



# PROTOCOL FOR LAW ENFORCEMENT

Responding to Victims with Disabilities and Older Adults Who Experience Sexual Assault, Domestic Violence, Abuse, Neglect or Exploitation



**PROTOCOL FOR LAW ENFORCEMENT:  
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Exploitation**

Produced by:  
Illinois Family Violence Coordinating Council  
at the  
Illinois Criminal Justice Information Authority

This project was supported by Grant No.2014-WE-AX-0025 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication are those of the authors and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

# **PROTOCOL FOR LAW ENFORCEMENT: Responding to Victims with Disabilities and Older Adults who Experience Sexual Assault, Domestic Violence, Abuse, Neglect or Exploitation**

## **Background**

Family Violence Coordinating Councils, at both the state and local/circuit levels, provide a forum to improve the institutional, professional and community response to family violence including child abuse, domestic abuse, and elder abuse. Councils provide professional education and prevention; coordinate interventions and services for victims and perpetrators; and contribute to both the improvement of the legal system and the administration of justice.

In February 2006, in partnership with the Illinois Department on Aging (IDoA), the Illinois Family Violence Coordinating Councils (IFVCC) convened a statewide Responding to Elder Abuse Committee. Protocols for law enforcement, prosecutors, and judges were among the resources developed by this committee.

According to the Illinois Department on Aging's 2016 Annual Report, thousands of reports of abuse, neglect, and financial exploitation of older adults which, in Illinois, is defined as 60 or older, and people with disabilities are received annually. The report shows the majority of reports were for financial exploitation, (8,290), followed by emotional abuse (6,435); passive neglect (6,195); physical abuse (3,595); willful deprivation (2,140); confinement (1,273), and sexual abuse (764). The committee was designed to address these issues by identifying and developing resources to assist the courts, criminal justice systems and communities in responding to the needs of abused older adults.

In 2010, the Illinois Family Violence Coordinating Council (IFVCC) formed a committee to address violence in the lives of people with disabilities which, according to the Americans with Disabilities Act, is defined as; a physical or mental impairment that substantially limits one or more major life activities. According to the U. S. Bureau of Justice Statistics, people with disabilities experience violence twice as often as people without disabilities. Other studies indicate that people with disabilities are three to ten times more likely to experience violence than people without disabilities. Despite the prevalence of violence in the lives of people with disabilities, there is a glaring lack of reports and a general lack of services for the victim. For these reasons, the Responding to Victims with Disabilities Committee determined the need for protocols for law enforcement and for prosecutors.

In 2011, the Illinois Family Violence Coordinating Council received a U.S. Department of Justice Office on Violence Against Women Arrest grant. The focus of the grant was development of an Integrated Protocol Initiative. The scope of the initiative included updating the domestic violence and elder abuse protocols for law enforcement and prosecutors and to create protocols to address violence against people with disabilities. Upon completion of the protocols, in 2013, IFVCC and its partners conducted training of

trainers across the state to facilitate local implementation. As a part of the statewide roll-out, the protocols for responding to violence against people with disabilities and older adults were jointly trained. Based upon this experience, it was determined that, though there are differences between older adults and people with disabilities, there are enough similarities in victimology and support requirements between the two populations that merging the protocols will allow a more cohesive response and provide ease of use for law enforcement and prosecutors.

In 2016, in preparation for the merger of the protocols, almost 80 interviews were conducted with law enforcement, people with disabilities, and older adults. Information obtained from law enforcement officers includes the need for more training for working with people with disabilities. The greatest challenge noted by officers is the lack of resources or lack of knowledge about resources. Additionally, spending time with people with disabilities, particularly family members, was suggested as the most helpful experience to increase comfort with people with disabilities.

Interviews with older adults and people with disabilities highlighting their experiences in working with police and their advice for a better response for law enforcement is included in this guide. Information from older adults and people with disabilities indicate a more positive interaction with police when officers take time to respectfully engage and understand how a person communicates. Finally, feedback obtained through the interviews, as well as the insights gained from communicating with local council training teams and previous implementation, form the basis for the new protocols.

### **Tips and Tools**

Older adults and people with disabilities have provided valuable feedback for law enforcement. You can find this feedback on pages 64 & 65 in the appendices.

## **Acknowledgements**

**The Illinois Family Violence Coordinating Council would like to thank the members of the Responding to Victims with Disabilities Committee as well as all of the self-advocates, older adults, and members of law enforcement who gave their time to provide information to improve these protocols.**

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**The IFVCC would like to thank the following people who worked on the original protocols, revisions and training teams:**

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Chris Bolinger, Detective, Retired,

Vernie Breuhler, Director, Illinois Family Violence Coordinating Council, Retired

Linda Bookwalter, Executive Director, Stopping Women Abuse Now (SWAN)

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Development Corp.  
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# **PROTOCOL FOR LAW ENFORCEMENT: Responding to Victims with Disabilities and Older Adults who Experience Sexual Assault, Domestic Violence, Abuse, Neglect or Exploitation**

## **An important note about words and respect**

Respectful language is an integral part of connecting with people with disabilities and older adults, because many times they have experienced negative judgement by others due to their disability or age. The dictionary defines ableism as “discrimination or prejudice against people with disabilities” and the definition of ageism is almost identical: “discrimination of a person of a certain age group. This protocol is written with those experiences in mind. People First Language is used to denote that the person is more important than the diagnosis or label. For example, “a person who uses a wheelchair” or “a woman with cerebral palsy” is preferred over “a wheelchair user” or “the cerebral palsied woman.” It is also important to note the words we use to indicate that a person *has* a disability, rather than the person *is* a disability. For example, “She has an intellectual disability” is preferred over “She is intellectually disabled.” Wherever possible in this protocol, the term “older adult” is used. Older adult mirrors the term “younger adult” and both terms refer to the lifespan of a person rather than being considered a label.

