

DisabilityRights



ARKANSAS

Protection and Advocacy and Client Assistance Program
Services in the 4th Congressional District

Fiscal Year 2017

CONTENTS

CLIENTS..... 4

 Clients by Age 4

 Clients by Underrepresented Groups..... 5

SERVICE REQUESTS 5

 Service Requests by Program..... 5

 Priority Areas Covered by Service Requests..... 5

 Service Requests Specific to the 4th District 6

PROJECTS 7

 Systemic Issues 7

 Coalition Building..... 9

 Veterans’ Issues 10

 Contact information..... 10

BACKGROUND

DISABILITY RIGHTS ARKANSAS (DRA) is a private non-profit agency located in Little Rock, Arkansas. Since 1977, the Governor of Arkansas has designated DRA the independent Protection and Advocacy (P&A) system for persons with disabilities in Arkansas. DRA operates under authority outlined in federal law, is funded primarily by the federal government and is governed by a Board of Directors. DRA collaborates with other disability rights and civil rights organizations, service agencies, the private bar and legal services to accomplish identified goals and objectives.

Protection & Advocacy for Individuals with Mental Illness (PAIMI)

PAIMI serves individuals with a diagnosis of serious mental illness. PAIMI prioritizes services to individuals receiving care and treatment in a facility, and has a mandate to investigate complaints of neglect and abuse. See the Protection and Advocacy for Individuals with Mental Illness Act of 1986, as amended, 42 U.S.C. § 10801 et seq.

Protection & Advocacy for Individuals with Developmental Disabilities (PADD)

PADD serves individuals with developmental disabilities, including intellectual disabilities, autism, epilepsy, cerebral palsy and neurological impairments. A developmental disability is a mental or physical impairment beginning before the age of 22, which is likely to continue indefinitely, limits certain major life activities and reflects a need for special care, treatment and/or individualized planning. See the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. § 15001, et seq.

Client Assistance Program (CAP)

CAP assists individuals with disabilities who have questions or have encountered problems while receiving or applying for vocational rehabilitation (VR) services from state VR agencies. CAP also advocates for those who receive services from Independent Living Centers (ILCs), the Division of Services for the Blind (DSB), and for those applying for or receiving services from Tribal VR offices. See the Rehabilitation Act of 1973, as amended, Title I, Part B, Sec. 112, 29 U.S.C. § 732.

Protection & Advocacy of Individual Rights (PAIR)

PAIR serves individuals with disabilities who do not qualify for the protection and advocacy services described above. It is not limited to individuals with a specific disability or facing a certain issue. See the Protection and Advocacy of Individual Rights Program of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794e.

Protection & Advocacy for Assistive Technology (PAAT)

PAAT serves individuals with disabilities with issues related to assistive technology devices and services. This includes investigating the denial of, and negotiating access to, assistive technology devices and services, as well as educational outreach efforts. See the Assistive Technology Act of 2004, 29 U.S.C. § 3004.

Protection & Advocacy for Beneficiaries of Social Security (PABSS)

PABSS serves individuals with disabilities who receive Social Security Disability Insurance (SSDI) or Supplementary Security Income (SSI) and who are trying to return to work, obtain employment, or receive certain employment-related training and services. PABSS educates beneficiaries about Social Security's work incentives, and provides vocational rehabilitation and employment services advice.

Additionally, PABSS assists beneficiaries with understanding their rights regarding representative payees. See the Ticket to Work and Work Incentives Improvement Act of 1999, as amended, 42 U.S.C. § 1320b-21.

Protection & Advocacy for Traumatic Brain Injury (PATBI)

PATBI serves individuals diagnosed with a traumatic brain injury (TBI). PATBI provides advocacy support to individuals with TBI and their families. See the Traumatic Brain Injury Act, authorized as part of the Children’s Health Act of 2000, 42 U.S.C. § 300d-53.

