Abuse, Neglect and Victimization of People with Co-Occurring Developmental Disabilities and Mental Health Issues

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About Disability Rights California
History – Geraldo Rivera expose of Willowbrook
Mandated under state & federal law to:
- Investigate allegations of abuse & neglect of persons with disabilities
- Pursue legal, administrative & other remedies
  - Administrative and judicial proceedings
  - Impact litigation
  - Legislative advocacy
- Provide information & referral about rights and how to enforce those rights
- Provide technical support and training

About Disability Rights California
- Federal Acts
  - Persons with (PW) Developmental Disabilities
  - PW Psychiatric Disabilities
  - PW all other disabilities
  - Social Security Benefits
  - Assistive Technology
  - PW Traumatic Brain Injury
  - Voting rights
- State Contracts
  - Dept. of Mental Health
  - Dept. of Developmental Services
  - Dept. of Rehabilitation
- Regional Offices
  - Sacramento
  - Oakland
  - Los Angeles
  - San Diego
- Divisions
  - Legal Unit
  - Investigations Unit
  - Legislative and Public Affairs
  - Peer & Self Advocacy
  - Office of Clients’ Rights Advocacy
  - Office of Patients’ Rights
DRC's Investigations Unit

- Investigate allegations of abuse & neglect of people with disabilities in all settings
  - Based upon a complaint OR
  - With probable cause

- Areas of Focus
  - Restraint & Seclusion
  - Quality of Care
    - Physical &/or sexual abuse
    - Neglect
    - Medication overuse
    - Failure to coordinate services
    - Inadequate oversight & monitoring

- Systemic Reform
  - Ensure the system works
  - Rarely primary investigators

Areas of Focus

- Restraint & Seclusion
- Quality of Care
- Physical &/or sexual abuse
- Neglect
- Medication overuse
- Failure to coordinate services
- Inadequate oversight & monitoring
- Corrections Settings
- Interface with the Justice System

Statistics

- People with disabilities are estimated to be 4-10 times more likely to be victimized.
- People with intellectual impairments at highest risk for victimization.
- People with disabilities are:
  - more likely to experience more severe abuse and abuse of a longer duration,
  - be victims of multiple episodes, and
  - be victims of a larger number of perpetrators.
- People with disabilities 2-10 times more likely to be sexually assaulted:
  - 80% of women with developmental disabilities are estimated to be sexually assaulted in their lifetime.
  - 83% of women and 32% of men with developmental disabilities in one California study reported being sexually assaulted.
  - 80% of people with developmental disabilities sampled were sexually assaulted more than once; 49.6% sexually assaulted 10 or more times.
  - Risk of sexual assault is 2-4 times higher in institutional setting than in the community.

Little disability specific scientific research
Little public information regarding victimization in California

People with disabilities are moving from institutions into the community:

- 56.1% decline in population in large state facilities (1980-1997)
- Most PWDD living in the community reside in small residential settings (6-15 beds)
- 15% live in their own home, a 50% increase btw 1993-1997

 Crimes against people with disabilities are often not reported:

- 80-85% of criminal abuse of residents in institutions is never reported.
- 4.5% of serious crimes committed against people with disabilities have been reported (compared with 49% for general population).
- 71% of crimes against people with severe mental retardation are not reported (56% for general population).
- 3% sexual assault cases involving victim with developmental disability are reported (16-28.3% for general population).

 Prosecutions and convictions are much lower in cases involving victims with intellectual impairments:

- 5% of serious crimes against people with disabilities were prosecuted (70% for general population).
Special Vulnerabilities

- Cognitive deficits:
  - Difficulty recognizing unlawful activity
  - Limited knowledge of their right to safety and protection
  - Impairments impacting ability to execute reporting plan
- Physical disability:
  - Inability to physically escape or defend
- Communication impairment:
  - Limited ability to verbally defend or disclose abuse
- Situational:
  - Dependence on others for essential care giving
  - Physical isolation
  - Exposure to a large number of care providers
  - Fear of retribution
  - Complex abuse reporting scheme
- Social capacity:
  - Limited social opportunities
  - Lack of training in sex education & limited experience in 'normal' sexual relationships
  - Compliance training
  - Lack of experience in self-advocacy

Abuse Response System

- Adult Protective Services/Child Protective Services = immediate safety of individual(s)
- Law Enforcement = crime investigation
- DC system investigators
- Ombudsman = complaints from long-term care residents (mostly elderly but this may be changing)
- Regional Center = provide or coordinate services and supports for individuals with developmental disabilities
- Licensing = oversight of facility & licensed care staff

Abuse Reports

Lisa Russell

Sexually assaulted by male care provider at her ICF

- Staff on duty did not suspect or question at the time of the incident despite her appearance
- After report, facility administrators conducted an interview:
  - No advocate present
  - Interviewed by people in power and authority
  - Asked compound and leading questions
  - Concluded encounter was consensual
  - Failed to report under abuse reporting act
- Police relied upon conclusions of facility staff:
  - Did not order SART
  - Later found care provider committed dependent adult abuse PC 288(c)(2)
- DHS cited facility but waived penalty
- Care provider license revoked
- Lisa died 6 weeks later before referral to DA

Is sex ever consensual between an individual with a disability and their care provider?
Robert

38 years old (developmentally ~ 10 years old), sexually assaulted at community fitness center by fellow gym member in locker room

- Reported immediately to law enforcement,
- Red marks & "white fluid" on body
- Not interviewed for 2+ days
- Told to bathe
- No SART because no penetration
- No sexual assault investigation policy
- Believe incident occurred but DA won’t press charges because no physical evidence

Interview & Investigation Reminders

- Interview victim(s) & other witnesses with disabilities
- Don’t assume the victim lacks credibility or capacity
- Use “people first language”
- Speak directly to the victim
- Ask victims about accommodations (communication devices, presence of support person/advocate)
- Suspect everyone, including care providers
- Be patient; take breaks
- Start with open ended questions
- Avoid compound questions:
  - Separate complex information into smaller parts
- Avoid leading questions:
  - PWDD can be eager to please &/or easily influenced
- Don’t pity or patronize
- Don’t assume people with disabilities suffer less emotional or psychological trauma than other crime victims
  - victimization may exaggerate feelings of self-blame, low self-esteem, vulnerability, confusion

Collaboration

- Recall this is a vulnerable population at great risk of abuse, neglect, and criminal victimization
- Cover gaps in system
- Work together; get to know each other & the resources available:
  - Reach out to local disability services organizations
  - Explore cross-training opportunities & interagency coalitions
- Work to enhance tracking of rates of victimization of people with disabilities