocate to defend them.

### Misappropriating Pensions

**Terri Watts**, the Manager of Risk Management & Program Integrity for Human Resources and Social Development Canada (formerly Human Resources Development Canada), commented on the limited ability the government has to deal with the health and legal problems of a person whose CPP/OAS pensions are being misappropriated. First of all, pensions are often electronically directed to a financial institution, and the account information is not cross-referenced to the name of the recipient, who has the right to ask that the funds be directed to the account of his/her choice, joint or otherwise.

### Abuse in the name of privacy?

If a third party complains to HRSDC about potential abuse of these funds by another, the government is bound by confidentiality requirements to take information from the complainant, but to release no information to the caller without the written authorization of the senior. Watts stated that HRSDC is behind where it should be in sharing information with staff. Outreach and investigative staff lack ongoing education into identifying and preventing pension fraud. Indeed, after a brief investigation into a potential pension fraud, the matter is referred to the R.C.M.P. and ceases to be a matter of concern to HRSDC staff.



Marcia Carr, Burnaby Hospital, Acute Geriatric Care

## Lucy Blogg's Story (cont'd from p. 10)

Although lip service is paid to respect for seniors' rights and the relationship they have with their own families, seniors themselves are regarded as responsible for these relationships, faulty or not.

### Mandatory Reporting vs Individual Freedoms

Some in the audience suggested that establishing **mandatory reporting** of crimes would supercede confidentiality/privacy laws put in place under both provincial and federal laws. However, others stated, such mandatory reporting might lead to intrusive behavior by the state and end up infringing upon individual freedoms and choices.

### Public Education and Health Planning

Over and over, the conference attendees recommended that the senior citizen counselling program be re-instated, to assist in advocating for seniors in situations of emotional, physical and financial abuse. Public education of lawyers, police,

designated agencies, medical personnel, and financial workers must continue, as well as legal education into the use and abuse of POAs, joint accounts, and misappropriation of real and personal assets. If one-half of Canadians 60 years and older have not finished high school, and few over 70 years of age went past Grade 8, (according to Statistics Canada), there must be substantial efforts made to educate vulnerable adults about financial and health/future planning.

Above all, there must also be an end to the sense of entitlement that makes adult children feel that they have a right to their parents' resources before the estate is legally distributed. Caregiving a vulnerable adult does not entitle one to benefit from his or her assets without the full and voluntary consent of the senior.

Just as it is now "verboden" to drink and drive, it must become socially unacceptable to abuse older adults.

## EVALUATING THE BC CEAS CONFERENCE: PARTICIPANT EVALUATION SUMMARY

Written by **Diana Ellis**

**One hundred and five people attended the BC CEAS Conference on October 15 and 16, 2004. Of that number, 49 people returned their evaluation forms.** Participants were asked to:

- rate how well the conference objectives were met for them,
- describe the most important thing they learned at the conference,
- give an example of how they plan to use what they learned, and
- give suggestions for ongoing education on this topic.

The conference objectives were rated well by a majority of participants. Out of a score of 6 (well met), the average ratings were as follows:

- **Objective A:** Participants increase their knowledge of effective intervention strategies - rated at 4.6 out of a possible 6.
- **Objective B:** Participants learn to recognize criminal offences in situations of abuse and neglect of seniors - rated at 4.7 out of a possible 6.
- **Objective C:** Participants learn more about collaborative community approaches to abuse and neglect of seniors taking place throughout B.C. - rated at 4.7 out of a possible 6.

**When asked about the most important thing they learned at the conference, most participants described two themes.** Over half described learning about specific issues, resources and ways of working

Cont'd on page 12

## Evaluating the BC CEAS Conference (cont'd from p. 11)

that were new to them, or ideas they had not considered before. They also spoke of feeling “re-charged at the wealth of clear information presented – many aspects of which will help me with the CRN in my community.”

Others described how much it meant for them to learn they are not alone in doing this work – that “much is already being done, that the number of people concerned is large and that collaboratively we can address the issues, but it will take time.”

Every participant was able to provide an example of how they would apply conference learnings to their work and community. Remarks broke out into the following areas.

### **The participant will use the information to train co-workers**

“I will prepare a cohesive presentation to the board of the organization I work for.”

“I will do an in-house education of fellow staff members unable to attend, especially about CRNs.”

### **Participants will take a specific action**

“I will apply for local funds to initiate small projects to meet needs.”

“I will seek to collaborate with other agencies to provide a more holistic and community-based response.”

