

Getting to know Disability Rights California's Investigations Unit - Outline April 4, 2019

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A Background on the Protection & Advocacy System

Video available here: <https://www.youtube.com/watch?v=m3vYxSe3s4M>

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Disability Rights California

Disability Rights California (DRC) advocates, educates, investigates, and litigates to advance the rights, dignity, equal opportunities, and choices for all people with disabilities. [Slide 3 has an Image of DRC staff and board members]

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Protection & Advocacy System

Disability Rights California (DRC) is part of the national **Protection & Advocacy System (P&A)** —a network of 57 federally mandated legal advocacy agencies serving people with disabilities.

- Governed by statutes which provide mandates to serve particular disability populations

- P&A in every state and U.S. territory plus one serving Native Americans
- The P&A System is the largest provider of legal advocacy for people with disabilities in the U.S.

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Fast Facts

- Designated by the governor as the P&A for California in 1978 under the name Protection & Advocacy, Inc. (PAI)
- Independent, private, nonprofit agency
- Over 24,000 individuals served
- Over 600,000 impacted through systemic litigation
- Over 350 publications with translations into 11 other languages

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Divisions

- Legal Advocacy Unit
- Legislative and Public Affairs
- Peer & Self Advocacy
- Office of Clients' Rights Advocacy
- Office of Patients' Rights
- Office of Payee Review & Beneficiary Assistance

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Legal Mandate – Expressly empowered by Congress and state law to:

- Investigate incidents of abuse, neglect, or violations of rights
- Pursue legal, administrative and other appropriate remedies to ensure enforcement of constitutional and statutory rights
- Provide information and referral about rights and how to enforce those rights

- Provide technical support and training

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DRC's Investigations Unit

DRC's Investigations Unit is a 5 person team (4 Attorneys and 1 Investigator) based out of Los Angeles, Sacramento, and the Bay Area [Slide 8 has an Image of leather restraint straps on a hospital bed]

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What We Do

We investigate allegations of abuse & neglect of people with disabilities in all settings throughout the state. We look into allegations based on a formal complaint, or with probable cause.

Our investigations are focused on systemic reform

- We want to ensure the system works
- We are rarely the primary investigators
- We work on public policy

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Areas of Focus

- Quality of Care
 - Physical and/or sexual abuse
 - Neglect
 - Medication overuse
 - Failure to coordinate services
 - Inadequate oversight and monitoring
- Restraint and Seclusion
- Interface with the Justice System
- All Settings (institutional and community)

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Access Authority

- DRC has access to **people, places, and records**
- Authorized by **state** and **federal** law
- **Investigate** allegations of abuse/neglect AND **monitor** facilities and programs
- Reasonable, **unaccompanied** access to people with disabilities
- Can take **photos** or **videos** of facilities and conditions
- Must keep records **confidential**
- Can issue a **public report** of findings

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Reporting to the Investigations Unit

- State Hospitals, Developmental Centers, and Regional Center
Vendors report:
 - Monthly restraint & seclusion data
 - Incidents involving any unexpected or suspicious death, any allegation of sexual assault in which the alleged perpetrator is a staff member, and any report made to local law enforcement that involves physical abuse
- The Department of Public Health reports Level B and higher citations issued to long term care facilities
- The Center for Medicaid Services reports authorized investigations of deaths related to the use of restraint

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Case Example: Juan Aguilar

- Mr. Aguilar is a 56 year old State Hospital patient
- Discussion with staff member about changes to medication escalated and Hospital Police responded

- Hospital Police tackled patient from behind, causing Mr. Aguilar and an officer to fall into a concrete wall
- Mr. Aguilar sustained multiple facial fractures and serious lacerations to his face. Officer sustained a mild concussion.
- Hospital Police arrested Mr. Aguilar and booked him into county jail on 3 charges relating to criminal threats, resisting officers, and causing great bodily injury to a peace officer
- DRC opened investigation into the Hospital Police Department regarding the officers using excessive force, reporting misleading / inaccurate information, and dishonesty during interviews
- Office of Law Enforcement Support investigated and DRC reviewed that investigation
- DRC investigation still in progress

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Public Report Example

AN OUNCE OF PREVENTION: LAW ENFORCEMENT TRAINING AND MENTAL HEALTH CRISIS INTERVENTION

- Law enforcement officers are overwhelmingly first responders to incidents involving people with mental illness who are in crisis
- DRC conducted statewide survey of law enforcement training practices surrounding mental illness
- Published report in 2014:
<https://www.disabilityrightsca.org/system/files/file-attachments/CM5101.pdf>
- DRC IU now serves as a subject matter expert to the Commission on Peace Officer Standards and Training (POST) and is developing de-escalation training

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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
- 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

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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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