

Sexual Violence Against Those With Disabilities

A Brief Overview

Laws in place:

- **The American's With Disabilities Act (1992):** The law is comprised of five titles that prohibit discrimination against disabled persons within the United States. Titles I and II are the primary sections that affect local governments. Title I prohibits employers, including cities and towns, from discriminating against qualified job applicants and workers who are or who become disabled. The law covers all aspects of employment including the application process and hiring, training, compensation, advancement, and any other employment term, condition, or privilege. Title II prohibits state and local governments from discriminating against disabled persons in their programs and activities. Title II also sets forth the applicable structural accessibility requirements for public entities. Title III prohibits private enterprises who provide public accommodations and services (e.g., hotels, restaurants, and transit systems) from denying goods, services and programs to people based on their disabilities. Title III also sets forth the applicable structural accessibility requirements for private entities. Title IV makes available telecommunications devices and services for the hearing and speech impaired. These regulations spell out certain mandatory minimum standards telephone companies must maintain to be in compliance with the ADA. Title V includes some miscellaneous provisions that relate to the construction and application of the ADA, including alternative dispute resolution.
- **Developmental Disabilities Assistance and Bill of Rights Act of 2000:** Originally authorized in 1963, and last reauthorized in 2000, the Developmental Disabilities Assistance and Bill of Rights Act (DD Act), focuses on the needs of the estimated 4.5 million individuals with developmental disabilities. The DD Act ensures that individuals with developmental disabilities participate fully in their communities through full integration and inclusion in the economic, political, social, cultural, religious and educational sectors of our society. The DD Act further ensures that individuals with developmental disabilities and their families participate in the design of and have access to culturally competent services, supports and other assistance and opportunities that promote independence, productivity, integration and inclusion in the community.
- **The Protection and Advocacy of Individual Rights:** This program supports the protection and advocacy system in each state to protect the legal and human rights of individuals with disabilities. In order to be eligible for advocacy services from the PAIR program, an individual with a disability must meet three criteria. First, the individual's concern must be beyond the scope of the Client Assistance Program. Second, the individual must be ineligible for services from the Protection and Advocacy of Developmental Disabilities (PADD) program funded under Part C of the *Developmental Disabilities Assistance and Bill of Rights Act of 2000 (DD Act)*. Finally, the individual must also be ineligible for the Protection and Advocacy for Individuals with Mental Illness (PAIMI) program funded under the *Protection and Advocacy for Individuals with Mental Illness Act*.
- **Crime Victims With Disabilities Awareness Act:** The purposes of this Act are to increase public awareness of the plight of victims of crime who are individuals with developmental disabilities and to collect data to measure the extent of the problem of crimes against individuals with developmental disabilities; and (3) to develop a basis to find new strategies to address the safety and justice needs of victims of crime who are individuals with developmental disabilities.

- Many laws and acts concerning those with disabilities fail to address gender-specific causes, and do not offer solutions to end violence and were not written with the active involvement of the disability community.

Protocols:

According to the U.S Department of Justice, there should be a certain protocols to be followed in the case of any sexual assault crime. The protocol should include that each responder provides services and/or interventions according to agency-specific policies, and that they also work with responders from other agencies and disciplines to ensure that they coordinate responses. The desired result is a collective response to victims and offenders that is appropriate, streamlined, and as comprehensive as possible.

Concerning those with disabilities, there are general issues to since unique issues will arise according to the specific type of disability. The protocol takes these needs into consideration to an extent; however, it is beyond “the scope to provide a comprehensive discussion of all victim issues related to specific types of disabilities”.

First responders play an important role in responding to any crime. Those who traditionally have been responsible for immediate response to adult and adolescent sexual assaults include victim advocates, 911 dispatchers, law enforcement representatives, and health care providers. A wide range of other responders also may be involved, such as emergency medical technicians, public safety officials, protective service workers, prosecutors and victim/witness staff, private physicians, staff from local health care facilities, mental health providers, social service workers, corrections and probation staff, religious and spiritual counselors/advisors, school personnel, employers, certified interpreters, and providers from organizations that address needs of specific populations.