“I bought the Seniors and The Law Training Manual and will use it with my CRN and Seniors outreach in my rural community.”

### **Participants will do public education**

“I will share the information gained with church and community agencies.”

“I will use this information in training Senior Peer Counsellors.”

### **Participants will work more closely with police, financial institutions, CRNs etc.**

“I will work to build more relationships within my community.”

“I understand more about CRNs now, so I intend to participate more freely.”

### **Participants also said they would be more proactive in networking, be able to make better and more appropriate referrals, and would do more educational research on their own.**

### **Participants made it clear they want more educational materials and events on the topic of**

**Cont'd on page 13**

## “PEARL IS A PEARL”

As a facilitator of the 2-day conference, Pearl McKenzie is “an excellent leader who does a ‘super’ job of including everyone’s opinion. She is exceptional at validating and focusing participants.”

“The facilitator was very sensitive to the needs of the audience, diffusing potentially emotional situations. She validated participants’ concerns, did not dismiss them, but encouraged them to explore



Pearl McKenzie, Moderator  
Recommendations Process

their concerns later; thereby keeping everyone on task!”

“Pearl was a phenomenal moderator; thanks! You keep control of conversations that could have gotten out of control.”

“The moderator had a difficult job and did well at paraphrasing and keeping things moving in a timely way.”

“The board of BC CEAS made us all feel part of the team—thank you!”

## Evaluating the BC CEAS Conference (cont'd from p. 12)

### the abuse of seniors and the relationships of abuse to the Criminal Justice System.

The evaluations also provided BC CEAS with useful feedback on conference content and process. For example, the diversity and depth of information shared by conference presenters was widely praised. Pearl McKenzie's facilitation was described as "phenomenal," and "validating." "Awesome," and "well presented" were words commonly used by participants to describe the overall conference

format and organization. Ideas for doing it better included "it was tiring to listen to repetitive presentations from table groups," "make sure academics and social workers don't use jargon," and "re-schedule the BC CEAS annual general meeting as the first item."

Many thanks to all who completed the evaluation. Your comments and ideas will be used in the conference report, and in ongoing work of the BC CEAS Community and Justice System Project.

## GENDER BASED ANALYSIS OF SENIOR ABUSE AND THE CANADIAN JUSTICE SYSTEM

### Presentation to 2004 BCCEAS Conference by Charmaine Spencer, LLM, Research Associate

Canada formally committed itself to achieving gender equality in the Canadian justice system at the Fourth UN World Conference on Women held in Beijing in 1995. Canada promised to incorporate analysis of whether our laws or policies were having (or could have) an unequal impact on women and men. By looking at gender and age related differences, we can assess how well the existing justice and related community services meet the needs of abused or neglected older women and men.

It is common to hear that "abused or neglected seniors won't use the legal system. They don't want to lay criminal charges against their children or won't sue the person if they have been financially abused." However, it is important to understand the legal and social context in which abused older women and men make their decisions and in which decisions are already made for them. Whether or not an older person lays criminal charges, or goes to court on a civil matter, is highly dependent on the responses of justice and related systems, such as health and community services. It is the beliefs, priorities and responses of people in those systems that may fundamentally affect access to justice for abused or neglected older adults.

### Defining Terms

Canada's commitment to gender equality given at Beijing focussed on three aspects: "access", "inclusion" and "benefit".

1. **Access** refers to the equal ability of women and men to access policy, programs or legislative activities. It means efforts to eliminate barriers or not creating barriers, and promoting access. It is not a matter of treating everyone the same. It is a matter of recognizing where there may be relevant differences between groups, which may occur because of a person's age, language, culture, race, or sex.

2. **Inclusion** refers to older women and men being represented throughout the policy or program process. This results from the ability of groups diverse in age, disability, sexuality, race, and ethnicity, to participate effectively in the development of a policy, program or legislative activity. Assuring the inclusion of seniors in justice law and policy means being alert to various forms of ageism and paternalism. Paternalism assumes that older adults as a group do not have the knowledge or skills to address complex topics. Hence older adults are not given the opportunity, resources and support to build their knowledge of the issues. It may also

include “tokenism” (allowing one or two persons to participate in only a marginal way. They may be selected to represent their group so they won't “rock the boat”).

Understanding issues affecting seniors at the policy level depends upon on the extent to which knowledgeable persons and organizations formally and accurately represent seniors' needs to legal, social and economic policy makers.