Labels and words not considered respectful include: handicapped, mentally retarded, nuts, wacko, crippled, palsied, ‘the disabled’, geezer, biddy, pops, gramps, or any other slang terms. In order to show respect and establish rapport with victims who have disabilities or are older adults, these are important considerations to keep in mind. Furthermore, this approach yields better information and supports informed response and investigation. For more information, see the handout on People First Language on page 51. Handouts can be used for educational and training purposes, ideas for use include posting it in the breakroom or using it during roll call.

<p><b>“Talk to me, NOT whoever I am with. I did not get old by being stupid!” -Older adult in Illinois</b></p>
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Note: Preferred language will be used throughout the protocols except when citing criminal code or Illinois statutes where other language is dictated.

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# INTRODUCTION

**“I did not grow up with a disability, but, I have one now. I want help with my groceries. I want help with keeping my house clean. I don’t get offended when people offer help.”**  
**- Older Adult from Illinois**

## Needs Statement

One in five persons will have a disability in their lifetime.<sup>1</sup> Some people are born with disabilities, some acquire disabilities during their childhood years, and others experience disabilities related to accidents, disease, or aging. For many people, having a disability is a natural part of life. There are many different kinds of disabilities. Some disabilities are easy to see and some disabilities are not visible. Some disabilities affect the body; some affect the ability to learn and reason; some affect emotions and thoughts. As people live longer, they also face more problems with chronic illness and disabilities. It is a fact that people with disabilities experience domestic and sexual violence more often than people without disabilities. It is also known that victims with disabilities rarely access victim services and most of the time, their offenders are not held accountable in the criminal justice system.

Similarly, statistics gathered by the National Center on Elder Abuse, show that each year between 1 and 2 million Americans aged 65 and older have been injured, exploited, or otherwise mistreated by someone on whom they depended for care or protection. One in four older adults live alone and are among the most at risk and impoverished groups in Illinois. It is estimated that for each case of elder abuse, neglect, exploitation, or self-neglect reported to authorities, about five more go unreported.<sup>2</sup>

People with disabilities and older adults want a compassionate response to their experience, just like other victims. People with disabilities and older adults who experience sexual and/or domestic violence, abuse neglect or exploitation, deserve justice as much as other victims. Sometimes incorrect assumptions and attitudes are a barrier to equal justice and sometimes lack of information and skills is the barrier. When these barriers are addressed, people with disabilities and older adults can have equal access to the criminal justice system and offenders can be held accountable.

Some people with disabilities or older adults will need accommodations to participate fully in the criminal justice system. An accommodation can be as simple as using plain language or giving someone extra time to answer a question. Accommodations are individualized for the specific person and allow the person to access a facility, service, or activity that is available to others in the general public. There are community resources which can assist first responders, investigators and prosecutors in obtaining needed accommodations. See appendix, National, State and Local Community Resources starting on page 235.

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<sup>1</sup> Centers for Disease Control, <https://www.cdc.gov/media/releases/2015/p0730-us-disability.html>

<sup>2</sup> National Center on Elder Abuse, <https://ncea.acl.gov/whatwedo/research/statistics.html>

## Purpose of Protocol

The purpose of this protocol is to effectively guide law enforcement in responding to people with disabilities and older adults who experience domestic violence, sexual assault, abuse, neglect or exploitation through model guidelines, investigative procedures, and legal considerations. Implementation of the protocol will allow for successful partnering with prosecutors, advocates, and others in the criminal justice system in the response to victims who are older adults or those with disabilities. Additionally, implementation supports alignment with legal mandates as well as current best practices. **Law Enforcement response is critical** to ensuring that victims who are older adults, or those with disabilities, have equal access to the criminal justice system in a compassionate, proactive, individualized manner. Use of this protocol will promote a more coordinated community response with law enforcement by bringing together health care, social service and adult protective services in serving older adults and people with disabilities who are victims of sexual assault, domestic violence, abuse, neglect, and financial exploitation.

This protocol is not the final word on working with older adults and people with disabilities. In, fact, quite the opposite. This protocol is meant to serve as a starting point; information to guide you as you incorporate the language, ideas and knowledge into everyday conversation. This protocol is meant to be used and adapted by law enforcement, using local resources to respond to the needs of people with disabilities and older adults.

### References and Resources

Included in the protocol you will find information designed to assist you in your day to day work.

Topics include:

- Communication
- Tools and tips for supporting victims
- Safety planning
- Dynamics of violence  
Information specific to command staff

**“Police have been very helpful with my brothers. My brothers live in group homes and police have found the brothers many times.”**

**-Sister of men with disabilities**

## Definitions

### Disability

A good starting point for addressing the response to violence against people with disabilities and older adults, is to examine definitions related to this issue. The World Health Organization defines disabilities this way: “Disabilities are an umbrella term, covering impairments, activity limitations, and participation restrictions. Impairment is a problem in body function or structure; an activity limitation is a difficulty encountered by an individual in executing a task or action; while a participation restriction is a problem experienced by an individual in involvement in life situations. Thus, disability is a complex phenomenon, reflecting an interaction between features of a person’s body and features of the society in which he or she lives.” According to this definition, the environment is a key feature and of critical importance.

The American Disabilities act (ADA) covers more than 900 different disabilities and defines a person with a disability as any person with a physical or mental impairment that substantially limits one or more of an individual’s major life activities, including people with a record of impairment or who are regarded as having an impairment.

Disabilities covered by the ADA include, but are not limited to:

1. Developmental disabilities (including intellectual disabilities, autism, cerebral palsy, epilepsy)
2. Traumatic brain injury
3. Severe physical disabilities (spinal cord injury, polio, spina bifida, etc.)
4. Psychiatric disabilities
5. Degenerative Brain Disorders
6. Deaf or hard of hearing
7. Blind or low vision

### Older Adults

The Center for Disease Control and the US Census Bureau define an older adult/elderly person as someone aged 65 and older.

In Illinois, the definition of an older adult is anyone age 60 and older. Although older adult is the preferred term for someone aged 60 and older in Illinois, statutory definitions use the term elderly person.

**The following definitions are taken from Illinois Criminal Code of 2012  
(720 ILCS 5/)**

**Abuser**

Abuser means a person who abuses, neglects, or financially exploits an individual.

