



# Assessing Cognitive Capacity in Elder Abuse Cases

AUGUST 21, 2017

DEPARTMENT OF JUSTICE  
**ElderJustice**  
INITIATIVE



**OVCTTAC**  
OFFICE FOR VICTIMS OF CRIME Training and Technical Assistance Center



# TECHNICAL OVERVIEW

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- ▶ If you are experiencing any technical issues with the audio for this session, please let us know in the feedback box.
- ▶ If you have technical difficulties during the webinar, contact Jason Adams, who is providing technical support for this webinar. His email address is [jadams@ovcttac.org](mailto:jadams@ovcttac.org).
- ▶ Today's session will be recorded and made available on the training website.
- ▶ If you have questions, type them in the feedback box. We will address as many as possible throughout the webinar.

# Talitha Guinn-Shaver

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# AGENDA

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- About the Elder Justice Initiative (EJI)
- About the Multidisciplinary Team Technical Assistance Center (MDT TAC)
- Part 1: Case Contexts Where Capacity is an Issue
- Part 2: The Components of Capacity Assessments
- Part 3: The Client-Centered Perspective
- Q&A



# POLL QUESTION #1

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What is your professional background?

# ELDER JUSTICE INITIATIVE

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The **mission** is to support and coordinate the U.S. Department of Justice's enforcement and programmatic efforts to combat elder abuse, neglect, and financial fraud and scams that target older adults.

The Initiative does so by—

- Promoting justice for older adults.
- Helping older victims and their families.
- Enhancing state and local efforts through training and resources.
- Supporting research to improve elder abuse policy and practice.



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## ELDER JUSTICE INITIATIVE (EJI)

REPORT ABUSE OR FIND HELP

New on ElderJustice.gov

**EJI launches the MDT  
Toolkit and Guide for  
elder abuse case review  
MDTs**



1

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**Elder abuse is a complex issue that intersects with many disciplines.**

Elder abuse can happen to anyone. It affects people of every ethnic background, gender, and financial status.

# ABOUT THE MDT TAC

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MDT TAC is a new project from the Elder Justice Initiative.

Our mission is to provide tools, resources, and individualized consultations to facilitate the expansion of elder abuse case review multidisciplinary teams across the Nation.



# SERVICES

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- Responding to requests for materials (e.g., toolkits or research).
- Phone consultations to discuss problem solving (e.g., confidentiality issues).
- In-person consultations for communities needing a more hands-on approach.
- Educational opportunities, such as webinars.
- **Newly launched MDT Guide and Toolkit.**

# Bonnie Olsen, Ph.D.

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*Professor of Clinical Family Medicine  
Keck School of Medicine, University of Southern California*

## PART 1

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# Elder Abuse Cases: When Capacity is a Critical Issue

# MR. JONES: STROKE AND PHYSICAL ABUSE

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- 69-year-old widower.
- 6 months after stroke with mild hemiparesis.
- Adult grandson is his caregiver.
- Physical abuse and undue influence for financial gain.



# CAPACITY TO DO OR DECIDE WHAT?

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- Live where you want.
- Live with whom you want.
- Expectations of safety.



# MRS. PEREZ

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- 63-year-old widow, lives alone in her own home.
- Believes neighbors are poisoning her.
- Hires contractor to install a security system.
- Is charged \$300,000 for a system that was worth \$24,000.



# FRAUD

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- Capitalize on vulnerability.
- Act when the older adult is MOST impaired.
- Magnify problems to increase vulnerability.
- Instill fear and dependency.

# MRS. KIM: IMMOBILITY AND NEGLECT

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- 76-year-old married Korean woman.
- Incapacitated by Parkinson's Disease.
- Husband rules the roost.
- Inadequate care in home.



# DOMESTIC VIOLENCE

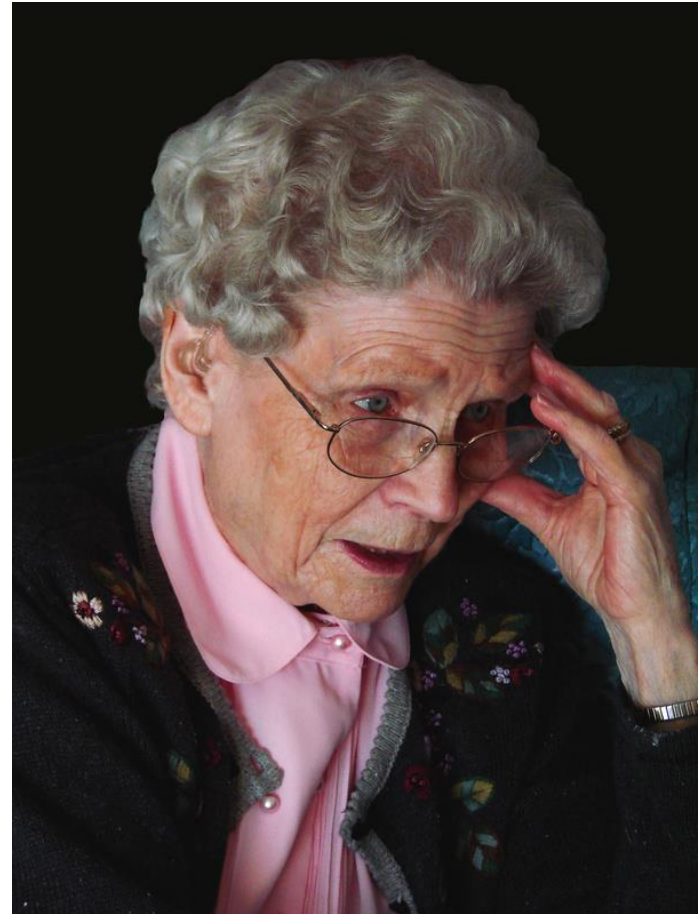
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- Family history of bullying.
- Questionable prosecution need/value.
- Can victim make decisions?
- Can victim accept help?
- Can victim refuse services?
- Is there a surrogate decisionmaker?