3. **Benefits** refers to advantages/gains intended to result from a policy, program or legislative activity. The Department of Justice points out that in gender analysis, we need to consider and compare factors that affect outcomes for **both** women and men. A well rounded analysis must consider gender from all perspectives, such as cultural/racial diversity, economics, sexuality, etc.

We need to consider the effects of age, aging, and ageism in order to understand gender and the justice system relating to abuse issues. Older adults are not a homogenous group, they are diverse. Laws (and the ways the laws are operationalized) can have different impacts on older adults compared to younger adults.

### SENIOR ABUSE AND THE JUSTICE SYSTEM

Abuse or neglect of older adults may involve:

- Criminal law matters
- Human rights
- Administrative law
- Health law
- Consent and capacity
- Mental health law
- Family violence
- Family law
- Long term care (institutional issues)
- Immigration

- Contracts
- Consumer protection
- Wills/ Estate Planning
- Housing
- Adult Guardianship and
- Other legal issues

### Criminal and Civil Law

In Canada, criminal law is enacted by the federal government, but the provinces are responsible for the administration of justice (including the availability of public legal education, legal aid, poverty lawyers, advocacy and victim services). Provinces also enact provincial laws.

The Canadian civil justice system reflects provincial statutes or judge-made laws that have been developed over the centuries. Much of this civil justice system largely depends on a persons' ability to privately initiate and pay for lawsuits, although legal aid may be available in some areas. The civil justice system includes administrative bodies responsible for delivering and assuring fairness and equity in services to the public.

### The Gatekeepers

The formal justice system must be considered within the broader community response. They are the gatekeepers, often controlling information about, and access to,

the justice system. Provincial and community response will significantly affect access, inclusion and benefits for abused or neglected older adults.

### Gender Differences in Senior Abuse

**Victims:** Community organizations across Canada report that older women are more likely to be victimized than older men, typically at a rate of two to one.



Photo by Gillean Chase

Charmaine Spencer, SFU Gerontology Research Centre

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However, on a per capita basis, the rates of abuse and neglect appear to be equivalent for both sexes. Aging and ageism may be great equalizers, leaving both women and men open to abuse or neglect, especially if the older adult has a disability, or is otherwise vulnerable.

**Abusers:** In later life, men are more likely to abuse than are women, by a ratio of two to one. This trend is clearly evident for criminal offences coming to police attention. According to Statistics Canada, in 2000, **80% of the people accused of violently victimizing an older family member were men.**

### Profile of the Abuser

Adult children and the older adults' spouses accounted for almost three-quarters (71%) of victimizations. Older women were just as likely to be victimized by their spouses (36% of abusers) as they were by their adult children (37% of abusers). Older men were most likely to be victimized by adult children (43% of their abusers).

### Gender and Poverty

Even if the rates of victimization were the same, the dynamics and consequences can be different, as are the social conditions that leave victims vulnerable.

There are important differences for older men and women in terms of their social and financial status. For example, older women tend to have fewer financial resources. A greater proportion of older women live below the poverty line particularly after widowhood, and they live longer than older men. Any income or asset "diversion" from financial abuse may hurt them more. The responses within the civil

justice system can further perpetuate those inequities. For example, legal aid does not cover the types of civil matters involved in financial abuse, and most women would be unable to afford a lawyer on their own. The level of financial eligibility excludes many older adults, and leads to a lack of legal remedy.

Economics also explains why some older women stay in an abusive relationship, with the faint hope of being able to outlive an abusive spouse. Their emotional and financial equity is tied up in home, family and community. Moreover, if they live separately or divorce, older women are much more likely than older men to live in poverty. **Over 45 % of unattached older women live below the poverty line.**

### Physical Abuse and Gender Issues

There can also be gender differences in the impact of physical abuse: women tend to be physically smaller than men. Because of women's longevity, they are more likely than older men to have disabling conditions. **There is a higher incidence of chronic diseases among older women than among men**, such as arthritis and osteoporosis. Any combination of these factors can lead to a greater risk of injury for women who are in abusive situations.

### Health Effects of Abuse

Women who have lived with abuse throughout their 30, 40, or 50 year marriages are much more likely to experience the cumulative effects of that abuse. To state the obvious, living with abuse is a health stressor. As well, people surviving long term abuse need more support, and these tend to be much more complex situations to address. If community resources such as transition housing must limit stays to 28 days, or respite care is difficult to access, older women may not receive the support they need and return to the abusive situation. Similarly, if there are no alternative housing resources suitable for abused older men, they will be "stuck".

