



National
Human Trafficking
& Disabilities
Working Group

Disability and Human Trafficking 101

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Presenter Introductions

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Objectives

- What is meant by disability
- Services and benefits available to persons with disabilities such as the Protection and Advocacy (P&A) System
- Capacity, guardians, and powers-of-attorney
- Use of Language
- Risk factors of trafficking for people with disabilities

Approaches to Disability

Medical Model vs. **Social Model**

Disabilities

- **Physical Disabilities**

- **Developmental**

- The disabilities appear before the age of 22 and are likely to be lifelong.
- Can include physical disabilities, intellectual disabilities, speech disorders, medical conditions, etc.
- Some developmental disabilities are largely physical (e.g. cerebral palsy or epilepsy).
- Some individuals may have a condition that includes a physical and intellectual disability (e.g. Down syndrome)

- **Intellectual**

- Disability broadly related to thought processes.
- Often co-occur with developmental disabilities

Disabilities

- **Mental Illness**
 - Significant changes in thinking, emotion, and/or behavior
 - Distress and/or problems functioning in social, work, or family activities
 - e.g. Schizophrenia, bipolar, depression, PTSD
- **Chronic Conditions**
 - e.g. Crohn's disease, cancer, cardiovascular disease
- **Traumatic Brain Injury**
- **Deafness**
- **Blindness**

Two Examples of the Definition of Disability in Federal Law

- **Americans with Disabilities Act (ADA):** “An individual with a disability is defined by the ADA as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.”
- **Social Security Act** (for disability benefits): “The inability to engage in any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment(s) which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.”

Services and Benefits for People with Disabilities

Services to People with Disabilities

- Developmental Disability and Intellectual Disability Services
- Mental Health Services
- Social Security Act
 - Social Security Disability Insurance
 - Supplement Security Income
 - Medicaid
- Independent Living Services

The Protection and Advocacy (P&A) System

- A national network of federally mandated organizations which monitor, investigate, and provide legal advocacy services for individuals with disabilities.
- A P&A entity exists in every state, territory, and for a consortium of Native American tribes in the Four Corners region for a total of 57 P&A organizations.
- Collectively, the P&A organizations are the largest provider of legally based services to people with disabilities in the United States.
- National Disability Rights Network (NDRN) is the membership association and the training and technical assistance provider for the Protection and Advocacy and Client Assistance Program Network.

P&A Federal Funding Sources & Authorities

- P&A services include information and referral, non-legal advocacy, and legal representation (including class action litigation). P&As work on a wide range of civil issues such as responding to abuse and neglect, community integration, employment, health and social services benefits, accessibility, denial of rights, among other issues.
- Each P&A must develop priorities for case selection and other activities such as outreach, monitoring, and investigations.

P&A Federal Authorities

- Congress provided P&As with special access authority to
 - Monitor for rights and safety violations, and
 - Investigate allegations of abuse and neglect of individuals with disabilities.
- P&As can physically access locations where services are provided to individuals with disabilities, speak with individuals with disabilities, and in some instances obtain records without consent.
- The P&A authority provides a unique ability to connect with individuals with disabilities, their family members, and those who provide services.

Disability and Human Trafficking: Example

Kaufman House, see U.S. v. Kaufman, 546 F.3d 1242 (10th Cir. 2008)

- Residents with mental health disabilities at an unlicensed group home forced to engage in sexual acts and unpaid farm and house work.
- Allegations investigated by the Disability Rights Center of Kansas which also assisted and represented some of the victims.
- Husband and wife operators convicted and sentenced to 30 and 15 years respectively for labor trafficking, including under 18 U.S.C. § 1589.

Capacity and Guardianship

Legal Capacity

- A court needs to make a finding of legal “incapacity” and appoint a guardian / conservator.
- This should involve an evidentiary hearing about the functional ability and limitations of the person.
- Other capacity issues related to health care.

Basic Guardianship Types

- Guardianship / Conservatorship (states use slightly different terms)
 - Guardian of the Person
 - Guardian of the Property
- Guardian / Conservator Powers
 - This varies depending on the court orders. Powers are usually outlined in the letter of appointment of the guardian.
 - Before anyone accepts the authority of a guardian, they must see letter of appointment or other proper documentation from the court.
 - “Plenary / Full Power” - Guardian is provided all powers over the individual such as handling bank accounts, property and finances, employment, etc., and depending on state law, living situations, visitation, and the ability to marry, among others.
 - “Limited Power” - Guardian is only provided specific powers.