Protection & Advocacy for Voting Access (PAVA)

PAVA educates and assists individuals with disabilities so they may enjoy full participation in the electoral process. These efforts include ensuring physical accessibility of polling places and informing individuals about the rights of voters with disabilities. See the Protection and Advocacy for Voting Access program of the Help America Vote Act of 2002, 42 U.S.C. § 15461-15462.

CLIENTS

The United States Census Bureau’s 2016 American Community Survey indicates the 4th District’s total population is estimated to be 709,349, with a civilian, noninstitutionalized population of 696,842. Of that 696,842 total, 140,535 (20.2%) have a disability. In FY2017, DRA received 242 service requests from the 4th District, or an average of 20 service requests per month.

Clients by Age

While DRA assisted every age demographic in the district, the table below shows that 39% of service requests were for clients under the age of 20 and 17% of requests were for those ages 55 or older.

Age Group	Number of Individuals	Percentage
5 and Under	7	3%
6-9 Years	21	8.5%
10-14 Years	34	14%
15-19 Years	33	13.5%
20-24 Years	12	5%
25-34 Years	26	11%
35-44 Years	32	13%
45-54 Years	35	14%
55-59 Years	14	6%
60-64 Years	14	6%
65 or Older	12	5%
Unknown	2	1%

Clients by Underrepresented Groups

DRA seeks to provide services to underrepresented groups in our state. The following chart compares race and ethnicity demographics for the entire 4th Congressional District with that of DRA's clients in the 4th Congressional District.

Race	Estimate	As Percentage	DRA Clients	As Percentage
Total Population	709,349	---	---	---
One Race	697,358	98.3%	---	---
White	527,563	75%	151	62.4%
Black or African American	141,557	20%	82	34%
American Indian and Alaska Native	6,006	.8%	0	---
Asian	3,184	.4%	1	.4%
Native Hawaiian and Other Pacific Islander	501	.07%	0	---
Some other race	18,547	2.5%	0	---
Two or more races	11,991	1.7%	3	1.2%
Unknown			5	2%

SERVICE REQUESTS

DRA received 242 requests for services in FY2017 from residents of the 4th Congressional District. The charts below show the distribution of the requests by grant funding and by priority. The "none" category represents requests for services that did not fall into one of the established priority areas; requests that do not meet a priority are still provided assistance, but usually are provided with information and referral services rather than case-level advocacy.

Service Requests by Program

Program Funding Source	CAP	PAAT	PABSS	PADD	PAIMI	PAIR	PATBI	PAVA
Count of Service Requests	14	5	9	57	63	82	11	1

Priority Areas Covered by Service Requests

Priority Area	Count of Service Requests
Abuse, Neglect, and Exploitation	32
Community Integration and Access	70
Education	53
Employment	24
None	63

Service Requests in the 4th Congressional District have included issues with government benefits and services, housing, program access, and ADA issues, including architectural accessibility issues. Technical assistance was provided for clients wanting to return to work and clients wanting to leave institutions to live in the community. DRA has also monitored for abuse and neglect at facilities housing individuals with disabilities and continues to be one of the primary resources for parents and guardians dealing with special education issues. Whenever possible, DRA seeks to inform and educate clients so they may effectively self-advocate. In addition to empowering an individual to resolve issues for themselves, this serves to make the relationship between the client and the other party less adversarial than when a third party such as DRA intervenes, and also is a means by which DRA can serve more individuals with fewer resources.

Service Requests Specific to the 4th District

Example 1: A 15-year-old client was committed to the custody of the Arkansas Division of Youth Services (DYS) after the client repeatedly ran away from home and his mother was advised to file a Family in Need of Services (FINS) petition. After three and a half months, the client was moved to his fourth juvenile treatment center where, the judge reportedly assured his mother, he would receive needed mental health services. The client's mother contacted Disability Rights Arkansas (DRA) upon becoming aware her son was not receiving said services, which should have included mental health and family therapies as well as drug abuse treatment; the client was also receiving minimal educational services. A DRA attorney represented the client at two hearings before a Circuit Court juvenile judge, and the client was subsequently released from custody over the objections of DYS and is now living at home with his family. He attends school regularly, reports weekly to a probation officer, attends weekly mental health therapy sessions, and has been reevaluated by a psychiatrist for medication management.

