

# P&A Access to JJ Facilities & Programs

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# P&A Statutes – Access Authority

- PAIMI -- 42 USC § 10805(a)(3)
  - “P&A shall...have access to facilities providing care and treatment” to people with mental illness
- PADD – 42 USC § 15043(a)(2)(H)
  - P&A “shall...have access at reasonable times to any individual with a developmental disability in a location in which services, supports” etc. are provided.
- PAIR – 29 USC § 794e(f)(2)
  - Identical access to that in PAIMI and PADD

# Access Regulations – PAIMI

## 42 CFR § 51.42(b)-(d)

- Reasonable unaccompanied access to residents and facilities
- Residents include adults and minors
- Access for purposes of:
  - Providing information and education
  - Monitoring compliance of rights and safety
  - Inspecting, viewing and photographing all area used by or accessible to residents
- Investigations

# Facilities and Programs

- Public or private facility serving children
  - *Michigan Protection and Advocacy Services, Inc. v. Miller*, 849 F.Supp. 1202 (W.D. Mich. 1994)(mental hospital)
  - *CT Office of P&A v. Hartford Bd. of Ed.*, 436 F.3d 229 (2d Cir. 2006)(school)
- JJ facilities
  - *Disability Rights Mississippi v. Forest Cnty.*, (S.D. Miss. Sept. 12, 2011)

# Scope of Access

- Access to youth (PAIMI)
  - To inform and educate even without guardian's consent
  - To take formal action with guardian consent
- Access to staff
  - For information
- Access to records
  - Usually with consent

# Typical access issues

- Types of facilities and programs
- Scope, timing and notice
- Parent and guardian consent
- Access to all youth – even those young and “fragile” and those without disabilities
- Qualifications of P&A staff
- Meeting with and interviewing staff
- Use of records and information

# Getting Access

- Reasons to go into a facility
  - To meet a client or potential client
  - To investigate a compliant
  - To monitor
- Negotiating access agreements
- Filing access law suits