

# **DisabilityRights**



## **ARKANSAS**

Protection and Advocacy and Client Assistance Program  
Services in the 3<sup>rd</sup> Congressional District  
Fiscal Year 2018

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## 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 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. PABBS 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 2017 American Community Survey indicates the 3<sup>rd</sup> District’s total population is estimated to be 807,421, with a civilian, noninstitutionalized population of 800,417. Of that 800,417 total, 108,392 (13.5%) have a disability. In FY2018 (October 1, 2017-September 30, 2018), DRA received 163 service requests from the 3rd District, or an average of 13.6 service requests per month.

**Clients by Age**

While DRA assisted every age demographic in the district, the table below shows that 37% of service requests were for clients under the age of 20 and 21% of requests were for those ages 55 or older.

Age Group	Number of Service Requests	Percentage
Unknown	1	0.6%
4 and Under	3	1.8%
5-9 Years	11	6.7%
10-14 Years	20	12.3%
15-19 Years	25	15.3%
20-24 Years	7	4.3%
25-34 Years	20	12.3%

<b>35-44 Years</b>	22	13.5%
<b>45-54 Years</b>	20	12.3%
<b>55-59 Years</b>	14	8.6%
<b>60-64 Years</b>	9	5.5%
<b>65 or Older</b>	11	6.7%

### 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 3<sup>rd</sup> Congressional District with that of DRA's requests for services in the 3<sup>rd</sup> Congressional District.

Race	Estimate	As Percentage	DRA SR's	As Percentage
<b>Total Population</b>	807,421	---	163	---
<b>One Race</b>	779,992	96.6%	---	---
<b>White</b>	669,282	82.9%	139	85.3%
<b>Black or African American</b>	23,473	2.9%	14	8.6%
<b>American Indian and Alaska Native</b>	9,121	1.1%	---	---
<b>Asian</b>	24,944	3.1%	---	---
<b>Native Hawaiian/Other Pacific Islander</b>	6,499	0.8%	---	---
<b>Unknown or Some other race</b>	46,673	5.8%	8	4.9%
<b>Two or more races</b>	27,429	3.4%	2	1.2%

### SERVICE REQUESTS

DRA received 163 requests for services in FY2018 from residents of the 3<sup>rd</sup> 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 will be 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
<b>Count of Service Requests</b>	4	2	6	50	28	71	2	0

## Priority Areas Covered by Service Requests

Priority Area	Count of Service Requests
Abuse, Neglect, and Exploitation	17
Community Integration	27
Access	29
Education	34
Employment	17
None	39

Service Requests in the 3<sup>rd</sup> Congressional District reflect the most common problem area by far to be community integration, access, and education. Within the community integration and access priorities, the most common issues for clients involved: housing, government benefits and services, architectural accessibility, and healthcare. Information and assistance is provided to clients wanting to return to work and clients wanting to leave institutional settings to live in the community. DRA monitors for abuse and neglect at facilities housing individuals with disabilities, and continues to be a primary resource for parents/guardians requesting assistance 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 3<sup>rd</sup> District

**Example 1:** An adolescent with a diagnosis of autism spectrum disorder (ASD) had a history of running away. During one of his attempts to run away, he was restrained by police and taken to the local juvenile detention center (JDC). While at the JDC, he was physically restrained. He was charged with several offenses, including resisting arrest and several assault charges that stemmed from his resistance to being physical restrained. The family had concerns regarding how the adolescent was handled by both law enforcement and the staff at the JDC. When the adolescent left the JDC, he had a black eye and had been to the emergency room. A DRA attorney investigated and found that the staff at JDC would benefit from training on how to better interact with individuals with ASD. The DRA attorney communicated these concerns, as well as concerns regarding the lack of communication with the family by the JDC, to the director of the JDC. The director was receptive to the concerns and took the DRA attorney up on her suggestion to contact the Arkansas Autism Resource and Outreach Center (AAROC) for training for her staff. The DRA attorney also reached out to the captain of the police department with her concerns and provided information regarding AAROC trainings. All charges against the client were subsequently dropped.

**Example 2:** An individual contacted DRA to request assistance with a denial by a doctor's office to allow the client to be accompanied to an exam room by his service animal. DRA contacted the doctor's office, spoke with the office manager, and provided them with information from the U. S. Department of Justice about service animals. The doctor's office subsequently agreed to allow the client to be accompanied to exam rooms by his service animal.

**Example 3:** A client diagnosed with bipolar disorder who had been stable for many years came to Arkansas to be near family as she weaned off of a medication, a process that was recommended by her psychiatrist. The client subsequently ended up in a psychiatric hospital for acute care. Her brother filed for temporary guardianship and then had her placed in a residential care facility (RCF). She also began attending a partial hospitalization program (PHP) five days a week. Although the client regained her capacities, her brother continued to pursue permanent guardianship. A DRA attorney met with the client, as well as staff at the PHP and the RCF. The attorney obtained an evaluation from the treating psychiatrist at the PHP supporting the client's capacity and denying that she was in need of any decision-making assistance. The DRA attorney also issued subpoenas for RCF and PHP staff who supported the treating psychiatrist's contention that the client was not in need of a guardian. Prior to the hearing date, the client's brother agreed to a joint motion to terminate temporary guardianship, and to dismiss his petition for permanent guardianship.