Example 2: An individual who uses a wheelchair found the location of his local prosecuting attorney's office inaccessible due to the lack of any accessible parking spaces, and further discovered that a ramp leading to the front entrance was routinely blocked by a truck. DRA contacted the prosecutor to explain the accessibility issues, whereupon the prosecutor requested a copy of the ADA requirements for parking lots. The prosecutor then worked with a contractor to have the parking lot marked with accessible parking spaces (including van accessible parking), which effectively marked off the area the truck had been using that resulted in the ramp being blocked.

Example 3: An individual residing in a small Intermediate Care Facility for Individuals with Intellectually Disabilities (ICF/IID) was threatened with discharge after exhibiting PICA behaviors on a second occasion, the first occasion having occurred in 2002. The ICF/IID claimed the PICA behaviors were a health and safety issue, and that they would not be able to guarantee his health and safety; they recommended the client be moved to one of the state's five Human Development Centers (HDCs). DRA provided the client with an attorney to represent him in an appeal hearing; the Office of Long Term Care ultimately determined the ICF/IID had not met the burden of proof required for refusing to serve him due to health and safety concerns, and the client was allowed to remain in this lesser restrictive setting, which had been his home for over 20 years.

Example 4: A veteran who had sustained a traumatic brain injury requested DRA's assistance with addressing an incident where the veteran was informed by the staff of a restaurant he was patronizing that he would have to remove his sunglasses to be served. The restaurant had a policy that banned sunglasses in their establishments, and they were unwilling to accommodate the veteran, who wore sunglasses because of vision issues associated with his brain injury. DRA contacted the corporate office

of this restaurant chain, and was advised this was a one-time occurrence and that the restaurant staff involved have been trained on the proper way to interact with individuals with disabilities in these types of circumstances. They also sent the client a gift card by way of apology. The client still wished to address the incident further, and so he subsequently secured private counsel to pursue legal action against the establishment.

Example 5: An individual with a traumatic brain injury requested assistance from DRA in appealing a determination that the client was ineligible for services through the Division of Developmental Disabilities Services' (DDS) Alternative Community Services (ACS) Waiver. A DRA attorney drafted the request for an administrative review of the decision and, following an in-person interview with the client and with his grandmother by a DDS psychologist, the client was deemed eligible for services.

PROJECTS

Systemic Issues

Arkansas lacks any binding regulation or law on the use of restraint against students with disabilities in the public schools. Although the Arkansas Department of Education issued "guidance" on the use of restraint, the guidance is not binding or mandatory. Many school districts in the state are either unaware of the guidance or refuse to follow the guidance. Thus, students with disabilities continue to be subjected to and at risk of the unsafe, excessive and inappropriate use of restraint at school. This impacts many students with developmental disabilities, particularly those with Autism Spectrum Disorder and other disabilities with behavioral and communication challenges. To address this problem on a systemic level, DRA wrote and published a White Paper to educate the public and advocate for the adoption of binding standards and law related to the use of restraint on students with disabilities in the public school setting. The White Paper was disseminated publicly at the time of its release and continues to be distributed. DRA also met with stakeholders who might be interested in assisting with the development and adoption of the needed binding regulation and law. The release of the White Paper revealed the ongoing need for further education and advocacy around the issue of restraint, reflected in part by some of the public reaction and comments to the White Paper and what is perceived by some in the public as a need to restrain and use corporal punishment for students who have atypical behaviors. The Arkansas Department of Education claims that it is "powerless" to promulgate any regulations, although it had previously done so with respect to time out regulations. DRA intends to use the White Paper as a vehicle to assist in training and raising public awareness and systemic advocacy to obtain the needed enforceable regulations and law.

