



The Harry and Jeanette Weinberg

CENTER FOR ELDER ABUSE PREVENTION
AT THE HEBREW HOME AT RIVERDALE

Developing Effective Working Relationships with Law Enforcement

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The Harry and Jeanette Weinberg Center For
Elder Abuse Prevention At the Hebrew Home at
Riverdale



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Mental illness in the Abuser

- Of 161 who were impaired: 82 were alcohol/drug abusers, 42 mentally ill and 27 were both
- 29% of abusers were depressed, 18.7% talked of suicide
- 11% of abusers had mental illness
- 30% had psychiatric problems
- 40.7% of caregivers in abuse/neglect case had history of mental or emotional illness
- 45.8% had suffered a decline in their mental health prior to the abuse



Family Court

- Among reported elder abuse cases, a family member was the reported abuser in 90% of the cases.
- Two-thirds of the abusers were adult children or spouses.
- Family members who abuse drugs or alcohol, who have a mental/emotional illness, and who feel burdened by their caregiving responsibilities abuse at higher rates than those who do not. National Center on Elder Abuse, Westat, Inc. (1998). The national elder abuse incidence study: Final report.



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Jurisdictional Criteria

1. related by blood or marriage, have a child in common, or be in an “intimate relationship”

*A judge can find an intimate relationship between the parties even if the parties have never lived together and do not have a sexual relationship.

2. Allegation of a specific “family offense”
(where an abuse victim lacks capacity, a “duly authorized agency, association, society or institution” may originate an Order of Protection proceeding on the incapacitated person’s behalf. NY Fam Ct Act §812(1).)



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Family Court Orders of Protection

- Restrictions vary: (probation, up to 10k in restitution, vacate home)
- Last for 2 years, but can be up to 5 years if one or more “aggravating circumstances” are present
- Aggravating circumstances include:
 - physical injury
 - use of a dangerous instrument
 - a history of previous violations of other OOPs
 - prior convictions for crimes against the petitioner
 - exposure of family or household member to physical injury
 - prior incidents that illustrate the respondent is an immediate and ongoing danger to the petitioner or another family or household member

Mental Hygiene Warrant

- Section 9.43 of Mental Hygiene Law gives power to court to issue warrant for person to appear if:
 1. person is apparently mentally ill and
 2. acting in a way that would be deemed disorderly conduct if the person were not mentally ill OR is likely to cause harm to his/herself
- Who applies?
- Next Steps
 1. Warrant issues and then police go search and bring the person to court
 2. Court evaluates whether the person has a mental illness that is likely to result in serious harm to themselves or others → refers to hosp for eval
 3. Hospital can hold up to 15 days for observation/care/treatment → involuntary treatment



Hoarding

- Hoarding is a behavior, not a diagnosis and may or may not be related to a chronic and persistent mental illness
- Impaired executive functions (goal setting, planning, sequencing, prioritizing, pacing, self-monitoring, emotional control)
- Information processing deficits (decision-making, categorization/organization, memory)
- Emotional Dysfunction
- Poor insight
- Aging-related challenges:
 - More collected items
 - Increased risk of physical frailty = increased health and safety risks
 - More losses = less support
 - Dementia vs. hoarding (Elsie)



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Neuropsychiatric Disorders & Conditions Associated with Compulsive Hoarding

- Obsessive Compulsive Disorder (?)
- Schizophrenia
- Dementia
- Aging
- Eating Disorders
- Mental Retardation/Traumatic Brain Injury/Autism Spectrum
- Attention Deficit Disorder
- Personality Disorders (Paranoid, Schizoid, and Avoidant Disorders)
- Anxiety and Depression
- Trauma Disorders (PTSD)



FACTS

- One study found that 84% of compulsive hoarders reported a family history of hoarding in at least one first degree relative (the hoarding/saving symptom factor shows a non-gender related, recessive inheritance pattern and has been associated with genetic markers on several identified chromosomes)
- 5% of population are hoarders (Hoarding Disorder Institute)
- 80% of APS cases are hoarders (AARP)
- Average cost of cleaning- 50k
- 2nd leading cause of eviction
- 50% of hoarders never marry
- Law enforcement: hoarders refusing to leave in an emergency and evacuating the bedroom first when hoarders rarely sleep in their bed



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Aggression and Alzheimer's

- 5-10% of all people with Alzheimer's exhibit aggressive behavior (CNN)(verbal or physical)
- Aggressive behavior or fear that person will harm themselves or others are the top reasons why family members place loved ones in long-term care facilities (Alzheimer's
- Causes: (Alzheimer's Association)
 - Main cause is progressive deterioration of brain cells
 - Physical discomfort
 - Environmental factors
 - Poor communication

Involuntary Commitment

- Mental Hygiene Law §9.27
- Involuntary Admission on Medical Certification
- Requires:
 - 1. Certificates from two examining physician's indicating that such care is necessary**
 - 2. Application for admission**
- Hospital physician must then confirm the need for involuntary care
- **Hospital request for involuntary commitment: §9.33**
- **Due Process owed to patient**
- **Hearing: §9.31**



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Kendra's Law

- Judges can order Assisted Outpatient treatment for:
 1. are unlikely to survive without these services and
 2. have a **HISTORY** indicating they will not get treatment voluntarily
- **History =**
 - Mental health hospitalization or mental health unit of a correctional facility 2x in the last 3 years
 - OR mental illness has caused or threatened serious physical harm to self or others in the last 4 years
- Examples of kinds of AOT Orders
- Who can petition?
- Non-compliance



Attorney client privilege

- Rule 1.6 NYS Bar Rules of Professional Conduct:
Attorney should not reveal any information that has any possible relevance to representation or was received because of representation
 - Exception: 1.6a: Best interest of the client and is either:
 1. reasonable under the circumstances or
 2. customary in the professional community (ie. diminished capacity and protective action is necessary)
- Rule 1.14: when client has diminished capacity –consult diagnostician-
 - 1.14b attorney can take *reasonably necessary protective action* if:
 1. *diminished capacity* and
 2. *risk of substantial harm* and
 3. *they can't adequately act in their own interest*



Possible Crimes

- Menacing, Stalking, Criminal Possession of a Weapon, Harassment, Criminal Contempt
- **age difference-** PL §120.05(12) Misdemeanor assault may be charged as a felony when victim is 65+ and assailant is at least 10 years younger than victim
- **hate crime-** PL §485.05 Crime against an older adult may be a hate crime if victim is targeted because of age
- **paid caregiver-** PL 260.32 Endangering the welfare of a vulnerable elder person (VEP) in the second degree (PL§260.34- first degree; PL §260.31 definition of VEP)
- **cognitive impairment-** PL §260.25 Endangering the Welfare of an Incompetent or Physically Disabled Person
- **assault-** PL §120.25 Reckless Endangerment in the second degree (PL 120.20- first degree) “fragility”