**Example 4:** An individual with intellectual disabilities was the subject of a contested guardianship proceeding. The guardianship dispute was between her long-time caregiver who wanted the client integrated into the community, including remaining in school to obtain transition services, and her biological father, who wanted to withdraw her from school and have her stay at home full-time. Under Arkansas law, although persons subjected to guardianship have a right to counsel, there is no funding mechanism or law that actually provides counsel, or even attorney ad litem representation. A DRA attorney entered an appearance representing the client in an attorney ad litem capacity, to ensure she had representation in the guardianship proceeding, and to advocate for her to be able to complete her education. Although the biological father was appointed guardian, DRA was able to ensure protections were added to the guardianship order requiring the father to continue the client's education in school, continue her access to community-based services and opportunities, and ensure she receives evaluations for assistive technology that might assist her with communication.

## PROJECTS

### **Systemic Issues**

DRA participated in the State's Youth Reform Board, which has advocated for legislative changes that promote more community-based services in lieu of secure residential treatment. This board played an important role in initiating systemic change to address problems related to the confinement and treatment of youth in the state's juvenile justice system, a number of whom have mental illness or serious emotional disorders. DRA met regularly with the state

Division of Youth Services (DYS) officials, collaborated with the juvenile public defender ombudsman, monitored secure juvenile treatment facilities, and sought correction by DYS of problematic conditions related to facilities and treatment. The collective efforts of DRA and other stakeholders led to the State bringing in several national experts to assess treatment facilities and policies and making recommendations for change that included closing at least two of the secure facilities with demonstrated records of problematic conditions.

DRA continued to participate in a task force created to address the need for reform of the juvenile justice system in Arkansas. DRA was particularly interested in the task force addressing the following: living conditions in several facilities, a lack of adequate treatment, including mental health and educational services, abuse and neglect that occur in these facilities, and the school-to-prison pipeline. Several member organizations, including DRA, Arkansas Advocates for Children and Families, and the Division of Youth Services, collaborated to strategize and present a united front on these major issues. This collaboration is continuing into FY2019.

DRA has been reviewing the issues with the Provider-Led Arkansas Shared Savings Entity (PASSE), both current and prospective. PASSE is the new service delivery system for people who receive ID/DD and behavioral health services in the state, and is a managed care system. Currently, DRA is accepting cases for individuals who disagree with their tier assignment resulting from the Arkansas Independent Assessment (ARIA). So far, DRA has handled seven cases for individuals who dispute whether the ARIA correctly assigned them to Tier 2. In doing so, DRA was able to obtain all of the scoring logic and algorithms necessary to validate the individuals' responses. In every case, DRA found that the ARIA questions were either incorrectly explained to the respondents or the respondents' responses were incorrectly recorded. In every case, DRA concluded that the individuals evaluated by the ARIA should have been assigned to Tier 3. Two of the seven cases are still pending, but in the five other cases, the individuals have been voluntarily reassessed and, with a better understanding of the questions, have been re-determined as requiring a Tier 3 assignment. DRA anticipates the remaining cases will be no different.

Following two years of monitoring and information gathering, DRA published a report entitled, "Sheltered Workshops in Arkansas: Moving from Segregated Work to Integrated Employment" in March 2018. This report summarized the findings of the agency's sheltered workshop monitoring efforts and provided recommendations for increasing competitive, integrated employment in Arkansas. DRA presented the report at the state Association of People Supporting Employment First (APSE) conference and discussed issues raised in the report with policy makers and others.

With assistance from the Employment First State Leadership Mentoring Program (EFSLMP), a project of the U.S. Department of Labor's Office of Disability Employment Policy, Arkansas is developing a strategic plan aimed at moving the state toward more robust employment first practices. DRA participated in the initial planning meetings, which have discussed priorities for the strategic plan, to include: emphasizing the development of potential employers,

transitioning students from high school to adult services, and addressing funding issues. The EFSLMP group will reconvene throughout 2019.

DRA staff conducted accessibility surveys at 1,110, or 90%, of the polling sites in Arkansas. The results of these surveys were collected and letters were sent to county clerks and county election commissioners to notify them of any deficiencies. The information gathered was also used to prepare a public report about the issue, which was released in early FY2019.

### **Coalition Building**

DRA is a part of the Developmental Disabilities Network, along with Partners for Inclusive Communities (Partners) and the Governor's Council on Developmental Disabilities (GCDD), which continues to collaborate on issues impacting the developmental disabilities community in Arkansas. One such collaborative effort resulted in the Self-Advocacy Network Development (SAND) initiative. A self-advocate coordinator was hired for this initiative, with a goal to develop a strong self-advocacy network in Arkansas. DRA also partners with other groups, including the Arkansas Waiver Association (AWA) and the Arkansas Autism Resource and Outreach Center (AAROC) to discuss issues impacting the disability community in Arkansas and how like-minded agencies can collaborate to address those issues.

### **Veterans' Issues**

DRA continues to be a primary sponsor of an annual conference for brain injury survivors under the PATBI grant, in collaboration with post-acute TBI rehabilitation programs and the Arkansas Trauma Rehabilitation Program (ATRP). This conference is designed specifically for people who have sustained brain injuries, their family members, and their caregivers, and focuses on various aspects of healing and recovery. The purpose of the conference is to build a strong self-advocacy and support system within the TBI community. While few of the conference attendees are veterans, the conference sponsors continue to look for ways to reach out to veterans and let them know about both this conference and monthly TBI support group meetings held around the state.

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.

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