DRA has continued to monitor and provide public comment on proposed rule changes that impact the education of students with disabilities throughout the state. DRA provided comment on the state's proposed Every Student Succeeds Act (ESSA) plan on two separate occasions and encouraged ADE to review the proposed plan to better reflect the needs of students with disabilities. In addition, DRA attorneys participated in three task forces that ADE organized to address issues of students with disabilities, including a task force charged with reducing the special education paperwork used by school districts across the state and developing a manual to better explain the process to parents. DRA also participated on a task force to address the education needs of students with disabilities in various correctional settings across the State, and a task force meant to reform the dispute resolution process for students with disabilities. At the meetings, needed reforms were identified, including state regulations that differ from federal requirements, process-related discrepancies, and an overall lack of

understanding of due process by both stakeholders and parents. Despite identification of these issues, DRA has not seen any meaningful changes to the process. ADE disbanded this task force without resolution, but did retain an expert to address needed changes to state regulations. DRA will continue to monitor these issues and their impact on students with disabilities. DRA also participated in a Youth Justice Reform Board comprised of judges, DYS staff, and other stakeholders to address the overuse of the juvenile justice system for youth, including those with disabilities, across the state. The board identified a number of issues, and has subsequently joined another group that was also tackling juvenile justice reform. This reconstituted board will continue to meet in 2018, and DRA will continue to participate on this board and advocate for needed changes to the juvenile justice system.

Arkansas has large and small congregate institutional settings for individuals with developmental disabilities, including five state-owned and operated Human Development Centers (HDCs) and approximately 35 private Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IIDs). DRA engaged in a multi-pronged approach throughout the fiscal year targeted at ensuring that residents in these institutions were living in healthy and safe conditions, free from abuse and neglect. The HDCs, which are located across the state, serve approximately 958 individuals who have been admitted either by family members or by the State. Many of these individuals have lived in institutional settings for years, and many have significant deficits in communication. DRA developed a regular monitoring schedule for the HDCs to ensure consistent monitoring throughout the year; however, DRA identified two of the HDCs, both located in the 4th District, as needing enhanced monitoring due to DRA's knowledge of problems at the facilities related to the use of restraint, shortages of staff and a lack of qualified leadership at the institution. DRA monitored these institutions, interviewed residents and staff, and followed up on concerns identified during monitoring with the institution's management staff and with the director of the state's Division of Developmental Disabilities Services (DDS). Among issues that have been and are being addressed are staff shortages, the need for updated restraint policy, improved psychological services, a better standard of living, access to habilitation services, availability of employment opportunities, transition services, and guardianship issues. One of the two facilities was previously the subject of a report about excessive restraint issued by DRA; while the number of restraints has decreased considerably, DRA continues with enhanced monitoring of this facility to ensure the number of restraints does not creep back up. DRA has also continued to address concerns with DDS regarding the outdated psychological and behavioral interventions favored by long-term staff at this same facility. While multiple barriers exist in addressing these issues, including the remote location of the two institutions under an enhanced monitoring schedule, DRA prioritizes this work to protect these institutionalized residents. DRA also responded to complaints by residents, and addressed these with institution staff.

DRA engaged in systemic advocacy to address ongoing problems and rights violations in the state-operated juvenile justice system. Although many of the youth in those facilities have serious mental illness, some have co-occurring developmental disabilities. DRA monitored the secure juvenile treatment facilities, met with officials from the State's Division of Youth Services (DYS), engaged other stakeholders, and engaged the media to heighten awareness of problems with the services and treatment provided in the facilities. These problems included a lack of treatment and education services at the facility, as well as upon discharge to the community. The State made some changes to the system, and has represented that it would retain an expert to review its system, improve educational services, and otherwise provide services that will support meaningful transition to the community.

