

# Trauma-Informed Practices: Serving Older Adults Facing Housing Instability

Vivianne Mbaku, Director, Equity in Elder Justice, Justice in Aging

Johna Willis, Staff Attorney, Crime Victims Legal Assistance Project,  
Legal Aid of Western Michigan

July 16, 2024

# Housekeeping

- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems getting on the webinar? Send an e-mail to [NCLER@acl.hhs.gov](mailto:NCLER@acl.hhs.gov).
- Written materials and a recording will be available at [NCLER.acl.gov](http://NCLER.acl.gov). See also the chat box for this web address.

# About NCLER

The National Center on Law and Elder Rights (NCLER) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLER provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLER through a contract with the Administration for Community Living's Administration on Aging.

# About Crime Victims Legal Assistance Project

The Crime Victims Legal Assistance Project (CVLAP) is a statewide program where attorneys are housed at Legal Aid offices to provide free civil legal assistance to individuals who have experienced elder/vulnerable adult abuse, neglect, or exploitation. Our mission is to provide trauma-informed legal services to ensure safety, protect assets and preserve older adults' quality of life, rights, and dignity. CVLAP is funded by a Victims of Crime Act 1984 ("VOCA") grant from the Michigan Crime Victims Service Commission of the Michigan Department of Health and Human Services and through the Michigan Advocacy Program.

# About Justice in Aging

Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources.

Since 1972 we've focused our efforts primarily on populations that have traditionally lacked legal protection such as women, people of color, LGBT individuals, and people with limited English proficiency.

# Key Lessons

- Brief overview of trauma-informed practices.
- Explore how housing instability is a traumatic experience.
- Identify trauma in a nursing home setting.
- Get familiarized with regulations that require trauma-informed care in nursing homes.
- Be able to advocate for trauma-informed care in nursing homes to promote housing security.

# Trauma-Informed Lawyering Overview

# What is Trauma?

- Trauma is an event that **“renders an individual’s internal and external resources inadequate, making effective coping impossible... traumatic experience occurs when an individual subjectively experiences a threat to life, bodily integrity, or sanity”**



# How Trauma Intersects with Age and Other Identities

- Trauma is very common, with a 1997 NIH study finding about one-third of the population will experience severe trauma at some point.
- Women are more likely to experience trauma, as well as racial and ethnic minorities.
- The compounding nature of trauma experienced in childhood (adverse childhood experiences, ACEs), increases frailty and the risk of abuse and exploitation in old age.
- This can also be compounded by the experience of racial trauma and intersectional oppression.

# Trauma and the Brain

- Trauma has a direct impact on the brains of those who have experienced it.
- The physiological effects of trauma can occur a long time after the traumatic experience ended.
- Trauma inhibits the ability of your “left brain” (logic) and “right brain” (creativity) to work together.
- Trauma can “deactivate” the left brain, which “has a direct impact on the capacity to organize experience into logical sequences and to translate our feelings into words.”

# What Does Trauma Look Like?

- Lack of receptiveness to assistance
- Anger, Fear, Avoidance/Depression
- Self-neglect or not wanting to participate in treatments
- Difficulty processing information or communicating
- Lack of engagement in case/with attorney representation
- Inability to remember or recount events

# What is Trauma-Informed Lawyering? (1 of 2)

- A trauma-informed practice involves adjusting your approach in relation to the reality of a client's traumatic experiences
  - Not asking “what is wrong with you,” but “what happened to you?”
- This also includes recognizing the impacts of generational, racial and intersectional trauma that the client has experienced
  - Has your client experienced housing instability in childhood? Other traumas
  - Is this the first time your client has ever had to worry about being housed?

# What is Trauma-Informed Lawyering? (2 of 2)

- At its heart, trauma-informed practices honor the lived experiences of our clients and support their healing by acknowledging the ways trauma has impacted their lives.
- It also involves recognizing our own trauma.
  - Have you experienced housing instability?  
These cases might be triggering to you.
- This is work that not just attorneys, but all staff should engage in to provide a supportive, trauma-informed workplace.

# Two Step Process of Trauma-Informed Practice (1 of 2)

## STEP 1

- Identify the Trauma
  - Is case related to a possibly traumatic incident?
    - Housing instability is traumatic
  - Client might explicitly refer to trauma
  - Read body language
  - Is client closed off? Agitated, anxious?
  - Frustration? Anger?
  - Unable to answer questions?

