

Identifying and Addressing the Housing Needs of Sexual Assault Survivors

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Introductions

Introduction to your course faculty

Introduction to VRLC & NHLP



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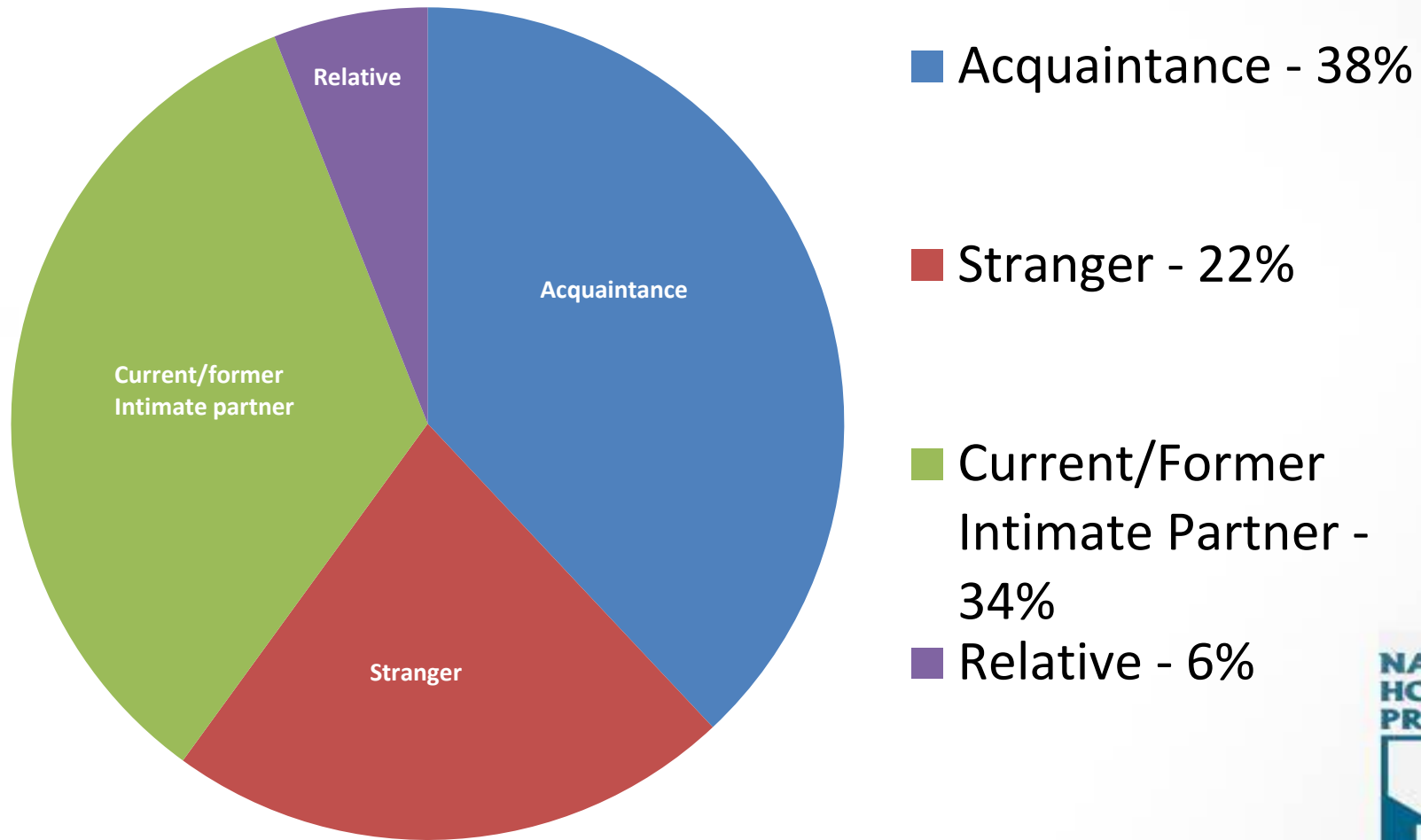
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advancing housing justice

SA: Victim Relationship to Perpetrator



Applying an SA Lens

- Relationship to perpetrator
- Find SA remedies in a DV paradigm
- Creativity in negotiating and using remedies

Session Goals

At the end of this webinar participants will be better able to :

- Compare the housing needs and remedies of SA and DV survivors
- Identify strategies for early lease termination
- Describe the emergency transfer obligations of subsidized housing providers
- Identify strategies for removing the perpetrator from the premises.
- Discuss tenants' reasonable accommodation rights

Today's Agenda

- Review housing needs with a sexual assault lens
 - How do needs differ for SA survivors, as compared to DV survivors?
 - How do the available remedies differ?
- Discuss housing remedies for SA survivors:
 - Early lease termination
 - Emergency transfer
 - Fair housing laws
 - Perpetrator evictions
 - Reasonable accommodations

Poll

- In how many housing cases have you represented a sexual assault survivor?
 - 0-5
 - 6-15
 - 16-25
 - 26+



Hypothetical Scenario

Becky lives in a project-based Section 8 unit. She suffers from PTSD as a prior survivor. She was assaulted by a neighbor in a common courtyard. Pre-assault, she was managing her symptoms well without intervention. In the aftermath of the assault, her symptoms have elevated significantly. She no longer feels safe leaving her apartment for fear of seeing the perpetrator.