Guardian *ad litem*

- In most states, a guardian *ad litem* is appointed by a court to assist during a guardianship petition or similar proceeding.
- A guardian *ad litem* is not provided with any decision making powers in most states, but is to represent the “best interest” of the person who is the subject of the guardianship petition or similar proceeding.
- “Best interest” of the person is different than what the person wants.

Power of Attorney / Health Care Proxy

Power-of-attorney - a person (the “principal”) grants an agent the power to act on his or her behalf. Powers can be broad or narrow as contained in the document creating the power-of-attorney, but almost always concerns the management of property and/or financial resources.

A power-of-attorney may automatically continue if the person becomes incapacitated (durable - most common), or it may end upon the incapacity of the person (nondurable - more rare).

Health Care Proxy / Power-of-attorney for health care - a person (the “principal”) grants another person the ability to make healthcare decisions should the principal become incapacitated.

Public Benefits

Social Security Representative Payee - A person appointed by the Social Security Administration (SSA) to manage the Social Security Act cash benefits of an individual after SSA has determined the individual is not capable of managing or directing the management of the cash benefits. This “representative payee” receives and manages the cash benefits for the individual, and may or may not be the same individual as an appointed guardian.

Department of Veterans Affairs Fiduciary - A person appointed by the VA to manage the veterans benefits after a determination the veteran needs assistance in the management of the benefits.

Use of Language

Interacting with People with Disabilities - Language

- People First – puts the person first, rather than defining the person by his or her disability
 - Say “person with epilepsy”, not “epileptic.”
- Proper language shows respect, not political correctness
 - Say “intellectual disability”, not “retarded.”
 - Say “disability,” not “handicapped.”

Interacting with People with Disabilities - Language

- Certain Communities have language preference such as
 - Autistic Person
 - Deaf or Hard of Hearing
- Using correct language helps to develop trusting relationship with the individual.

Interacting with People with Disabilities - Language

- Don't add judgmental language that victimizes person
 - Say “person living with AIDS”, rather than “AIDS victim” or “suffering from AIDS.”
- Avoid patronizing attitudes/actions
 - “Wow – aren't you courageous for getting on a bus.”
- Avoid using made-up phrases for disability like “handi-capable” or “differently abled.”

Risk Factors and Vulnerabilities to Trafficking

Disabilities Vulnerable to Trafficking

- Intellectual and Developmental Disability
- Deaf
- Physical Disability
- Mental Illness



Victimization of Individuals with Disabilities

Children with disabilities :

- **3.76 times** more likely to be neglected
- **3.79 times** more likely to be physically abused
- **3.14 times** more likely to be sexually abused
- PWD generally:
 - More than 2x times as likely to be victims of violent crime

Sullivan PM, Knutson JF. Maltreatment and disabilities: a population-based epidemiologic study. *Child Abuse Negl.*2000;24 :1257– 1273; Erika Harrell, Crime Against Persons with Disabilities, 2009 – 2012-Statistical Tables, (Washington, DC: Bureau of Justice Statistics, U.S. Department of Justice, 2014).

Vulnerabilities to Victimization

- Dependence on multiple caregivers for meeting their basic needs
- Socialized to comply – “Learned acquiescence”
- Limited education about sexuality and healthy relationships
- No understanding of right to bodily autonomy
- Frequent isolation from conventional social environment
- Limited social and/or communication skills
- ***Including failure of others to recognize behavior as communication***

Hershkowitz, I., Lamb, M.E., & Horowitz, D. (2007). Victimization of children with disabilities. *American Journal of Orthopsychiatry*, 77(4), 629-635.

Compounding Vulnerabilities

- Social powerlessness
- Diminished ability to protect self -- lack of instruction and/or resources
 - Don't always know phone number and address
- Inability to detect who is safe to be around
 - Once trafficked, less able to conceive of escape options
 - Often don't realize that they have a right to say no
- Individuals with I/DD seen as less likely to be considered credible to law enforcement

Ohio Department of Developmental Disability -- Human Trafficking of Individuals with Disabilities Fact Sheet; O'Gorman, T. (2017, Summer). Human Trafficking – Protecting our Most Vulnerable from the Unfathomable. *Spectrum Magazine*.