**Caregiver**

Caregiver means a person who has a duty to provide for an older adult or person with a disability, including, but not limited to, food and nutrition, shelter, hygiene, prescribed medication and medical care and treatment.

**Confinement**

Confinement means restraining or isolating, without legal authority, an individual for other than medical reasons, as ordered by a physician.

**Domestic Violence**

Attempting to cause or causing abuse of a family or household member or high-risk adult with disabilities, or attempting to cause or causing neglect or exploitation of a high-risk adult with disabilities which threatens the adult's health and safety, as defined in Section 103 of the Illinois Domestic Violence Act (IDVA) of 1986, as amended. (750 ILCS 60/103) (From Ch. 40, par. 2311-3)

**Elderly person (Older Adult)**

A person, 60 years of age or older.

**Emotional Abuse**

Emotional abuse means verbal assaults, threats of maltreatment, harassment, or intimidation intended to compel the person to engage in conduct from which she or he wishes and has a right to abstain, or to refrain from conduct in which the person wishes and has a right to engage.

**Family or household members**

Family or household members means spouses, former spouses, parents, children, stepchildren, and other persons related by blood or by present or prior marriage; persons who share or formerly shared a common dwelling; persons who have or allegedly have a child in common; persons who share or allegedly share a blood relationship through a child; persons who have or have had a dating or engagement relationship; and, persons with disabilities and their personal assistants. For purposes of this paragraph, neither a casual acquaintanceship nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute a dating relationship.

**Financial Exploitation**

Financial Exploitation means the misuse or withholding of an older adult's or person with a disability's resources by another, to the disadvantage of the person and/or the profit or advantage of someone else.

**Financial Fraud/Scams/Cons**

Financial Fraud/scams/cons means the intentional deception of an older adult or person with a disability for the profit or advantage of someone else.

**Interference with Personal Liberty**

Interference with personal liberty means committing or threatening physical abuse, harassment, intimidation, or willful deprivation of the older person or person with a disability so as to compel him/her to engage in conduct from which he/she has a right to abstain or to refrain from conduct in which he/she has a right to engage.

**Intimidation of a Dependent**

Intimidation of a dependent means subjecting a dependent older person or person with a disability to participation in, or the witnessing of physical force against another or physical confinement or restraint of another which constitutes physical abuse regardless of whether the abused person is a family member or household member.

**Passive Neglect**

Passive neglect means another individual's failure to provide a person with or willful withholding from an eligible adult the necessities of life including, but not limited to, food, clothing, shelter, or medical care. Nothing in this directive shall be construed to mean that a person is a victim of neglect because of health care services provided or not provided by licensed health care professionals.

**Physical Abuse**

Physical abuse means causing the infliction of physical pain or injury, reckless use of physical force, confinement, or restraint, repeated and unnecessary sleep deprivation and/or reckless conduct which creates an immediate risk of physical harm.

**Sexual Abuse**

Sexual Abuse means touching, fondling, sexual threats, sexually inappropriate remarks, or any other sexual activity with a person when the person is unable to understand, unwilling to consent, or is threatened or physically forced to engage in sexual behavior.

**Willful Deprivation**

Willful deprivation means willfully denying a person medication, medical care, shelter, food, a therapeutic device, or other physical assistance, and thereby exposing that person to the risk of physical, mental, or emotional harm – except when the person has expressed an intent to forego such care.

# **Model Response And Investigative Procedures**

# MODEL RESPONSE and INVESTIGATIVE PROCEDURES

## Policy Statement

It is a best practices policy for law enforcement entities to treat violent crimes against older adults and people with disabilities as a high priority and to respond both professionally and compassionately to victims who are older adults and/or have a disability. In addition, it is requested that law enforcement entities ensure that:

- A. Reports of abuse, neglect, financial exploitation, domestic violence, and sexual assault of older adults and people with disabilities are fully investigated regardless of the type of disability the victim has and regardless of the relationship between the victim and the suspect(s).
- B. Reports of abuse, serious neglect, financial exploitation, domestic violence and sexual assault of older adults and people with disabilities are fully investigated whether or not the officer thinks the victim can or will testify.
- C. Officers treat all older adults and persons with disabilities with dignity and respect including the person's right to self-determination. Self-determination is a person's right to make his or her own decisions, including the right to privacy and to refuse well-intended interventions.
- D. Immediate, effective assistance and protection to victims who are older adults or have a disability are provided and appropriate action against offenders is taken. Further, the implementation of these solutions should not result in increased risk to the victim and should not exacerbate the situation.
- E. Officers shall seek to determine needed accommodations/resources for older adults and victims with disabilities to ensure the victim has equal access to the investigative process.
- F. Officers shall make observations of interactions between the victim and family members and/or support staff noting any indicators of possible grooming behaviors.
- G. Department staff, to improve their response to older adults and victims with disabilities, participate in coordinated efforts with other appropriate agencies, including criminal justice, prosecutors, victim services, disability service organizations, senior services, and abuse/neglect investigative entities.

### References & Resources

Illinois provides victims of crime with assistance, including financial.

Read about the Victims Compensation Act Here

<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2028&ChapAct=740%20ILCS%20A045/&ChapterID=57&ChapterName=CIVIL+LIABILITIES&ActName=Crime+Victims+Compensation+Act.>

- H. Document the victim's age and extent of the victim's disability to help in determining the appropriate charge level as well as possible accommodations/supports necessary for equal access to the criminal justice system.
- I. Officers shall expeditiously provide reports to partner agencies when an incident is confirmed as sexual assault, domestic violence, abuse, neglect, or financial exploitation (including non-criminal acts) to the appropriate state reporting entity for older adults and people with disabilities, such as Adult Protective Services, Illinois Department of Human Services, Office of the Inspector General, and Illinois Department Public Health. It is the policy of this protocol that officers utilize the arrest powers granted by law when there is probable cause to do so.
- J. Officers are trained to work with older adults and people with disabilities.

