

# **DisabilityRights**



## **ARKANSAS**

Protection and Advocacy and Client Assistance Program  
Services in the 4th 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 (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 2017 American Community Survey indicates the 4<sup>th</sup> District’s total population is estimated to be 709,378, with a civilian, noninstitutionalized population of 695,659. Of that 695,659 total, 144,822 (20.8%) have a disability. In FY2018 (October 1, 2017-September 30, 2018), DRA received 231 service requests from the 4<sup>th</sup> District, or an average of 19 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 16.4% of requests were for those ages 55 or older.

<b>Age Group</b>	<b>Number of Service Requests</b>	<b>Percentage</b>
<b>4 and Under</b>	1	0.4%
<b>5-9 Years</b>	19	8.2%
<b>10-14 Years</b>	42	18.2%
<b>15-19 Years</b>	28	12.1%
<b>20-24 Years</b>	15	6.5%
<b>25-34 Years</b>	17	7.4%
<b>35-44 Years</b>	35	15.2%
<b>45-54 Years</b>	34	14.7%
<b>55-59 Years</b>	16	6.9%
<b>60-64 Years</b>	9	3.9%
<b>65 or Older</b>	13	5.6%
<b>Unknown</b>	2	0.9%

## 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 requests for services in the 4th Congressional District.

Race	Estimate	As Percentage	DRA SR's	As Percentage
<b>Total Population</b>	709,378	---	---	---
<b>One Race</b>	696,202	98.1%	---	---
<b>White</b>	525,582	74.1%	159	68.8%
<b>Black or African American</b>	135,651	19.1%	63	27.3%
<b>American Indian and Alaska Native</b>	5,672	0.8%	0	---
<b>Asian</b>	5,115	0.7%	0	---
<b>Native Hawaiian and Other Pacific Islander</b>	1,400	0.2%	0	---
<b>Unknown or Some other race</b>	22,782	3.2%	5	2.2%
<b>Two or more races</b>	13,176	1.9%	4	1.7%

## SERVICE REQUESTS

DRA received 231 requests for services in FY2018 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
<b>Count of Service Requests</b>	17	9	6	64	41	85	6	3

### Priority Areas Covered by Service Requests

Priority Area	Count of Service Requests
<b>Abuse, Neglect, and Exploitation</b>	22
<b>Community Integration</b>	32
<b>Access</b>	33
<b>Education</b>	57
<b>Employment</b>	22
<b>None</b>	65

Service Requests in the 4<sup>th</sup> Congressional District reflect the most common problem areas to be education, accessibility (including housing issues, program access, and ADA issues), and community integration (receiving services integral to living in a community setting, rather than a long term care

facility). Technical assistance was provided for clients wanting to return to work and clients wanting to leave institutions to live in the community. DRA also monitors 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 4<sup>th</sup> District**

**Example 1:** A young man diagnosed with bipolar disorder was being held at a juvenile correctional facility. He had served his time and completed treatment in October 2017, but was still being held in the facility when he contacted Disability Rights Arkansas (DRA) for assistance with getting released. When a DRA advocate investigated his complaint, they found that the Division of Youth Services (DYS) was not completing the proper paperwork to secure the court date the client needed to go through the process to be officially released. DRA intervened and worked with the client's public defender, who in turn worked with the prosecutor to finally obtain a court date. The client was subsequently released, eight months after he became eligible for release.

**Example 2:** A young woman was taken to a private psychiatric hospital for evaluation. Her family was assured that they could decide if the private hospital was a good fit for the teen. After touring the acute adolescent unit, the family decided that the hospital was not a good fit; however, the hospital placed the teen on a 72-hour hold and threatened to call the Department of Human Services (DHS) for medical neglect if the family did not leave. A DRA attorney met with hospital administrators the next morning, and the hospital released the 72-hour hold, discharging the teenager to the care of her parents. The attorney sent a follow-up formal complaint to the hospital regarding the misuse of the 72-hour hold and the dishonesty of the hospital staff during the assessment process. In response to the complaint, the hospital conducted an internal investigation and subsequently provided training to staff about the appropriate implementation of 72-hour holds.