# Two Step Process of Trauma-Informed Practice (2 of 2)

## STEP 2

- Adjust relationship
  - Adjust the lawyer client relationship in relation to the trauma
  - Adapt lawyering strategies to make client more comfortable
  - Acknowledge the trauma, notice and validate feelings
  - 22 CLINICAL L. REV. 359, 383.

# Housing Instability as a Traumatic Event (1 of 2)

- Housing instability can be a “subjective experience of threat to life, bodily integrity or sanity.”
- Shelter, like food and water, is an essential element to human survival.
- Without proper housing, every other part of one’s life is immeasurably more difficult.



# Housing Instability as a Traumatic Event (2 of 2)

- Homelessness amongst older adults is growing rapidly across the country. There are a variety of reasons, including increasing housing costs and lack of affordable housing.
- Nearly 140k adults over 55 years old were experiencing homelessness during the 2023 point in time count
  - “Nearly 1 in 4 people experiencing homelessness in the country are over the age of 55” [National Alliance to End Homelessness](#)

# Trauma-Informed Considerations

- Consider how you could care for your activities of daily living like showering, taking medications, feeding yourself without proper housing?
- Consider how previous experiences of trauma may compound to make it difficult to navigate housing instability in old age
- Consider the complexity of housing law and housing systems in your community. Are most able to navigate these systems easily and obtain stable housing? Or the opposite?
- Within the context of traditional housing advocacy, trauma-informed practices will come from those advocating on behalf of the older adult experiencing housing instability

# Trauma and Nursing Home Residents

# Identifying Trauma in a Nursing Home

## Past Trauma

- A resident's normal coping mechanisms and abilities may be compromised by age-related changes or a decline in health.
- Every resident's capabilities and history is unique: Incarceration, Homelessness, Mental Illness, Racial Identity, Sexual Identity, Military Veterans, Survivors of Abuse

## New Trauma

- Nursing home level of care requires dependency on strangers
- Loss of dignity or identity
- Medical events are traumatic in themselves and may also affect a resident's ability to regulate emotions, including living with chronic pain
- Death of a roommate or other friends in the home
- Retaliation is something that should never happen, but even the fear of it can prevent family members and residents from expressing concerns about care/safety and can chill reports of abuse. Examples can include psychological or physical abuse, neglect, silent treatment, isolation, or pressure from staff to leave the home

# Trauma-Informed Resident Care Regulations (1 of 3)

Federal regulations require that skilled nursing homes provide trauma-informed care.

- 42 CFR §483.21(b)(3) **Comprehensive Care Plans**
  - The home must consult with the resident and “qualified persons” to create a care plan that is culturally competent and trauma-informed.
- 42 CFR §483.25(m) **Trauma Informed Care**
  - The home must ensure that trauma survivors receive trauma-informed, culturally competent care accounting for residents’ experiences and preferences to avoid triggers leading to re-traumatization.

# Trauma-Informed Resident Care Regulations (2 of 3)

- **42 CFR §483.25(d) Quality of Care & Accidents**
  - The home is responsible to provide adequate supervision and assistance devices to prevent accidents.
- **42 CFR §483.70 Facility Assessments**
  - The home is responsible for providing the staffing and service needs of its residents. This includes training staff how to approach a resident who may be agitated, combative, verbally or physically aggressive, or anxious, and how and when to obtain assistance in managing a resident with behavior symptoms.
    - **42 CFR §483.40 Behavioral Health Services**
      - §483.40(b) based on the comprehensive care plan, the home must ensure that §483.40(b)(1) a resident who has a history of trauma receives appropriate treatment and services
    - **42 CFR §483.35 Nursing Services**
      - The home must have sufficient nursing staff with appropriate competencies and skills to assure resident safety and maintain well-being of residents in accordance with assessments required in §483.70(e)

# Trauma-Informed Resident Care Regulations (3 of 3)

- **42 CFR §483.10 Safe Environment**
  - Residents have the right to a safe, clean and comfortable and homelike environment. Intent of the word “homelike” in this regulation is that the nursing home should provide an environment that is as close to that of the environment of a private home as possible.
- **42 CFR 483.15 Discharge plan**
  - There are both resident-initiated and facility-initiated discharge plans.
  - In both situations, the home is responsible for identifying and assessing a resident’s risk for leaving in accordance with the resident’s medical orders, care plan, facility policy and §483.10