# MRS. ELLIS

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- 80-year-old widow, lives alone.
- Macular degeneration and arthritis.
- Suffered a fall and fractured hip.
- Hired a 24-hour, in-home caregiver.

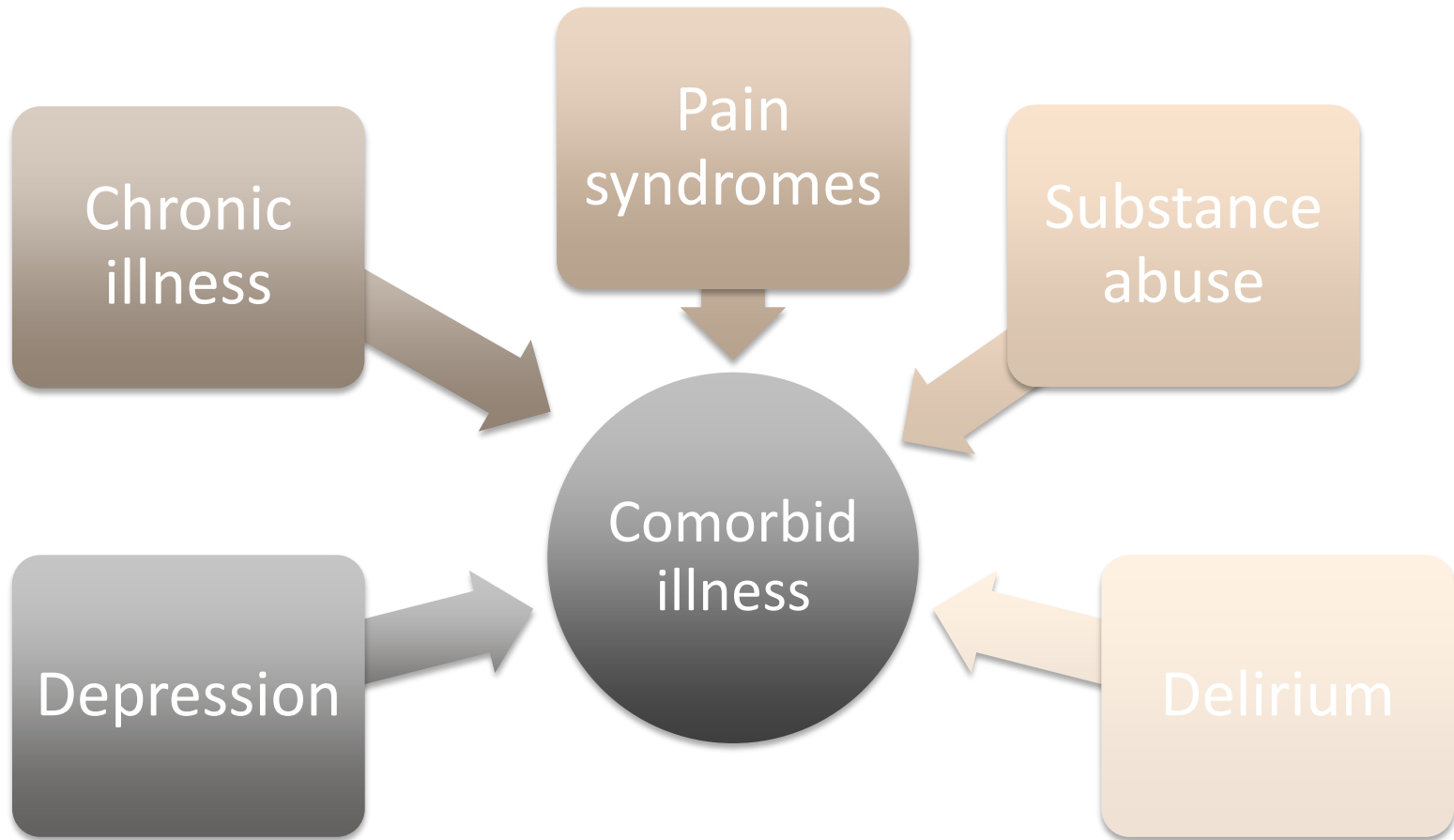




## POLL # 2

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Should this client be assessed? Is this case about capacity?