### Institutionalization and Gender

Abuse in later life can occur in rental housing or long term care institutions. Older women are much more likely than older men to be widowed,

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## Senior Abuse and the Canadian Justice System (cont'd from p. 15)

living on their own, and with limited resources. Older women are much more likely to rent an apartment or reside in a long term care facility. According to the 2001 Census, 9.2% of senior women and 4.9% of senior men, or approximately 287,000 seniors aged 65 and over, lived in health care institutions.

Almost 4 in 10 women (37.7%) aged 85 and over, compared to one quarter (24.3%) of men aged 85 and over, lived in special care homes or hospitals and related institutions.

### Eliminating Key Services

Between 2001 and 2004, major “reforms” occurred within tenancy law and community care facility regulations in B.C. At the same time, the poverty law and senior advocates programs were eliminated, and other key services were reduced. A recent report “Legal Aid Denied: Women and the Cuts to Legal Services in B.C.”, prepared for the Canadian Centre for Policy Alternatives, pointed out the negative impact on women as a result of the major shift in B.C. from direct services to “self help” approaches. Increasingly, people are expected to get information from the Internet and negotiate their own way through the justice or administrative systems.

Closure of most of the Residential Tenancy Offices in B.C. has effectively shut out many older women renters from being able to redress exploitative situations in rental housing. The changes to community care facility (adult care) regulations in many cases left residents, most of whom are older women, with fewer rights and protections. In any gender analysis of the justice system, it is important to recognize how our political and ideological systems create and reinforce abusive situations.

### Race Factors

Are there gender differences in who is likely to prosecute? American researchers Brownell and Brushey point out that the single most powerful predictor of willingness to prosecute is the intensity of abuse. Surprisingly, “Gender of the victims was not found to influence their willingness to prosecute their abusers; however, the race of the victims was a significant influence, with 80% of blacks, 57% of whites, and 74% of Hispanics willing to prosecute their abusers”.

Those aged 60-74 are more likely to prosecute their offspring (77% versus 60%) than are victims aged 75 and older. This may reflect changing norms and less “tolerance” for abuse, with younger seniors being less willing than older seniors to uphold the sanctity of the family over all else. Or it may reflect other factors, such as greater isolation and dependence on the abuser among older seniors. The extent to which there are social and legal resources outside of family to aid and support the older adult may affect how older adults respond to abuse if it does occur.

*With apologies to Charmaine Spencer for abridging her academic research for length – Ed.*

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# COMMENTS FROM APPEAL COURT JUSTICE WALLACE (WALLY) T. OPPAL

Written by Gillean Chase

**Honourable Justice Wallace (Wally) T. Oppal**, a judge of the Appeal Court Vancouver, was the opening speaker at the BC CEAS Conference on October 16, 2004. He stated that the public is often concerned about what seems to be leniency in the sentencing of some criminals, and harshness in sentencing others. Aside from the fact that guilt must be proven beyond a reasonable doubt, judges must now consider the impact upon victims in delivering their verdicts. They must also consider aggravating circumstances in sentencing offenders. For instance, it is regarded as more heinous to assault an elderly person than it is to attack a young adult.

He gave the example of a home invasion by three people against a 83 year old woman who was killed in the attack, and an 81 year old man who was injured. In this case, the offenders were found guilty of second degree murder and their eligibility for parole was increased to 15 years.

## **In Society's Best Interests**

He said that what judges must do is consider whether a prison sentence is in the best interests of society and whether the background of the offenders might argue for extenuating circumstances. Some criminals have themselves been victims of severe abuse and retaliate against others out of their own pain and unresolved anger. But that does not mean that a horrible childhood should excuse a criminal act. The offender must still be held responsible for his actions, unless he is mentally incompetent.

## **Targeting Aboriginals**

Furthermore, because aboriginals in Canada have made up a disproportionate number of the prison population, since 1985 judges have been advised to use a conditional sentencing regime with them, and to jail aboriginals only when all other alternatives have been considered. As well, other members of the family or band may intercede for leniency towards the offender or for restorative justice aimed at compensating the victim. The

Crown might also recommend that treatment or therapy be part of the offender's rehabilitation.

## **Longer Sentences and A Safe Society**

Justice Oppal indicated that although the seriousness of the crime must be considered, longer jail terms such as those given in the United States do not translate into a safer society. Seattle, for example, has four times the number of homicides reported in Vancouver, despite being similar in size. American levels of crime are much higher than Canada's, despite tougher sentencing practices.