Compounding Vulnerabilities to CSEC

- 3x rate of sexual abuse
- High rate of co-occurrence of gender dysphoria and autism
- Disability, especially Communication Disorders and ID, over-represented in the runaway youth population
- Disrupted homes:
 - Foster children with I/DD more likely to have experienced adoption disruption or dissolution
 - Less likely to be reunified with a parent, primary caretaker or other family member

Glidden, D., Bouman, W. P., Jones, B. A., & Arcelus, J. (2016) Gender dysphoria and autism spectrum disorder: A systematic review of the literature. *Sexual Medicine Reviews*, 4(1), 3–14. Sullivan, P. M. & Knutson, J. F. (2000). The prevalence of disabilities and maltreatment among runaway children. *Child Abuse and Neglect*, 24(10), 1275-1288.

Youth with Disabilities in Child Welfare System

- 31.8% of the foster care population
- More likely to have been adopted previously
- Removal reasons that are more likely were child's alcohol or drug abuse, and parental inability to cope
- 37% less likely to be placed with family in a trial home visit
- 40% less likely to live in kinship foster care

Slayter, E. (2016, May). Youth with disabilities in the United States Child Welfare System. *Child and Youth Services Review*, 64.

Endangering Activities in Youth with I/DD

- Running Away / Elopement
- Unsupervised use of Internet / Sexting
- Poor comprehension of dangerous situations, inability to discern motive in others (getting into cars with strangers)
- Inability to distinguish pimp from boyfriend
- High risk behaviors due to previous sexual abuse
- Exploitation tended to be prolonged (maybe due to lack of understanding about sexual relationships, considering pimp to be boyfriend, easily manipulated)

Reid, J. A. (2016, February 17). Sex Trafficking of Girls with Intellectual Disabilities: An Exploratory Mixed Methods Study. *Sexual Abuse, 30*(2).

Contributing Stressors on Family

- Parents are reliant on caregivers
 - Fear of losing them, lack of options, belief in “experts,” self-doubt
- Social Isolation
 - Especially when there are behavioral concerns
- Scarcity of resources
- Lack of time/exhaustion – multiple therapies, constant supervision, siblings, dealing with systems



Scope of the Problem

- Estimates of prevalence are unreliable generally
 - Under-reporting
 - Difficulties identifying victims
 - Number of agencies involved
 - Differing responses of law enforcement
 - Sex Trafficking: Victim vs. Prostitute
 - Crime Identification
 - Sexual Abuse/Assault, Mistreatment, Prostitution, Financial Exploitation
- Even greater challenge quantifying number of individuals with disabilities
 - Adult Protective Services, OIG, Police, Child Protective Services

OJJDP Lit Review August 2014, *Commercial Sexual Exploitation of Children and Sex Trafficking*.

Chicago Experience

- Conversations with Chicago law enforcement representatives from several agencies indicate very few children or youth identified with disabilities, including I/DD
 - Many of the children and youth identified with mental illness.
 - I/DD and Autism more often seen in cases of manufacturing pornography

Center on Victimization and Safety

Culture, Language, and Access:
Key Considerations for Serving Deaf Survivors
of Domestic and Sexual Violence

January 2015



Nancy Smith and Charity Hope

Considerations for Deaf and Hard of Hearing

- Deaf Culture
 - Does not consider deafness to be a disability, but rather a culturally and linguistically unique group
 - Collectivist culture
 - Prefer identity-first over person-first language
- Language
 - May use ASL or home signs
 - Lip reading and passing written notes is inefficient and assumes literacy
 - A “qualified interpreter” (ADA)
 - Can interpret accurately, effectively, and impartially, both receptively and expressively
 - Uses specialized vocabulary, as needed
 - Has specialized training to effectively interpret in courtrooms and domestic and sexual violence contexts
 - Can be hard to find and costly

Unique Vulnerabilities for Deaf Individuals

- Perpetrators may purposely injure hands or destroy communication devices to prevent communication
 - Limited proficiency in written language
 - May be a barrier to information on safety or the ability to seek help
- Perpetrators may use “Deaf Culture” as an excuse for abusive behavior
 - Injuries caused by throwing things to get person’s attention, e.g.
- May spread lies in Deaf community to impugn credibility
- Threats to or actually moving away from Deaf community creates isolation
- Individuals with cochlear implants may not know ASL
 - Restricting access to batteries may limit communication

Questions?