**"I had a situation at a train station where I was sexually assaulted by an older man. The police asked me questions and listened to what I had to say. They were nice and respectful. I don't know if he was ever found, they never told me."**

**-Woman with a disability in Illinois**

## **Policy Components**

To achieve an effective response to older adult violent crime victims or victims with disabilities, law enforcement agencies will use the model investigative procedures and promote the following goals and responsibilities:

### **Interagency Cooperation**

Interagency cooperation is a goal that requires a team approach. Coordination of effort from law enforcement, prosecutors, investigative entities, Adult Protective Services, Department of Human Services, Office of the Inspector General, Illinois Department of Public Health, disability organizations, banks, medical personnel, judicial entities, and victim advocacy groups is necessary for a thorough response to an older adult or person with a disability who experiences a violent crime.

### **Training**

To successfully respond to victims of abuse, neglect, exploitation, sexual assault and domestic violence who are older adults or victims with disabilities, training is needed to assure that law enforcement personnel have the knowledge, skills, and tools needed. Training will include:

- Laws impacting the response to victims with disabilities and older adults.
- Myths and facts about people with disabilities and older adults.
- Attitudes about people with disabilities and older adults.
- Language and sensitivity.
- The Americans with Disabilities Act.
- Indicators of violence in the lives of people with disabilities and older adults.
- Offender characteristics.
- Risk factors.
- Interviewing techniques; i.e., victim interviewing vs. offender interviewing.
- Investigative strategies including trauma informed investigation.
- Evidence collection.
- Joint investigation procedures with state investigative entities (i.e., Adult Protective Services, Department of Human Services, Office of Inspector General, and Illinois Department of Public Health)

Like any profession, continuing education is critical for the development of expertise. Law enforcement, tenured and recruits, will participate in ongoing education opportunities.

### **Communications Personnel**

The communications personnel will solicit information from callers to:

1. Determine the facts of the report.
2. Assess the condition of the victim.
3. Identify the needs of the victim.
4. Determine location of the reported offender.
5. Explain the law enforcement response to the caller.
6. Provide referral information when applicable.

The communications personnel will also initiate the call to law enforcement and communicate the following to the responding officer:

1. Location of the victim.
2. Facts of the report.
3. Needs of the victim.
4. If emergency medical responders have been called.
5. Location of the reported offender.
6. Any requested or identified unique needs of the victim (e.g., for communication, mobility, etc.).

**“I asked the Police Officer where his pen and paper were to take notes for the report...he said, ‘If he had a disability like yours (cerebral palsy, uses crutches, poor balance), then it does not matter.’ I checked later, and other than name, date and place of incident, no report was filed.”**

**-Survivor Testimonial**

### **Documentation**

**The report from law enforcement is vital to the prosecutor.** The statutory requirements necessary to charge offenses where the victim has a disability or is an older adult differ from one crime to the next and makes charging decisions difficult. The Officers should document their observations of the victim including speech, mobility,

adaptive equipment, and any atypical behaviors. The officer should also document any support needs that the victim asks for or are apparent. In working with family members, community disability organizations, victim services, Adult Protective Service, and/or social service agencies, the officer may obtain other needed information related to the victim's disability (e.g., diagnosis, support needs). This information should be documented in the initial and subsequent reports so it is available to prosecutors.

Due to the effects of trauma on memory, the initial report of a critical incident should be verbal and titled as a "preliminary" report. The "supplemental" report should be completed after the victim has completed a sleep cycle and the final report after the victim has completed a second sleep cycle when memory and information is more complete (Archambault and Lonsway, 2008). This is especially important in sexual assault cases.

# Response Procedures

## Pre-Investigation

The officer will:

- Know the prosecution standards set by the state's attorney's office for accepting criminal cases against older adults and persons with disabilities.
- Maintain ongoing collaborative commitment to working with all agencies responding to crimes against older adults and persons with disabilities including the local adult protective services agency.
- Understand the role of police work in responding to crimes against older adults and persons with disabilities.
- Understand the role of sexual assault, domestic violence, adult protective service agencies, and disability service agencies in supporting victims with disabilities. Rape crisis centers and domestic violence agencies in Illinois have successfully been trained to work with people with disabilities.

For a successful interview, the officer must establish rapport and respectful communication with the victim. A key element of this is approaching the individual within the framework of presumed competence. Presumed competence means the officer presumes the victim is able to participate in an interview and the criminal justice process. When possible, the officer will want to gather some initial information before interviewing the person:

- A. Determine if the victim has any kind of disability and/or receives any sort of support services (e.g., did the person attend special education classes in school? Does the person participate in services with a disability organization? If the victim is an older adult, does the older adult receive in home services or nursing services)?
- B. Find out how this disability **may** affect the interview process; each person is unique so further information will be gathered when you meet the person.
- C. Determine if the victim uses any adaptive equipment, such as a hearing aid, crutches, communication device (which may be an iPad) or a wheelchair.
- D. Determine if the victim has any attention difficulties.

### References and Resources

For additional information on investigative techniques, visit the End Violence Against Women International Website at: <http://www.evawintl.org/Library/DocumentLibraryHandler.ashx?id=915>

- E. Determine how the victim best communicates their wants and needs.
- F. Determine what makes it easiest for the victim to understand what others communicate.
- G. Assure the setting for the interview is accessible to the victim.
- H. When possible, arrange for a victim advocate to be present to support the victim outside of the interviewing space to protect confidentiality.

While reviewing information from the report may assist in preparing or making arrangements for the investigative interview, asking the victim with a disability about how you can best work together is essential. The person with the disability is the expert on their situation.

## Law Enforcement's Responsibilities

The responding officer shall:

1. Safely and quickly respond to the complaint.
2. Assure necessary accommodations needed by the individual to participate in the investigative process.
3. Ensure the safety of the victim; if assistance is needed, notify the appropriate medical, law enforcement, or social service personnel. In cases of suspected abuse, neglect, or financial exploitation, submit a report to the entity authorized to investigate for persons with disabilities.
4. In the situation when the caregiver is the offender and has a key or code to the victim's residence, ask the victim what they want in terms of securing their home. For example, "What would make you feel safe at home?" Other things to keep in mind: do locks need to be changed, can the police simply lock the door or do they need to disable a code? If the victim is not responsive then first responders need to disable any type of entry in order to protect the victim.
5. Create a safe and non-judgmental environment that encourages honesty and sharing. Allow the victim to share what happened to them before asking for a lot of details.