DRA conducted extensive monitoring of settings in which persons with mental illness reside, were placed and/or were committed, including the Arkansas State Hospital (ASH), Psychiatric Residential

Treatment Facilities (PRTFs), Juvenile Detention Centers (JDCs), Secure Juvenile Treatment Facilities (SJTFs), Residential Care Facilities (RCFs), and Human Development Centers (HDCs). This monitoring was critical during a time when the Arkansas Department of Human Services (DHS) is undergoing reorganization and there is confusion and a lack of robust oversight by the state. DRA's presence through monitoring and its interactions with clients and facility staff had a positive impact and provided a necessary safeguard/protection against abuse and neglect. DRA followed up with DHS anytime there were concerns in the facilities and with the state's oversight. Over the course of the fiscal year, DRA staff monitored all of the PRTFs in the state, as well as routinely reviewing serious incident reports provided by these facilities, which enabled DRA staff to gain information about practices in these facilities. When a serious incident report raised concerns, DRA would follow up with the facility and with an onsite visit if necessary. Through monitoring, DRA was able to identify concerns with the overmedication of youth in one of these facilities. DRA continues to monitor PRTFs and gather information to develop a systemic strategy to address these concerns.

Throughout the last two years, DRA has engaged in monitoring and data collection at sheltered workshops and DDTCS programs that have a pre-vocational component across the state. DRA monitored these programs to not only ensure the absence of abuse, neglect, and exploitation, but also to ensure that individuals are given meaningful opportunities to obtain competitive, integrated employment. This process began with data collection to better understand the breadth of sheltered workshops in our state, and the effect on our state's disability population, then progressed to collaborating with Arkansas Rehabilitation Services (ARS) to provide guidance to sheltered workshops and DDTCS programs regarding their obligations and restrictions under the new Section 511 regulations. Finally, the sheltered workshops were monitored again to ensure that ARS was fulfilling its obligations under Section 511, and to assist individuals who did not have a relationship with ARS. DRA just released a report of our findings regarding sheltered workshops and DDTCS programs with pre-vocational components in our state, and will include recommendations for future steps the state must take to achieve a more inclusive employment community for individuals with disabilities.

DRA met with Arkansas Rehabilitation Services (ARS) to address a number of topics; chief among them the revision of ARS's policy manual, which requires administrative rule-making. DRA was permitted access to ARS's proposed rules and regulations prior to them being published for public comment, resulting in DRA pointing to a number of problems with the proposed regulations that would require revision to bring the policies into compliance with federal law and regulations. This prevented state rule-making that could have had a detrimental impact on persons with disabilities who could benefit from vocational rehabilitation services.

Coalition Building

DRA is a part of the Developmental Disabilities Network, along with Partners for Inclusive Communities (Partners) and the Developmental Disabilities Council (DDC). DRA also partners with other groups, including the Arkansas Waiver Association (AWA), AARP, the Arkansas Autism Resource and Outreach Center (AAROC) and Arkansas Advocates for Nursing Home Residents (AANHR) to discuss issues impacting the disability community in Arkansas and how we can collaborate to address those issues. DRA works with the Mental Health Consumer Advisory Councils in each district to empower consumers and promote self-determination.

Veterans' Issues

As in 2016, DRA hosted an annual conference in 2017 for brain injury survivors under our PATBI grant. The purpose of the conference is to build a strong self-advocacy and support system in the TBI community. DRA also spearheaded a successful effort for Governor Asa Hutchinson to declare March 2017 Brain Injury Awareness month. An average of almost 21,000 service members annually have been diagnosed with traumatic brain injury since 2000, resulting in traumatic brain injury often being referred to as the signature wound of the Iraq and Afghanistan wars.

We hope this report has been beneficial in providing an overview of our programs and services. Please don't hesitate to reach out to us if we can answer any questions or provide you with further information about our work.

Contact information:

Tom Masseau, Executive Director
Disability Rights Arkansas, Inc.
400 West Capitol Avenue, Suite 1200
Little Rock, Arkansas 72201-3455
tmasseau@disabilityrightsar.org
501.296.1775
800.482.1174 Toll Free
501.296.1779 Fax
www.DisabilityRightsAR.org