# Notice of Involuntary Discharge (NOID)/Nursing Home Eviction (1 of 2)

- An involuntary discharge is when a resident is required to leave the nursing home and is not allowed to return.
  - Unlawful evictions
    - Staff pressure a resident to leave “voluntarily,” waiving their right to appeal the eviction notice or return to the home.
- Lawful Evictions (Look to see if State law provides additional protections)
  - § 483.15 (c)(1): Allowed only for six narrow reasons
    - cannot meet resident needs
    - endangers the safety or health of others
  - § 483.15 (c)(2): Medical / documentation requirements
  - § 483.15 (c)(3), (4) and (5): Notice requirements
  - § 483.15 (c)(7) Safe discharge plan
  - Must be communicated to resident “in a form and manner resident can understand.”



# Notice of Involuntary Discharge (NOID)/Nursing Home Eviction (2 of 2)

- Improper Justifications for Eviction
  - being difficult or unpleasant
  - behaviors that are related to their medical condition
  - requiring too much staff attention or two-person assistance
  - not following the nursing home's policies
  - the home's failure to provide trauma-informed care
- Right to Appeal
  - Request a hearing to the designated state agency, which should be identified on the eviction notice

# Trauma-Informed Strategies

# Trauma-Informed Practices for Clients Experiencing Housing Instability (1 of 3)

- Transparency
  - Outlining limits of your advocacy/the law
  - Risks and benefits of legal action
  - Promoting trust between attorney and client
- Predictability to Minimize Re-Traumatization
  - Safety Plan
  - Reasonable Accommodations
  - Preview what is going to happen in case
- Reliability
  - Be clear about what you can and can't do
  - Follow through with your word

# Trauma-Informed Practices for Clients Experiencing Housing Instability (2 of 3)

- Client Control
  - Explain attorney ethical rules
    - Waivers/Disclosures; client's choice to sign these
  - Emphasize client autonomy
  - Informing client of what personal information may be disclosed
  - Helping client assess what help they need

# Trauma-Informed Practices for Clients Experiencing Housing Instability (3 of 3)

- **Patience/Empathy**
  - Acknowledge the stressful nature of housing instability
  - Making sure client knows you are their advocate
  - Be clear about what is out of your control as an advocate
  - Create space for acceptance of what is uncomfortable/scary for your client
- **Honoring Client's Lived Experiences**
  - Respect client's expertise in their own lives and desired outcomes
  - Treat each client as the individual they are, adjust approaches accordingly
  - Consider the impact of past traumatic experiences on your current representation
  - Recognize how culture can impact advocacy

# Related Trauma-Informed Strategies (1 of 2)

- Staying Connected
  - Mail
    - If your client is losing their permanent address, they can speak with their local USPS to sign up for General Delivery.
      - Procedures vary by location, contact your local postmaster:  
<https://faq.usps.com/s/article/What-is-General-Delivery>

# Related Trauma-Informed Strategies (2 of 2)

- **Accessibility**
  - When linking older adults to housing, the urgency of the housing placement can sometimes overshadow the appropriateness of the housing itself
    - Make sure to get a full picture of the accessibility needs of your client, i.e. medication needs, physical limitations, etc.
  - If your client is denied access to a shelter because of accessibility needs, you may be able to request a reasonable accommodation

# Case Example (1 of 2)

- Gerald is 74 years old and has experienced homelessness most of his adult life. As a child he experienced abuse and housing instability.
- Previously, you helped him get SSI for congestive heart failure. He is wheelchair bound and has chronic pain.
- He is now facing a nursing home eviction. The discharge plan would put him in a shelter.



# Case Example (2 of 2)

- Gerald likes to smoke in front of the building even though smoking is not allowed on the premises.
  - Nursing home claims this is jeopardizing the health and safety of other residents.
- He distrustful of authority figures and has had some verbal altercations with staff.

# Questions

# Visit Our Website: [ncler.acl.gov](http://ncler.acl.gov)

NATIONAL  
CENTER ON  
**LAW &  
ELDER  
RIGHTS**

Search for resources

**Read practice tips**

Sign up for the email list

**Request a case consultation**

Learn about upcoming trainings

[ncler.acl.gov](http://ncler.acl.gov)



# Case Consultations

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at [ConsultNCLER@acl.hhs.gov](mailto:ConsultNCLER@acl.hhs.gov).