Hypothetical Scenario Cont'd

After the assault, Becky learns that the perpetrator is the boyfriend of her neighbor, who holds the subsidy. Becky obtained a protection order, but because she was not in a relationship with the perpetrator, the protection order statute does not expressly permit the court to remove the perpetrator from his unit. Instead, the court issued an order that only requires the perpetrator to stay 10 feet away from Becky when they are on the property and 100 yards at all other times.



Evicting Perpetrators

- Survivors who are assaulted by other tenants
- Perpetrators can be evicted for criminal acts committed against survivors
 - Lease and federal housing program violations
 - Landlord's duty to keep tenants safe/landlord's liability if they fail to do so

Hypothetical Scenario Cont'd

Becky lives in a rural area. There is only one property that houses all of the project-based Section 8. The housing authority does have other properties, including an elderly/disabled program and also administers a mobile Section 8 voucher program. Becky would like to move. She feels unsafe because the perpetrator remains her neighbor. She is also triggered whenever she has to leave her unit to drive her kids to school and she has to see the courtyard where the assault happened.

Emergency Transfers

- Federally subsidized housing
 - Survivors living in federally assisted housing often need to move or “transfer” to another subsidized unit to protect their safety and keep their affordable housing.
 - VAWA required covered housing providers to have emergency transfer plans
 - VAWA mandates each federal agency to adopt a model emergency transfer plan to be used by housing authorities and owners
 - Transfer plans must be adopted by covered housing providers by June 14, 2017.

Emergency Transfers

- Federally subsidized housing
 - VAWA transfer plan must allow survivor tenants to transfer to another **available and safe unit** assisted under covered housing program if:
 - (1) tenant expressly requests the transfer; and
 - (2) either tenant **reasonably believes that she is threatened with imminent harm** from further violence if she remains or tenant is a victim of sexual assault that occurred on premises within 90 calendar days before request.



Emergency Transfers: Subsidized Housing

- Definitions
 - Reasonable belief of imminent harm: Does not matter when initial act occurred if current belief of threat of imminent harm is reasonable; view of victim.
 - Safe unit: is one the survivor believes is safe, based upon survivor's personal knowledge and reasonable belief about what is safe.
 - Available unit: one that is not occupied and is available to tenants given program requirements, eligibility, unit restrictions, and term limitations.
- VAWA transfer plan must maintain existing VAWA strict confidentiality measures and ensure that housing authority or owner does not disclose location of new unit to abuser.





Emergency Transfers: RD Subsidized Housing

- VAWA applies to USDA Rural Development Multifamily Housing
- RD Model Emergency Transfer Policy
 - <https://www.rd.usda.gov/files/an4814.pdf>
 - Transfers must be allowed to a unit that is under the borrower's control
 - Victims may receive a Letter of Priority Entitlement (LOPE) to another RD development.
 - Victims cannot transfer RD subsidy to another development.





Emergency Transfers: Subsidized Housing

- Getting covered housing providers to develop and implement emergency transfer plans
- Housing authorities
 - Examples: Chicago Housing Authority; Philadelphia Housing Authority
 - Advocacy strategies
 - Submit public comments via PHA planning process
 - Public housing - Admissions and Continued Occupancy Policy
 - Section 8 vouchers - Section 8 Administrative Plan
- Private subsidized owners and managers
- Working with local HUD office





Emergency Transfers: Unsubsidized Housing

- Working with private owners vs. managers
- Transfers within the same development vs. to another development



Poll

- Would you like to know more about:
 - Rural housing advocacy
 - HUD implementation of emergency transfer provisions
 - Using the Fair Housing Act to advocate for SA survivors
- (Check all that apply)



Hypothetical Scenario Cont'd

Becky does not feel safe on the property. She is afraid the perpetrator will retaliate because she reported the assault to the police and he is being prosecuted. He knows where she lives. She also is triggered by walking past the courtyard where the assault happened. She has to do this several times a day to reach her car. She recently had to call maintenance when her stove broke. When the maintenance worker arrived, Becky suffered a panic attack when he brushed her elbow as he walked by her to examine the stove. Becky would feel safer if she could have a dog, but the rules prohibit pets.





Reasonable Accommodations

- A change in rules, policies, practices or services necessary to afford a person with a disability the equal opportunity to use and enjoy the dwelling
- Fair Housing Act
- Section 504 Rehabilitation Act
- Americans with Disabilities Act
- State Law





Reasonable Accommodations

- Disability +
 - Physical or mental impairment that substantially limits one or more major life activities
- Requested Accommodation +
 - No magic words
 - Must be reasonable
 - Cannot require fundamental alteration of operations
 - No undue financial burden
 - LL may request documentation
- Nexus



Accommodation Request

- **Disability +**
 - Provide disability symptoms.
 - Not necessary to name diagnosis – Protect survivor privacy
 - Not necessary to disclose that client is a survivor
- **Requested Accommodation +**
 - Can be made at any time.
 - What does the survivor need to successfully live in the unit?
- **Nexus**
 - How is the accommodation related to the disability?
 - How will it address/alleviate the effects of the disability?