### Tips & Tools

For specific tips for victim interviews refer to

Interviewing Tips on page 66.

### References and Resources

The Who, What, Where, When communication picture guide developed for response to sexual assault and domestic violence is available at:

<http://www.icasa.org/index.aspx?PageID=1045>

6. The preliminary victim interview only needs to establish that the elements of a violent crime are met; evaluate the need for a forensic examination; identify the crime scene and any related evidence, witnesses, and the suspect(s); and establish the identity of the suspect, and contact information, if known. No law enforcement officer will require a victim of sexual assault or sexual abuse to submit to an interview (725 ILCS 203/20).

7. Conduct a thorough preliminary investigation including: victim, suspects, and witnesses identification; identify and preserve the crime scene; inform the victim what will be expected of them in the investigation, i.e., hospital, evidence collection, in-depth interview, etc.

8. Conduct an in-depth interview with the victim after he/she has completed two sleep cycles, eaten, and gotten some initial support. This is especially important

in sexual assault cases and other experiences viewed by the person as traumatic which may impact the memory significantly until the victim has had two sleep cycles.

9. Comprehensively explain to victims and witnesses their rights under the Rights of Crime Victims and Witnesses Act and the Crime Victims Compensation Act. It is helpful to have copies of a Victims' Rights Card in large print and braille for victims who have low vision or blindness or with pictures for those who may not read.
10. Reduce the number of investigators that have contact with the victim. It may take a while to establish trust and open communication.
11. Complete the necessary reports, secure evidence, and ensure departmental notifications are made. Furthermore, ensure information is provided to the officer/investigator who may be assigned to the case. No law enforcement agency may refuse to complete a report (725 ILCS 203/15).
12. Respect and protect the confidentiality of the victim regarding the notification and participation of others throughout the investigation.
13. It is recommended that law enforcement keep a copy of the Communication Guide offered by the Illinois Coalition Against Sexual Assault, Illinois Imagines project to aid in communication with people who do not use words to communicate.

### **References & Resources**

Read the entire Sexual Assault Incident Procedure Act at  
<http://www.ilga.gov/legislation/publicacts/99/PDF/099-0801.pdf>

## Trauma Informed Response

According to Substance Abuse Mental Health Services Administration, ([www.samhsa.gov](http://www.samhsa.gov)) trauma results from an event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or threatening and that has lasting adverse effects on the individuals functioning and physical, social, emotional, or spiritual well-being. When a person with a disability or older adult experiences a violent or abusive act, trauma may occur. Trauma is very personal and everyone who experiences the same situation may have a different response. Trauma not only affects the person's observable response but can also overload the brain's stress response.

Many people with disabilities may have experienced a lifetime of small and large traumas. This may include, a lifetime of people trying to "fix" them, extended hospitalizations, bullying, name calling or segregation. It is safe for law enforcement to presume that people with lifelong disabilities have experienced some sort of trauma. Similarly, older adults may experience trauma due to the grief of losing skills, role changes with family members, loss of loved ones and resulting isolation.

In order for law enforcement officers to establish rapport with victims, it is important to be trauma responsive. Russell Strand is an expert in this area and his article, "The Forensic Experiential Trauma Interview," is included in the protocol attachments. Some of his suggestions include: focusing on the persons experiences rather than a sequential reporting of events; referencing senses during the interview, i.e. what did you hear, see, smell, taste, feel, and understanding the biochemistry and brain response to trauma.

### References & Resources

Visit Russell Strand's website for resources including videos about the use of FETI

<http://russellstrand.com/video/>

In general, when victims feel understood, listened to, and empowered investigators tend to get better and more accurate reports of what happened.

**"After I was raped I became catatonic. I could not speak or walk. I needed a whiteboard to communicate."**

**-Woman with a disability in Illinois**

## Evidence Collection

A good investigation is a key to a successful prosecution and gathering evidence can prove a crime was committed with or without a participating victim. The following steps shall be taken:

1. Locate and interview ALL potential witnesses. Always interview the victim and document the interview in detail.
2. Assess and preserve the crime scene as in any other investigation.
3. Identify all possible evidence and conduct a thorough evidence search. Secure 911 tape when applicable and any facility log sheets. Photograph and/or video crime scene, when indicated. A crime scene Investigator (CSI) may be requested.
4. Complete the necessary reports, including documents to transfer evidence, and transfer information for the follow-up investigation, if applicable.
5. In situations where there may be physical evidence on the victim's mobility device or communication equipment, the device/equipment will need to be processed and returned to the victim quickly. It is imperative to have a discussion with the victim to determine if the device/equipment can be easily exchanged or if the victim needs to leave with the device/equipment. If the device/equipment is standard issue, it may be possible to obtain a replacement for the person by contacting the community, Center for Independent Living, or a medical supply company. Some individuals use customized devices/equipment daily survival and should never be confiscated. It may be necessary to contact the state police crime scene technicians if more resources are needed to collect the evidence from a victim's device/equipment.
6. In domestic and sexual violence investigations, it is essential to establish/explore course of conduct which includes pre-assault behavior, violent incident and post-assault behavior. Documentation of pre-assault behavior might include the isolation of the victim, manipulation, threatening or grooming behavior or forced compliance. Documentation surrounding the violent incident includes description of behaviors and/or statements which indicate no consent, i.e. victim cried, closed eyes, tightly held legs together, laid still throughout the assault. In other words, documentation describing how the victim said "no." Post-assault behavior includes indicators which may present immediately following the assault as well as those occurring days, weeks or months later. Reports from the victim, family members and friends demonstrating changes in the victim's behavior, such as, can't sleep, weight gain/loss, not attending work or school, putting locks on the door, afraid to answer telephone or door or moving is critical evidence that prosecutors can use in establishing lack of consent. Think about these changes

in behavior, do they speak to consensual sex or a non-abusive relationship?