## **Justice Aimed at Older Adults?**

A Private Member's Bill in 2003, called the *Older Adult Justice Act*, proposed that an ombudsman be appointed to oversee criminal offences against older adults. An older adult justice agency would develop policies and programs to handle crimes committed by any person providing care to an older adult, and make sure that these offenders were held criminally

responsible. The bill died, as many private member's bills do, on the order table.

## **Seeking Legal Retribution**

Although legislators must get involved in the area of criminal compensation injuries and support, Oppal stated, the laws we already have as a country are adequate. Harsh sentences cannot bring back the victim, although family members and others may feel the need for retribution under the law. Justice Oppal then gave another example of three men involved in a home invasion whom he sentenced to 18 years in prison. The victim had told one of the men that he had \$2,000 hidden in the home, when in reality he had just over \$8.00. The present law provided sufficient legal recourse to reflect society's abhorrence for the crime.

Oppal concluded his speech by indicating that if organizations like BC CEAS want changes in the justice system they must tell the government what they want to represent the social values of Canadian society.



Hon. Wallace T. Oppal,  
Appeal Court Vancouver

# CRN FOUNDATION HOLDS OCTOBER 14, 2004 CONFERENCE

By Alison Leaney, MSW, RSW

Thanks so much to BC CEAS, and especially to Carol and Tricia, who handled the registration process for the pre-Conference day on my behalf. The feeling of community from the October 14th to 16th conferences serves as a testament to the collaborative relationships which the Foundation and BC CEAS share and continue to build, both organizationally and individually.

The pre-Conference day was a collaboration between the B.C. Foundation to Support Community Response to Adult Abuse and Neglect (called BC CRN Foundation for short) and the Public Guardian and Trustee of B.C. (the PGT). In all, there were more than 30 of B.C.'s 50 CRNs representing all corners of the province, with a total of around 75 people participating.

The morning session, *"CRNs and Community Development- Our Unique Journey to Change Community Culture"*, was designed and facilitated by the CRN Mentors Team of the BC CRN Foundation, Heather Archer (Thompson/Cariboo-Schuswap), Kathy Doerksen (Fraser Valley), Trish Gauntlett (Lower Mainland/Sea-to-Sky), Yvonne Kennedy (North and South Okanagan), April Struthers (Vancouver Island/Sunshine Coast), Heather von Ilberg (East and West Kootenays) and myself, currently serving as mentor for CRNs in the North.

The session was designed to engage participants in getting to know each other for networking purposes and to further CRN understanding of the principles of inclusion, meaningful participation and power-sharing, which are essential to community development.

As the BC CRN Foundation works to raise funds for the benefit of all CRNs so they can continue their local activities of outreach, awareness-raising, relationship/team-building, and protocol

development, we are being challenged to show that what CRNs do and how they do it is innovative and unique.



Alison Leaney and Jennifer Johnstone, Fundraising Speaker

The two inter-related goals of the CRN movement are to ensure that people who need help get it, and to work towards the prevention of abuse by adhering to the principles of community development. These two goals will sustain CRNs over time, and are characteristic of the uniqueness of CRNs. I have come to understand that ultimately, CRNs have the opportunity to change community culture so that all people are welcomed and valued as contributing citizens, regardless of their particular status in society. Changing community culture will prevent people

from being isolated, and keep our citizens safe from abuse, neglect and self-neglect. With their focus on the principles of community development and relationship-building, CRNs bring the element of caring to community culture, which then influences and permeates it.

## Certificates of Appreciation

Although we all know that you never really get to retire, Linda Derkach, the current Chair of the BC CRN Foundation Board, presented well-earned Certificates of Appreciation to the following Directors of the Foundation:

**Kathy Doerksen** (Abbotsford CRN)

**Anne Reimer** (Penticton CRN)

**Heather von Ilberg** (Nelson CRN)

**Trish Gauntlett** (supporter, North Shore).

**Lola Cook** (of the Parksville/Qualicum or Oceanside Abuse Prevention Network) was not able to attend but will be receiving her certificate as well.

Our lunch time session was *"Raising Money: It's all about Relationships!"*.

I was very fortunate to hear **Jennifer Johnstone**, formerly the Director of Development for the VanCity

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Community Foundation, speak at a half-day fundraising workshop last summer. Her key message, that resource development or fundraising is about relationship-building, was 'music to my ears'. I wanted others concerned about adult abuse and neglect, or any other important cause or initiative, to have the same opportunity to be reassured that funds can be raised for social causes.



