

Parting with an Unwanted Guest

World Elder Abuse Awareness Day Conference
June 18, 2025

Presenter: Laura Orr, staff attorney
Minnesota Elder Justice Center



The Minnesota Elder Justice Center

Our Mission: To prevent and alleviate abuse, neglect and financial exploitation of older adults and vulnerable adults.

Our Values: MEJC is committed to being an anti-racist organization and creating an environment that promotes the understanding of and appreciation for the value of diversity, equity, inclusion, and cultural humility.

Our Work: Public Awareness; Professional Education; Public Policy; and Direct Service.




Our Services

To access a Victim Services advocate

- Call 651-440-9312
- Submit a completed "MEJC Victim Services Form" from our website: <https://elderjusticemn.org/our-services/victim-services/>



The Presenter




Laura Orr

- Staff attorney providing direct services and professional consultation
- 15 years serving older adults and vulnerable adults in social and economic need.

More detail on past experience

- Southern Minnesota Regional Legal Services, Inc.
- Interprofessional Center for Counseling and Legal Services at the University of St. Thomas
- Lived in assisted living for six weeks as a family caregiver

This Breakout Session



Parting with an Unwanted Guest

- Older adults and vulnerable adults may permit guests to stay at their homes for a variety of reasons.
- The arrangements can turn exploitative if the initially welcomed guest overstay their welcome or embarks upon controlling behavior.
- MEJC staff attorney Laura Orr will outline potential legal remedies for older or vulnerable adults experiencing an unwanted guest whose behavior has become exploitative or abusive.
- Participants will then view a video telling the story of Helen, an individual who received services from MEJC to alleviate her experience of an unwanted guest.
- After viewing the video, participants may ask questions and, as time allows, learn from another case scenario.

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Photo by Jason Abdilla on Unsplash

Scenarios Inspiring MEJC to Address This Topic

- A family member moved in due to insufficient resources, is not contributing to household expenses, and has become a financial burden.
- A short-term renter has not moved out as agreed, has not paid rent, or acts abusively toward the homeowner's property and the homeowner as a person.
- An adult child never moved out and is starting to act like the home belongs to them.

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Parting with an unwanted guest can be complicated—emotionally and legally.

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Elder Abuse as Domestic Violence

- About 65% of MEJC participants report the perpetrator as a family member, friend, or someone they know through other associations.
- Financial exploitation is discussed in two-thirds (2/3) of MEJC helpline calls.
- Many helpline callers experience more than one type of victimization.

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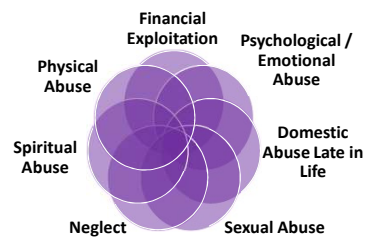
Abuse in Later Life Power & Control Wheel



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9 National Clearing House on Abuse in Later Life, adapting work of the Domestic Abuse Intervention Project

Poly-victimization



* Source: Dong, X., Simon, M. A., & Corbisen, M. Elder abuse, neglect, and exploitation: Risk factors and prevention strategies. *Journal of Gerontological Social Work*, 33, 5-25, (2007).
National Institute for Justice
<https://nij.ojp.gov/library/podcasts/defining-studying-elder-abuse-polyvictimization--best-practices-for-polyvictimization%20in%20the%20community%20and%20in%20the%20elder%20care%20system>

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Three Options Involving Legal Intervention

- Criminal trespass
- Protective orders
 - Order for protection (OFP)
 - Harassment restraining order (HRO)
- Eviction

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Criminal Trespass – What Happens

1. The homeowner or tenant named on the lease calls law enforcement to report the unwanted guest as trespassing.
2. If the law enforcement officer agrees that the unwanted guest has trespassed, the law enforcement officer may issue a citation or proceed with other intervention to ensure that the unwanted guest leaves.
3. A prosecutor represents the local city or county in any legal case if the unwanted guest challenges any misdemeanor charge of criminal trespass.

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Criminal Trespass – The Law

- "A person is guilty of a misdemeanor if
- the person intentionally [...] returns to the property of another
 - within one year after being told
 - to leave the property and
 - not to return,
- if the actor is without
- claim of right to the property or
 - consent of one with authority to consent."

Minn. Stat. § 609.605, subd. 1(b)(8)

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Protective Orders

Order for Protection (OFP)

- May "exclude the abusing party from the dwelling" Minn. Stat. § 518B.01, subd. 6(a)(2).
- "A petition for relief shall allege the existence of domestic abuse." Minn. Stat. § 518B.01, subd. 4(a).

Harassment Restraining Order (HRO)

- May order "the respondent to have no contact with another person" Minn. Stat. § 609.748, subd. 5(a)(2).
- "A person who is a victim of harassment [...] may seek a restraining order." Minn. Stat. § 609.748, subd. 2(a).

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Protective Orders

Order for Protection (OFP)

- "Domestic abuse" means
- "physical harm, bodily injury, or assault;"
 - "the infliction of fear of imminent physical harm, bodily injury, or assault;" or
 - "terroristic threats [...]; criminal sexual conduct [...]; sexual extortion [...]; or interference with an emergency call."

Minn. Stat. § 518B.01, subd. 2(a).

Harassment Restraining Order (HRO)

- "Harassment" means
- "a single incident of physical or sexual assault;" or
 - "repeated incidents of intrusive or unwanted acts, words, or gestures" that have or are intended to have "a substantial adverse effect on the safety, security, or privacy of another."