7. Law enforcement should inform victims of the testing of physical evidence and the results of such testing. (725 ILCS 203/5(6))

**In sexual assault investigations, it is important that officers be aware of the following:**

In Illinois, individuals with guardians have the right to consent to the sexual assault forensic examination. If the physician determines the individual does not have 'decisional capacity' to consent, the investigating law enforcement officer **may** be asked to provide consent. (See [§70/5\(b\)](#) of the Sexual Assault Survivors Emergency Treatment Act (SASETA), 410 ILCS 70/1, *et seq.*) Of course, an exam would never occur if the individual expressed (verbally or non-verbally) they did not want the exam, or resisted or refused the procedure.

In summary-

1. Any adult with a disability can receive a forensic exam without guardian consent.
2. If an adult with a disability does not want a forensic exam, a guardian cannot force the exam.

The bottom line is the person with a disability decides.

Some victims with disabilities require a different position for the sexual assault forensic exam to be completed. The victim knows their body best and can usually direct the nurse about what position adjustments and assistance are necessary.

Victims of sexual assault may have impaired memory immediately following the sexual assault. Research indicates that the person can provide more detailed and complete information after two sleep cycles and some other self-care.

**If the victim lives in a group home, institution, nursing home, or participates in a day program, here are some evidence collection tips:**

- It is typically not recommended that a staff member sit in on a victim interview - the staff member may be someone the victim is not comfortable speaking openly in front of, the staff person may interject their own opinions and ideas influencing the victim, or the staff member could defend the suspect (or possibly be the suspect).

**References and Resources**

For more information about the Forensic Exam and an illustrated guide for people with disabilities see:

<http://www.icasa.org/docs/illinois%20imagines/safe%20medical%20staff%20final.pdf>

- Explain to the staff that the victim must be interviewed alone to ensure an interview that will hold up in court.
- Ask the facility about any sign-in and sign-out procedures/logs for the persons receiving services.
- Ask about any 'staff logs' 'daily logs' or 'communication logs' that might be in use.
- Review progress notes about the victim for supporting documents referencing the incident and secure relevant documents.
- Many group homes, institutions, nursing homes, hospitals, and residential settings have procedures to document that all individuals have been accounted for at a specified time frame (often called 'rounds'). Ask for documentation of these activities.
- Some sites have video surveillance, so video footage may be available. If so, secure recordings immediately.
- Some residential programs have an agency policy and procedure to conduct and document a visual full body scan for any observable injuries when someone has been away from the facility. Verify if this is a procedure that is in place and request these documents.
- Most organizations document known injuries to an individual. An injury report form typically describes what happened and includes a front and back picture of a body to mark the location of any physical complaints/injuries. Obtain these documents.
- It may be helpful to see work schedules and/or time sheets for employees to determine suspect and witness locations.
- Some agencies have visitor logs which can have valuable information.
- It can be helpful to interview other individuals served by the organization/facility that the alleged offender had access to identify other possible victims or MO (modus operandi).
- If the offender is a staff member, ask about training standards, records, sign in sheets and certifications.
- Follow-up with individual staff members later to clarify their previous statement and to ascertain if they recalled anything further. If a staff member states they do not believe the victim and that the victim is a liar, proceed with the investigation anyway. Why? People with a reputation for telling lies are at increased risk to be

victimized and/or the staff member may be part of a cover-up; concerned about liability, be the perpetrator, etc.

## Continuing Investigation

1. Respect and protect the confidentiality and the wishes of the victim regarding the notification and participation of others throughout the investigation.
2. Keep the victim informed about the investigation, arrest status, etc. ask the victim the best method for follow-up communication. Be aware that the victim may not have private access to a phone or email.
3. Consult with the responding officer and any evidence collectors.
4. Determine the elements of the crime to prove due to individual disability or age.
5. Conduct in-depth interviews with the victim, offender, and witnesses. Ensure effective contact information is received for follow-up interaction with victim, offender, and witnesses, as needed.
6. Ensure that all evidence has been identified, collected, properly stored, and processed from the crime scene, the victim, the offender, and other sources.
7. Ensure the victim has been referred to chosen disability organization, adult protective services or other social service provider or support services, as needed.
8. Conduct a joint investigation with the appropriate investigative entity which organization which has jurisdiction over the case.
9. Complete and forward the necessary reports to the State's Attorney's office or appropriate prosecutor.

### References and Resources

The Illinois Law Enforcement Training and Standards Board is the state agency mandated to promote and maintain a high level of professional standards for law enforcement and correctional officers.

<http://www.ptb.illinois.gov/>

## **Arrest**

An officer will arrest without warrant when probable cause exists. If the offender is also the victim's caregiver, alternative care arrangements must be made prior to removing the caregiver in all but the most extreme cases. For more information offender strategies and related charges see the "Charging Wheel" handout on page 41 in references and resources.

**"Someone stole controlled medications from my home. I called the police several times and went to the police station and nothing was looked into."**

**-Older adult in Illinois**

## Joint Investigations

In situations where it is suspected that a crime has been committed against a person with a disability, the state investigative entity (Adult Protective Services, Office Inspector General or Illinois Department of Public Health) will discuss whether a joint intervention is appropriate.

The primary purpose of a joint intervention is to provide protection to the victim and to utilize law enforcement options that may be available. Remember to be flexible and to take into consideration the preferences of the victim. Each situation is unique, therefore, the joint approach will vary depending on the circumstances of the situation.

To ensure a successful outcome, law enforcement agencies and state investigative entities for the older adults and people with disabilities agree to work cooperatively and to develop strategies in accordance with their respective roles. If a joint response is determined appropriate, the following guidelines will be followed:

- The investigative entity and law enforcement shall discuss the referral or incident information and determine what role each will play in the investigation. Information will be shared in accordance with confidentiality requirements of both agencies to facilitate the investigation. Decisions will be made on who will be contacted (referral sources, victim, alleged perpetrator), and where contacts will occur (home, office, police station, other protected setting).
- Law enforcement staff will determine whether a crime has been committed against the older adult or person with a disability. They will preserve the crime scene (which may include photographing evidence, injuries or conditions), obtain preliminary statements of the victim and witnesses and identify specific violations.
- Investigative findings will be shared across entities.
- The police may request that the investigative entity temporarily suspend their active review until the completion of the criminal investigation; in this situation, the police will advise the investigative entity when they may continue their investigation.

