

Principles: Abuse and Neglect Advocacy

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Background

Individuals with disabilities are at a disproportionately higher risk for abuse, neglect, and criminal victimization. Estimates are that people with disabilities are least four to ten times more likely to be victimized than people without disabilities. Individuals with an intellectual impairment are at the highest risk of victimization. Most individuals with disabilities are victimized by people they know, often individuals who have a relationship with them specifically because of the victim's disabilities (e.g., care providers and service attendants).

Abuse and neglect of dependent adults and elders is a crime. Yet studies show that most crimes against people with disabilities go unreported. Victims with disabilities frequently rely on others to identify and report suspected abuse or neglect. Incidents of abuse and neglect are often handled as employment matters rather than crimes and not referred to law enforcement. Prompt reporting and investigation of suspected or alleged abuse or neglect is essential to protect victims and to successfully prosecute and convict perpetrators.

Absent a criminal conviction, there is no system to track care providers who have been abusive to or negligent toward individuals with disabilities under

their care. Since few incidents of abuse or neglect are prosecuted, criminal background checks alone are insufficient to track abusive care providers.

Licensing boards may conduct investigations into misconduct of licensed care staff (physicians, nurses, therapists, CNAs); however there is no requirement that substantiated incidents of abuse or neglect be referred to licensing boards, and frequently they are not. Information regarding disciplinary action taken by licensing boards is not necessarily accessible to the public. There is no tracking system of substantiated complaints against unlicensed care providers.

Law enforcement and others in the abuse response system often lack the training and skills to interact with and interview individuals with disabilities. There are often critical delays in the response of investigators to reports of abuse, neglect, and criminal victimization. Criminal investigations are not thorough and often produce insufficient evidence for criminal prosecution. Disability-related bias and stigma may include assumptions that individuals with disabilities are unreliable or not credible and will not make good witnesses, resulting in failure to timely and thoroughly interview the victim or witnesses with disabilities, if at all. Many investigations into instances of abuse and neglect go on for months or years, and some are never completed. Cases that make it into the criminal justice system are not rigorously prosecuted; assailants are frequently given lighter sentences or plead to lesser crimes.

There is no reliable statewide system in California that documents the frequency of abuse, neglect, or criminal victimization of individuals with disabilities. Without accurate, specific, publicly-available data, there is no means of quantifying the extent of the problem, isolating specific gaps in the abuse response system, or ensuring that individuals and entities have fulfilled their obligations.

Principles

1. People with disabilities should be provided with maximum protection from abuse and neglect without infringing on their personal autonomy, privacy, and individual liberties. This includes:
 - a. Reporting and cross-reporting of suspected or alleged abuse, neglect or crimes against people with disabilities or incidents suggestive of abuse, neglect, or criminal victimization;

- b. Prompt and unbiased response by first responders to all reports of abuse, neglect, and criminal conduct involving victims with disabilities; and
 - c. Significant penalties for perpetrators of abuse or neglect, as well as facilities, programs or agencies that fail to prevent abuse or neglect or to respond to alleged or suspected abuse or neglect.
2. Oversight and licensing entities must: conduct timely and thorough investigations into allegations of abuse, neglect, or criminal conduct; promptly issue sanctions or notice of deficiencies commensurate with the offense; and ensure entities and/or individuals implement and sustain corrective action.
3. Law enforcement agencies and prosecutors should prioritize investigations of abuse, neglect, and criminal conduct against people with disabilities to ensure equal justice and prevent perpetrators and mandated reporters who fail to report from victimizing others in the future.
4. Individuals in the abuse response and criminal justice systems must be trained regarding working with people with disabilities and the identification, reporting, and investigation of incidents of suspected abuse or neglect.
5. People with disabilities, including victims and witnesses to abuse, neglect, or criminal activity, must be provided with accommodations to ensure equal access to investigators, the criminal justice system, and aggressive prosecution of cases.
6. People who report suspected instances of abuse and neglect must be protected against retaliation.
7. People with disabilities, family members, and advocates must be provided with training regarding abuse and neglect and accessing the abuse response and criminal justice systems.
8. Data collection systems, that protect individually-identifiable confidential information, must be developed or enhanced to:
 - Document the incidences of crimes, abuse and neglect against people with disabilities, and the outcome of investigations, including prosecution and conviction;
 - Track abusive care providers;
 - Identify areas of significant need for systemic reform;

- Guide systemic reform; and
- Evaluate the outcomes of interventions and reform initiatives.

This data, if not publicly available, should be made available to Disability Rights California pursuant to Disability Rights California's abuse and neglect mandate.

9. Policies and practices of state and local governmental agencies should support enhanced protections including enhanced sanctions or penalties for facilities, programs or agencies that fail to protect people with disabilities from abuse or neglect and/or fail to respond to alleged or suspected abuse or neglect.