Minn. Stat. § 609.748, subd. 1(a)(1).

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Protective Orders

Order for Protection (OFP)

"Domestic abuse" is "committed against a family or household member by a family or household member."

Minn. Stat. § 518B.01, subd. 2(a).

"Family or household members" include "persons who are presently residing together or who have resided together in the past."

Minn. Stat. § 518B.01, subd. 2(b)(4).

Harassment Restraining Order (HRO)

Acts of "harassment" qualify for relief "regardless of the relationship between the actor and the intended target."

Minn. Stat. § 609.748, subd. 1(a)(1).

Relationship and residence do not matter.

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Protective Orders

- Forms for requesting OFPs and HROs are generally available at local courthouses via law libraries and self-help centers.
- MNCourts.gov offers forms that people seeking help may
 - Complete and print: <https://mncourts.gov/GetForms.aspx>
 - Complete and file electronically: <https://minnesota.tlertech.cloud/SRL/SRL>

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Eviction – The Law

"A person may be evicted if the person has unlawfully or forcibly occupied or taken possession of real property or unlawfully detains or retains possession of real property."

Minn. Stat. § 504B.301

The host needs to file an eviction complaint listing facts that show the unwanted guest's presence is unlawful.

- An absence of monthly rental payments or a written lease are not enough to show that the guest's ongoing presence is unlawful.

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Residential Tenants Have Rights.

"Residential tenant" means

- a person who is occupying a dwelling in a residential building under a lease or contract, whether oral or written, that requires the payment of money or exchange of services, [or]
- all other regular occupants of that dwelling unit [...]."

Minn. Stat. § 504B.001, subd. 11.

If the unwanted guest fits the definition of a "residential tenant" and no written lease exists, the court will recognize a "tenancy at will."

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Terminating a Tenancy at Will

"A tenancy at will may be terminated by either party by giving notice in writing. The time of the notice must be at least as long as the interval between the time rent is due or three months, whichever is less."

Minn. Stat. § 504B.001, subd. 11.

The host must give the unwanted guest three (3) months' written notice to move out before filing the eviction if the unwanted guest stayed at the host's home without an agreement to pay rent or any monthly expense.

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...Unless

Unlawful activity voids right of possession. Minn. Stat. § 504B.171.

An unwanted guest loses any arguable right to stay at the host's home if the host can prove that the guest allowed certain criminal activities to happen on the property.

These criminal activities include

- allowing controlled substances on the property
- prostitution
- unlawful firearm possession
- possession of stolen property
- domestic abuse, harassment, sexual extortion, or criminal sexual conduct against another authorized occupant

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Eviction

Even in circumstances qualifying for expedited relief, removing an unwanted guest through the eviction process can take weeks and even months.

If abuse is occurring, a protective order is often a faster and firmer source of relief.





Helen's Story

https://www.youtube.com/watch?v=SPR0_yxeUB0

MEJC Victim Services

Empowerment
Support
Tools

- Respect
- Listening
- Information
- Systems Navigation
- Participant-Led Planning

A Common Question:

"What About Squatters' Rights?"

- Practically, squatters' rights are the bundle of rights that come with being recognized as having a "tenancy at will," a concept addressed during the Eviction portion of this session.
- Another related legal concept is "adverse possession." This issue is not applicable unless the "unwanted guest" has had exclusive possession of the property for 15 years. Minn. Stat. § 541.02.

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Another Scenario: Mary's Story

- Mary was an unmarried, older homeowner who listed a bedroom in her home as available for rent through a local university.
- Tenant John lived in her home for over a decade.
- Mary told John in June 2022 that she planned to sell her home and move into a senior apartment building.

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Another Scenario: Mary's Story

- Mary filed an eviction complaint on September 9.
- The court scheduled a hearing for the eviction case occurring on December 15.
- John had access to free legal help for the hearing. Mary recalls, "John's attorney jumped in, quoted a couple of laws and I lost the case."

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Another Scenario: Mary's Story

- A social worker employed in a medical setting referred Mary to MEJC. MEJC offered Mary representation.
- On December 21, Mary's attorney filed a letter with the court identifying a city ordinance on which the court relied in dismissing Mary's eviction claim as inapplicable to Mary's situation.

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Another Scenario: Mary's Story

- Mary's case ultimately resolved via a settlement agreement allowing John additional time to move under terms requiring payment of the accrued unpaid rent.
- Mary successfully sold her home and relocated to the senior apartment of her choice.
- The city ordinance argued as inapplicable in Mary's case has since become effective statewide via Minn. Stat. § 504B.321, subd. 1a.

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Takeaways from Mary's Story

- For non-attorneys: The eviction process is not easy for self-represented litigants.
- For attorneys: Evicting someone who has not paid expected rent has become more complicated since January 1, 2024.
 - Minn. Laws 2023, chap. 52, art. 19, §§ 97 and 105, amending Minn. Stat. §§ 504B.135 and 321, subd. 1a.

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Avoid Unauthorized Practice of Law

"It shall be unlawful for any person [...], except members of the bar of Minnesota admitted and licensed to practice as attorneys at law, [...] to give legal advice or counsel[...]."

Minn. Stat. § 481.02, subd. 1.

If you are not an attorney and you think these issues apply to a person whom you serving, refer them to a source of legal help.



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Resources for Support and Guidance

- MEJC Victim Services: 651-440-9312
- MN Day One Crisis Hotline: 1-866-223-1111
- Minnesota Legal Aid Help Line: 1-877-696-6529
(1-877-MY-MN-LAW)



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Questions? Suggestions?

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