## PART 2

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# Assessing Capacity: Decisional and Executive

# INHERENT TENSION IN ISSUES OF CAPACITY

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## Balance between:

- Autonomy.
- Safety.
- Self-determination.
- Paternalism.

# FORMS OF CAPACITY

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- Decisionmaking capacity.
- Executive capacity.



# WHAT'S A "DECISION"?

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- Understanding the issues related to the decision.
- Appreciating what this means for oneself.
- Reason; rational evaluation of alternatives.
- Choosing the one that is best for oneself.

# DECISIONMAKING CAPACITY

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- Sign a contract (purchase an annuity).
- Sign a will (testamentary capacity).
- Give away property/assets.
- Get married.
- Medical decisionmaking (take a medication, treat a condition, leave a facility).
- Identify alternative decisionmakers (durable power of attorney, successor trustee, executor).
- Decline services.

# EXECUTIVE CAPACITY

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- Manage finances (pay bills, pay taxes, cash transactions).
- Maintain a home (tend to the yard, fix a broken pipe).
- Tend to personal grooming.
- Plan meals, shop for food, and prepare meals.
- Take medications as prescribed.

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# Assessing Capacity: A Four-Step Process

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## **STEP ONE:** CAN THE PERSON PROCESS INFORMATION, REMEMBER, THINK LOGICALLY IN GENERAL TERMS?

- You have to actually test for it.
- A common mistake is to assume it's OK.



# COGNITIVE ASSESSMENT DOMAINS

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- Attention, concentration.
- Orientation, short-term memory.
- Retrieval of long-term memory.
- Language: comprehension and expression.
- Visual-spatial abilities.
- Reasoning.
- Executive functions.

# CAN THE PERSON BEHAVE LOGICALLY, RATIONALLY, AND ABSTRACTLY?

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## “Executive Functions”

- Logic.
- Consequences.
- Judgment.
- Insight.
- Organize.
- Plan.
- Alternatives.

# OBJECTIVE MEASURES OF COGNITION

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- Neuropsychological Test Battery.
- Mini Mental Status Exam (MMSE).
- Minnesota Cognitive Assessment (MoCA).
- Saint Louis University Mental Status Examination (SLUMS).
- Cognitive Abilities Screening Instrument (CASI).
- Trail Making Test (TMT).

## POLL #3

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Is it important to use a test that generates a score in order to have a good assessment?

## STEP TWO: ASSESS FOR OTHER DEFICITS.

- Mood disorders—depression and anxiety.
- Perceptual disturbances—hallucinations.
- Thought disorders—delusions.

## STEP THREE: THE INTERVIEW— APPRECIATING THE CONSEQUENCES OF THIS DECISION.

- Reason for the decision.
- Consequences of the decision.
- Benefits and risks of the decision.
- Alternatives considered.
- Consistency of the decision.

## STEP FOUR: INTEGRATE OTHER SOURCES OF INFORMATION.

- Obtain information from collateral sources (family, caregivers, Adult Protective Services, ombudsman, police, medical).
- Consistency with this individual's values, beliefs, and preferences.
- Consider the larger cultural and religious background.
- Consider this family's culture.
- Steps taken to enhance capacity?

# ASSESS THE LEVEL OF RISK

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- What is the potential impact if you don't intervene?
- Is there a potential negative outcome if you do intervene?
- How could this harm the individual?
- What would be the impact of a negative outcome?
- Will this harm the individual?



# Conceptual Framework for Capacity Assessment

## Clinical Judgment



Source: *Assessment of Older Adults With Diminished Capacity: A Handbook for Psychologists*  
© American Bar Association Commission on Law and Aging,  
American Psychological Association

## PART 3

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# Hearing the Client's Voice: Balancing Safety and Self-Determination

# CLIENT-CENTERED INTERVENTION

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- Values client preferences.
- Culturally sensitive.
- Personally meaningful.
- Least restrictive.

# SOLICIT FOR CLIENT-IDENTIFIED GOALS

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- Listen to what they want.
- Pay attention to their historical preferences.
- Look for change in preferences and find out why.
- Align your goals with theirs where appropriate.

# ASSESS THE LEVEL OF RISK

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- What could happen if....
- Avoid unintended negative consequences.
- Where can we build in relatively safe choices?
- Where does it matter **MOST** to this client?

# IDENTIFY RETAINED CAPACITIES

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- Manage small cash transactions.
- Decide what/when to eat.
- Decide who can visit.
- Attend religious services.
- Take medications.
- Maintain sleep schedule.

# WORK TOWARD COORDINATED RESPONSES

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- Inspire colleagues to think outside the box.
- Look for possibilities and potentials.
- Little things can matter greatly.

# BUILD A WORLD WHERE.....

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- Right resource.
- Right client.
- Right time.
- Right amount.



Q & A



# CONTACT THE MDT TAC

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- For consultation referrals or to collaborate, contact:

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# QUESTIONS & SUGGESTIONS

can be emailed to

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