Financial Crimes Panel (L to R): Kimberley Azyan, Services to Adults, Public Guardian and Trustee of BC; Heather von Ilberg, BC CRN Foundation; Joe Scaletta - Elderly Outreach, Vancouver Island Health Authority; Staff Sgt. Keith Robinson, RCMP, Langley; Charlene Loui-Ying, General Counsel, Credit Union Central of BC

Jennifer defined philanthropy as mission based, donor-centred and built upon life-long, giving relationships. She provided us with some references on relationship building, including *Relationship Fundraising: A Donor Based Approach to the Business of Raising Money*, by Ken Burnett; *Thanks: A Guide to Donor-Centred Fundraising*, by Penelope Burk; *Fundraising in Times of Crisis*; *Fundraising for Social Change*, and *Fundraising for the Long Haul*, all by Kim Klein.

Johnstone told some great stories and left us with one-liners such as "thank before you bank", "donors are not ATMs", "money comes from people" and "fundraising is not fund chasing, fund squeezing or fund hoarding!"

In short, we already know how to do the most important part: build relationships; whether it is with government, corporations, foundations or private individuals. Techniques are something we all can learn.

The afternoon session was on "*Financial Abuse: What is it? When is it a Crime? Who Can Help?*"

It began with a showing of a new PGT production of Part 3 of the Adult Guardianship Act: Support and Assistance for Abused and Neglected Adults.

Our knowledgeable panel, made up of the following speakers, took it from there:

**Staff Sergeant Keith Robinson** (R.C.M.P. Langley Detachment);

**Joe Scaletta** (Victoria's Elderly Outreach Program, Vancouver Island Health Authority);

**Kimberley Azyan** (Director, Services to Adults, PGT of B.C.);

**Charlene Loui-Ying** (General Counsel, Credit Union Central of B.C.); and

**Heather von Ilberg** (Regional CRN Mentor for the Kootenays, BC CRN Foundation).

**Keith Robinson**, who assisted the PGT with a number of regional Justice System workshops based upon the collaboratively developed Provincial Policy Framework Document **Designated Agencies and Police Working Together**, outlined the forms of financial abuse that may constitute criminal offences under the Criminal Code of Canada, and the role and experience of police in investigating financial crimes.

**Joe Scaletta** reviewed the possible indicators of financial abuse and reflected on his front-line experience using Part 3 of the Adult Guardianship Act as a staff member of a designated agency, as well as a variety of other legal remedies, in his attempt to address financial abuse/financial crime.

**Kimberley Azyan** reviewed the possible roles of the PGT in situations of financial abuse and the various legal tools at the PGT's disposal under various pieces of legislation.

**Charlene Loui-Ying** gave an overview of the role of financial institutions and the laws under which they operate, in relation to financial abuse issues.

**Heather von Ilberg** outlined how CRNs are vehicles for educating people in the community about these various roles, how people can get help

## CRN Foundation Holds October 14, 04 Conference (cont'd from p. 19)

and support the development of community and inter-agency protocols, based on the relationships responders develop around the CRN table.

Materials for all of these sessions will be posted on the BC CRN Foundation website at: <http://www.bccrns.ca>

*Alison Leaney currently works as the Adult Guardianship Community Development Coordinator with the PGT of B.C., and as the Executive Director of the BC CRN Foundation. Her roles are to continue to support the implementation of the Adult Guardianship Legislation, and to coordinate support to B.C.'s 50 CRNs. She has been involved in these areas for more than nine years. -Editor's note.*

### SCENES FROM THE CONFERENCE



Photo by Gilllean Chase

Nanette Caldwell (Registration Desk) receives a hug from Joyce Schmalz.



Photo by Nanette Caldwell

Trevor Caldwell plays the bagpipe as he leads the opening ceremonies. The Honourable Ida Chong, Minister of Women's and Senior's Services is on the left, along with Joyce Schmalz, President of BC CEAS.



Photo by Nanette Caldwell

Trevor Caldwell in full regalia, poses with Carol Ward-Hall.



Photo by Nanette Caldwell

Don Hardy, Musician



Photo by Nanette Caldwell

Scotiabank's ABCs of Fraud Volunteer Jim Band and Mary Martin Sharma



Photo by Gilllean Chase

Charles (Chuck) O'Donnell, ABCs of Fraud volunteer



**B.C. CEAS wishes to thank Scotiabank for their continued funding of *A Shared Concern* in 2004.**

### Scotiabank ABCs of Fraud Program

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