**“I was physically assaulted by a man with mental illness who thought I cut in line. The police brought me to the station for an interview. I couldn’t remember a lot of what happened but they were very nice. They offered me services (therapy) which I thought was very kind.”**

**-Man with a disability in Illinois**

## **Responsibility to Report—Law Enforcement to State Disability Investigators**

Even if the investigating officer does not believe the evidence rises to the level of a crime, a report must still be made to the designated state disability investigative organization. The level of evidence required of the state disability investigative organization to substantiate abuse is generally less than that of a crime.

### **Tips & Tools**

Post the handout, “Who to Call” from Illinois Imagines. Find it on page 85.

Law enforcement is mandated to report all allegations of abuse, neglect, or financial exploitation of individuals with disabilities to the designated agency with statutory responsibility to receive and investigate such allegations. This does not relieve law enforcement’s responsibility to investigate the complaint to determine if criminal violations have occurred.

## **Responsibility to Report—State Disability Investigators to Law Enforcement**

The Office of the Inspector General is to report criminal acts within 24 hours after determining that there may be credible evidence indicating that a criminal act may have been committed or that special expertise may be required in an investigation. The inspector general shall notify the state police or other appropriate law enforcement authority, or ensure that such notification is made. The state police shall investigate any report from a state-operated facility indicating a possible murder, sexual assault, or other felony by an employee. All investigations conducted by the inspector General shall be conducted in a manner designed to ensure the preservation of evidence for possible use in a criminal prosecution.

For individuals living in the community, not in a licensed setting, the Adult Protective Services provider agency’s case worker will consult with the program supervisor, inform the individual that a criminal act may have been committed and immediately report the evidence of crime(s) to law enforcement. The Illinois Department on Aging has specific procedures that must be followed by their local agencies to report to law enforcement. The procedures require that all serious abuse and neglect allegations be reported immediately to local law enforcement. All other abuse, neglect, or financial exploitation allegations may only be reported to law enforcement by adult protective services with the consent of the alleged victim. The APS provider agency will provide law enforcement agency with case records in the investigation, upon request, with the exception of the reporter’s identity. When an APS provider agency has reason to believe that the death of an individual may be the result of abuse or neglect, the agency must promptly report the matter to both law enforcement and the coroner or medical examiner.

The Illinois Department of Public Health is to report criminal acts within 24 hours after determining that there may be credible evidence indicating that a criminal act may have been committed or that special expertise may be required in an investigation. The

Department of Public Health shall notify the Department of State Police or other appropriate law enforcement authority, or ensure that such notification is made. State police shall investigate any report from a state-operated facility indicating a possible murder, sexual assault, or other felony by an employee. All investigations conducted by the Department of Public Health shall be conducted in a manner designed to ensure the preservation of evidence for possible use in a criminal prosecution.

**“Someone was harassing me over the phone. I called the non-emergency number. A cop came over and answered the phone when this person called and told him to stop harassing me. It worked, the person didn’t call me again. This left a good impression.”**

**-Woman with a disability in Illinois**

# References And Resources

## **Criminal Statutes**

### **RELATED CRIMINAL OFFENSES (720 ILCS)**

People who have disabilities and older adults are at heightened risk for certain types of victimization. If a person is targeted for domestic violence and/or sexual assault or another crime because of their disability, the possibility of a hate crime exists.

Set forth below are a number of offenses involving bodily harm, sexual abuse/assault, property damage or theft, and other offenses which may unfortunately be committed more frequently against people with disabilities or older adults, or for which the law provides different or enhanced penalties if committed against a person with a disability. Please note that while the quoted statutory sections may not use “People First” language, such language is the preferred manner of communicating with and about people who have disabilities.

### **ACT 5. CRIMINAL CODE OF 1961**

#### ARTICLE 9. HOMICIDE

##### 5/9-1 First Degree Murder

Section 5/9-1(b)(17) sets forth that it is an aggravating factor if “the murdered individual was a disabled person and the defendant knew or should have known that the murdered individual was disabled.” Prior to the repeal of the death penalty in Illinois, this factor in aggravation could result in the imposition of a sentence of death.

#### ARTICLE 10. KIDNAPPING AND RELATED OFFENSES

##### 5/10-1 Kidnapping

Section 10-1(b) provides that “a severely or profoundly intellectually disabled person” is confined against his or her will for purposes of this statute if such confinement is without the consent of such person’s parent or guardian.

##### 5/10-2 Aggravated Kidnapping

Section 10-2(a)(2) elevates a kidnapping offense from a Class 2 Felony under Section 10-1 to a Class X Felony if a person commits the offense of kidnapping and “takes as his or her victim ... a severely or profoundly intellectually disabled person.”

#### ARTICLE 11. SEX OFFENSES

##### 5/11-1.20 Criminal Sexual Assault

Section 11-1.20(a)(2) provides that a person commits the offense of Criminal Sexual Assault if that person “commits an act of sexual penetration and ... knows that the victim is unable to understand the nature of the act or is unable to give knowing consent.”

##### 5/11-1.30 Aggravated Criminal Sexual Assault

The offense of Criminal Sexual Assault is elevated from a Class 1

Felony under Section 11-1.20 to a Class X Felony if, under Section 11-1.30(a)(6) “the victim is a physically handicapped person” **or** under Section 11-1.30(c) “a person commits an act of sexual penetration with a victim who is a severely or profoundly intellectually disabled retarded person.”