Emergency health care facilities, such as those in hospitals, traditionally have been the setting for provision of medical forensic services to sexual assault patients. However, nonemergency health care programs, such as hospital-based or community-based examiner programs, community clinics, mobile health clinics, local health departments, military hospitals or clinics, and college and university health centers, may also offer full or partial sexual assault medical forensic services. Sexual assault forensic examiners also may conduct exams at additional health care and non-health care sites. The facility conducting the exam may be referred to in this protocol as the “exam site,” in recognition of the fact that not all sites performing the exam are health care facilities.

Different types of law enforcement agencies exist at the local, State, Territory, tribal, and Federal levels. Any of these agencies could potentially be involved in responding to sexual assault cases. Also, in areas without a local law enforcement agency, public safety officials may assist in immediate response to sexual assault victims. Some agencies may have staff with specialized education and experience in sexual assault investigations.

In the specific cases of sexual assaults, there is a sexual assault forensic examination that must occur as part of the protocol. This step of the protocol procedure involves gathering information from the patient for the medical forensic history, an examination, documentation of biological and physical findings, collection of evidence from the patient, and follow-up as needed to document additional

evidence. The medical component includes coordinating treatment of injuries, providing care for STIs, assessing pregnancy risk and discussing treatment options, including reproductive health services, and providing instructions and referrals for follow-up medical care.

A specialized team is also sent in for sexual assault cases, known as SART (Sexual Assault Response Team), which is a multidisciplinary team that provides specialized immediate response to victims of recent sexual assault. The team typically includes health care personnel, law enforcement representatives, victim advocates, prosecutors), and forensic lab personnel.

For assaults that occur against “vulnerable adults” or those who are adult individuals with impaired and/or reduced mental capacity who have difficulty or cannot comprehend events that occurred or will occur, the National protocol states that “Exam sites should have internal policies based on jurisdictional statutes governing consent for treatment for and evidence collection from such patients.” Overall, there is not a National Protocol or procedure that should be followed concerning sexual crimes against those with disabilities.

Barriers to Service:

Those with disabilities face many barriers to receiving service/assistance after they have become victims of a crime. Disabled women are less likely to be believed when reporting a sexual or violent assault, and are often deemed to be lacking credibility in court room situations. There have also been reports of 911 operators hanging up on deaf women, or prosecutors choosing to not use deaf witnesses because they seem less credible and cannot communicate easily in court. In cases of domestic violence, many women with disabilities have to fear that they will lose their children and be stereotyped as unfit mothers due to their disability.

Victim assistance and services are also not widely available to those with disabilities; for example, fewer than 20% of rape crisis centers in California are accessible under the basic standards set by the Americans with Disabilities Act. Also, women with disabilities must confront a variety of barriers to health care - including the physical inaccessibility of many medical offices and equipment, such as mammography machines; the unavailability of essential health information because it is only provided in print formats which are inaccessible to many. Yet, for many women with disabilities, the experience of medical care has been both an emotionally and physically abusive aspect of their lives since girlhood. For adult women, contact with a physician may trigger memories of repeated public stripping and the experience of being observed and discussed by doctors, nurses and students as an interesting case. These are sources of oppression which do significant damage to disabled women's self-image and their potential health promotion behavior

Best Practices:

Concerning sexual violence against those with disabilities, there is a need to focus on prevention, for instance creative campaigns designed to spark awareness. Education campaigns that communicate the breadth of the problem are essential. For example, the Washington Coalition of Sexual

Assault Programs and the Center for Women's Policy Organization have both released publications which provide information on these crimes.

In Ohio, the Disability Rights Center works to enforce laws requiring community integration, access, reasonable accommodations and free appropriate public education. The Center also strives to protect and advocate, in partnership with people with disabilities, for their human, civil and legal rights and to protect against employment discrimination and assure rights to transition to employment planning and services. The Center also offers workshops and other events in order to promote rights for those with disabilities.