**Example 3:** A woman who is deaf, and whose primary language is American Sign Language, was denied effective communication with police officers at the scene of an accident in which she was involved. The client attempted to communicate with a police officer on the scene through an app on her smart phone and by written notes. The police officer refused to communicate with the client. The client was issued a ticket and her car was towed; she was not informed of the location of her car. The client requested DRA's assistance, and a DRA attorney submitted a formal complaint to the chief of police. As a result, the police department conducted an internal investigation and made the decision to void the client's ticket. The police department also provided education to the police force by sending out the U. S. Department of Justice (DOJ) Guidance for Law Enforcement provided by DRA with the complaint letter.

**Example 4:** An individual with chronic obstructive pulmonary disease, rheumatoid arthritis, and chronic pain requires attendant care to perform nearly all of her activities of daily living. She receives services through the Arkansas Department of Human Services (DHS) Division of Aging and Adult Services (DAAS) home- and community-based waiver program (known as AR Choices). For several years under the

program, she received 182 hours of attendant care per month, the maximum number of hours allowable. In FY2018, DAAS adopted a new program to assess individuals based on the level of assistance they require or treatments they receive. The client's attendant care hours were reduced to 112 hours of attendant care per month under the new assessment. The client requested DRA's assistance with this adverse action. A DRA attorney appealed DAAS's decision to reduce the client's attendant care hours, immediately pointing out the agency's error in the assessment. The agency disagreed that the error in the assessment would change the outcome of the assessment, and the case went to a hearing. As a result of the hearing, the hearing officer noted the error in the assessment, and DAAS promptly withdrew the adverse action, allowing the client to remain at her pre-assessment level of attendant care hours.

**Example 5:** An elderly individual with physical disabilities lives in a condominium located on the third floor, and uses an elevator to enter and exit her condo. Recently, the elevator required maintenance and the new management company informed her that she would be responsible for all current and future repairs to this specific elevator. The client advised the management company that her deed stated the management company would be responsible for all common elements, including all elevators. The management company advised that because the elevator accessed only her condo, it was not a common element; therefore, she would be responsible for repairs. The client requested DRA's assistance, and after a DRA advocate and attorney reviewed the deed, the advocate contacted the management company and questioned why the statement "common elements, including all elevators" was being interpreted to exclude the client's elevator. After a call with the management company representative, the client contacted DRA and advised that the management company representative stated they would be responsible for repairs to the elevator, based on the language in the deed.

**Example 6:** An individual with a diagnosis of schizophrenia voluntarily placed himself on the Arkansas sex offender registry, mistakenly believing he was required to register; however, the law did not require the client to register. After placing himself on the registry, the client was convicted of the felony of failure to register, for which he spent time in jail. Years later, he was acquitted by reason of mental disease or defect on another count of failure to register, and served a five-year conditional order of release in a facility. The client was subsequently unable to obtain public housing due to his placement on the registry. A DRA attorney filed a petition in circuit court to remove the client from the registry. After the hearing, a judge granted the petition and the client was removed from the registry. The client is currently out of the facility and is living in the community.

**Example 7:** A client from the 4th district who uses a wheelchair requested DRA's assistance after visiting a dinner playhouse in Little Rock and finding it inaccessible. The establishment was built in 1967, and although some renovations have been made to address Americans with Disabilities Act (ADA) non-compliance issues, the playhouse is not fully compliant with ADA standards. As an example, a temporary ramp is placed over the stairs to get patrons who use wheelchairs into the dining area. The ramp is then pulled up during the shows. During the client's visit, the ramp was not set back down after the show and she had to be wheeled backwards down the stairs to exit the building. She also was not able to get her own food from the buffet, which is located on a lower level. A DRA attorney met with the owner of the establishment, toured the building, and conducted an access survey. The attorney followed up with a letter citing the lack of compliance with ADA standards. The owner responded by meeting with builders to assess installing a permanent ramp inside the building. It was determined that there was not room to add a ramp that would meet the 12:1 ADA requirement without creating a hazard. The owner subsequently made plans to add a ramp and additional accessible parking spaces by a door on the side

of the building that leads directly into the dining area. He plans to allow patrons who use wheelchairs to choose which entrance they are most comfortable using. He assured DRA's attorney that his staff is trained to assist those using wheelchairs and to make sure they get to go through the buffet line first. Additionally, staff is to put the temporary ramp back down for those using wheelchairs as requested.

## 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 to make recommendations for change that included, among other things, 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 the first quarter of 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 contact us if we can answer any questions or provide you with further information.

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