

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


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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

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DRC's Investigations Unit



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


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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 woman and 32% 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

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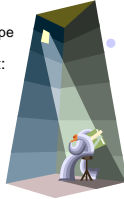


- People with disabilities are moving from institutions into the community:
 - 56.1% decline in population in large state facilities (1980-1997)
 - Most PWDD living in the community reside in small residential settings (6-15 beds)
 - 15% live in their own home, a 50% increase btw 1993-1997
- Crimes against 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).

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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



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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



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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?

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Robert

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

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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

Reminder!

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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

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