Verification

- Disability +
 - Verification needed if the disability is not obvious or known
 - In SA cases, often dealing with mental health disabilities that will likely not be obvious
- Requested Accommodation +
- Nexus
 - Verification required if the nexus is not obvious or known



Hypothetical Scenario Cont'd

After the prosecutors decided not to go forward with criminal charges, the perpetrator's girlfriend approached Becky and told her that she would regret making a report against him. The girlfriend told Becky that she should watch her back around the apartment complex. Becky feels like she will never be safe in her apartment, no matter what she does.





Early Lease Terminations

- What are early lease termination laws?
- Why are these laws necessary?
- Do they apply to sexual assault survivors?
- Do I have one in my state or locality?
 - [NHLP, *Housing Rights of Domestic Violence Survivors: A State and Local Law Compendium*](#)



Early Lease Terminations

- Subsidized housing
 - Do I need a lease termination law if VAWA applies?
 - Ex: Survivor with Section 8 Housing Choice Voucher wants to port to another jurisdiction.
 - What happens to a federal housing subsidy when there is a lease termination?
 - Tenant-based vs. project-based subsidies

Early Lease Terminations

- What if I do not have an early lease termination law?
 - Negotiation tips
 - When a housing authority is involved
 - Working with private landlord to sublet and find another tenant
 - Landlord's duty to keep tenants safe/landlord's liability if they fail to do so
 - Using protective orders



Early Lease Terminations

- Possible Pitfalls
 - Proper documentation by survivor
 - Landlord is unresponsive or refuses to acknowledge survivors' rights
 - Getting back security deposits
 - Moving expenses may be prohibitive
 - Check [your state's crime victim compensation fund](#)



Fair Housing Act and Sexual Assault

- How the Fair Housing Act (FHA) applies to domestic violence survivors
 - [HUD memo on FHA and VAWA](#)
 - Survivors aren't a protected class, but most are female
 - Evicting or denying housing to survivor based on violence committed against them could violate the FHA
 - Treating women differently because of their status as victims
 - Neutral policy that negatively affects victims may violate the FHA because of its impact on women
- How the FHA would apply to sexual assault survivors



Contact Us!

- Specific case questions
- Products and resources
- Community outreach & collaboration
- Criminal advocacy

The Victim Rights Law Center Technical Assistance Resources

Would you like us to contact you regarding resources or training opportunities?
Please check the appropriate box(es) and provide your contact information below.

- | | |
|---|--|
| <input type="checkbox"/> Sexual Assault Legal Issues Screening Tool | <input type="checkbox"/> VRLC's National Manual -- Beyond the Justice System: Using the Law to Help Restore the Lives of Sexual Assault Victims <i>A Practical Guide for Attorneys and Advocates</i> |
| <input type="checkbox"/> VRLC Model Intake Form | <input type="checkbox"/> Information about VRLC trainings on Campus Sexual Assault and the Law |
| <input type="checkbox"/> Mandatory Reporting Flow Charts (elders; minors) | <input type="checkbox"/> Research assistance |
| <input type="checkbox"/> Safety Planning with Adult Sexual Assault Survivors: <i>A Guide for Advocates and Attorneys</i> | <input type="checkbox"/> Individual case consultation |
| <input type="checkbox"/> Information about upcoming VRLC webinars | <input type="checkbox"/> Registering for the TA Resource Library |
| <input type="checkbox"/> Sample "Candor Script" | |
| <input type="checkbox"/> How to access past VRLC webinars | <u>VRLC TIP SHEETS AVAILABLE:</u> |
| <input type="checkbox"/> Registration information for VRLC's web-based and instructor-led trainings on "Understanding Sexual Assault Victimization and Perpetration" (Dec. 2013) and "Issue Spotting Sexual Assault Survivors' Needs" (Feb. 2014) | <input type="checkbox"/> Ensuring Effective and Accurate Interpretation |
| <input type="checkbox"/> <i>Surviving Sexual Violence on the Streets: A Know Your Rights Film for Homeless Women</i> (and companion curriculum) | <input type="checkbox"/> Working With an Interpreter |
| <input type="checkbox"/> Sample letters to schools, employers, prosecutors on survivors' behalf | <input type="checkbox"/> Protecting Victims' Privacy |
| <input type="checkbox"/> Sample Pleadings and Legal Briefs | <input type="checkbox"/> Social Media & Privacy |
| <input type="checkbox"/> Sexual Assault Protection Order (SAPO) Chart (50-state summary) | <input type="checkbox"/> 10 Tips to Protecting Victims' Privacy in Court |
| <input type="checkbox"/> Developing a SAPO Statute – Lessons Learned | <input type="checkbox"/> Mandatory Reporting and Older Survivors |
| | <input type="checkbox"/> Safety Planning with Victims of Non-Intimate Partner Sexual Assault |
| | <input type="checkbox"/> Conducting a Victim-Centered Intake |

Your name: _____

Organization: _____

Email: _____ Phone: _____

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