- 5/11-1.50      Criminal Sexual Abuse  
Section 11-1.50(a)(2) provides that a person commits the offense of Criminal Sexual Abuse if that person “commits an act of sexual conduct and knows that the victim is unable to understand the nature of the act or is unable to give knowing consent.”
- 5/11-1.60      Aggravated Criminal Sexual Abuse  
The offense of Criminal Sexual Abuse is elevated from a Class A Misdemeanor or Class 4 Felony under Section 11-1.50 to a Class 2 Felony if, under Section 11-1.60(a)(4) “the victim is a physically handicapped person” **or** under Section 11-1.60(e) “a person commits an act of sexual conduct with a victim who is a severely or profoundly intellectually disabled retarded person.”
- 5/11-9.5       Sexual Misconduct with a Person with a Disability  
Provides that it is a Class 3 Felony Offense for an employee or contractual agent of the Department of Human Services or a community agency funded by DHS to engage in an act of sexual conduct or sexual penetration with “a person with a disability who is under the care and custody of the Department of Human Services at a State-operated facility; or ...who is in a residential program operated or supervised by a community agency.”
- 5/11-14.4      Promoting Juvenile Prostitution  
Provides that it is a Class 1 Felony where a person “advances prostitution as defined in Section 11-0.1, where the minor engaged in prostitution, or any person engaged in prostitution in the place, is under 18 years of age or is severely or profoundly mentally retarded at the time of the offense” (Subsection (a)(1)) or “profits from prostitution by any means where the prostituted person is under 18 years of age or is severely or profoundly mentally retarded at the time of the offense” (Subsection (a)(2)). If the child or “profoundly mentally retarded” person is confined against his/her will by force or by threat of force, Subsection (a)(4) elevates this offense to a Class X Felony with an extended sentencing range of 6-60 years in the Department of Corrections.
- 5/11-18.1      Patronizing a Minor Engaged in Juvenile Prostitution  
Despite the name of this offense, the provisions of this statute apply equally if the person commits the acts described with a “severely or

profoundly mentally retarded person” as if the acts had been committed with a person under the age of 18.

- 5/11-20.1 Child Pornography  
Despite the name of this offense, the provisions of this statute apply equally if the person commits the acts described with a “severely or profoundly mentally retarded person” as if the acts had been committed with a person under the age of 18. Please note that the language regarding “severely or profoundly mentally retarded” persons is **not** included in Section 11-20.1B, pertaining to the offense of Aggravated Child Pornography.

ARTICLE 12. BODILY HARM

- 5/12-2 Aggravated Assault

The offense of Assault is elevated from a Class C Misdemeanor under Section 12-1 to a Class A Misdemeanor under Section 12-2(b)(1) if the victim is a physically handicapped person.

- 5/12-3.05 Aggravated Battery

The offense of Battery is elevated from a Class A Misdemeanor under Section 12-3 to a Class 3 Felony under Section 12-3.05(b)(2) if the defendant causes “bodily harm or disability or disfigurement” to any “severely or profoundly mentally retarded person.” In cases of “great bodily harm or permanent disability or disfigurement” to such victims, the offense is further elevated by Section 12-3.05(b)(1) to a Class X Felony, with yet further sentencing enhancements if a firearm is used in the commission of the offense.

The offense of Battery is elevated from a Class A Misdemeanor under Section 12-3 to a Class 3 Felony under Section 12-3.05(d)(2) if the victim is pregnant or physically handicapped.

Section 5.05(a)(4) is a person who, in committing battery, intentionally or knowingly causes great bodily harm or permanent disability or disfigurement to an individual of 60 years of age or older.

- 5/12-4.4a Abuse or Criminal Neglect of a Long Term Care Facility Resident;  
Criminal Abuse or Neglect of an Elderly Person or Person with a Disability  
Provides that it is a Class 3 Felony for certain specified types of caregivers (see statute for definitions) to endanger the life or health of a resident of a long-term care facility, elderly person, or person with a disability, or to perform acts causing such person’s pre-existing mental or physical condition to deteriorate, or to fail to perform acts necessary to maintain or preserve the life or health of such person, or abandons such person.

With regard specifically to elderly persons or persons with disabilities, one who “physically abuses, harasses, intimidates, or interferes with the personal liberty of the person” (Subsection (b)(1)(D)) or “exposes the person to willful deprivation” (Subsection (b)(1)(e)) also commits this offense.

If commission of this offense results in the death of the victim, the offense is elevated to a Class 2 Felony, for which a prison sentence of not less than three years nor more than 14 years must be imposed (Subsections (d)(1) and (d)(2)).

5/12-7.1 Hate Crime

This statute elevates a number of specified misdemeanor offenses to Class 4 Felony offenses (or Class 2 Felony for second and subsequent offenses) if the offense is committed “by reason of the actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, *physical or mental disability*, or national origin of another individual...” (emphasis added).

5/12-21.5 Child Abandonment

Section 12-21.5(b)(3) provides that, for purposes of determining “whether the child was left without regard for the mental or physical health, safety, or welfare of that child,” one factor to be considered is the “special needs of the child, including whether the child is physically or mentally handicapped, or otherwise in need of ongoing prescribed medical treatment such as periodic doses of insulin or other medications.”

ARTICLE 16. THEFT AND RELATED OFFENSES

5/16-30 Identity Theft

Subsection 16-30(b)(1) provides that a person who commits the offense of Identity Theft against a person with a disability commits Aggravated Identity Theft. The precise classification of this offense varies based on the amount of financial loss to the victim and the prior record of the offender, but Aggravated Identity Theft is generally one class of offense higher than an Identity Theft with otherwise similar factual circumstances.

ARTICLE 17. DECEPTION AND FRAUD

5/17-56 Financial Exploitation of an Elderly Person or a Person with a Disability

Provides that a person who “stands in a position of trust or confidence” with an elderly person or person with a disability and by deception or intimidation obtains control over his or her property commits a felony offense. The precise classification of the offense varies based on the amount of financial loss to the victim, and, in

the case of an elderly person, on the actual age of the victim.

ARTICLE 18. ROBBERY

5/18-1 Robbery

Robbery is elevated from a Class 2 Felony offense under this Section to a Class 1 Felony offense if the victim is a physically handicapped person.

5/18-4 Aggravated Vehicular Hijacking

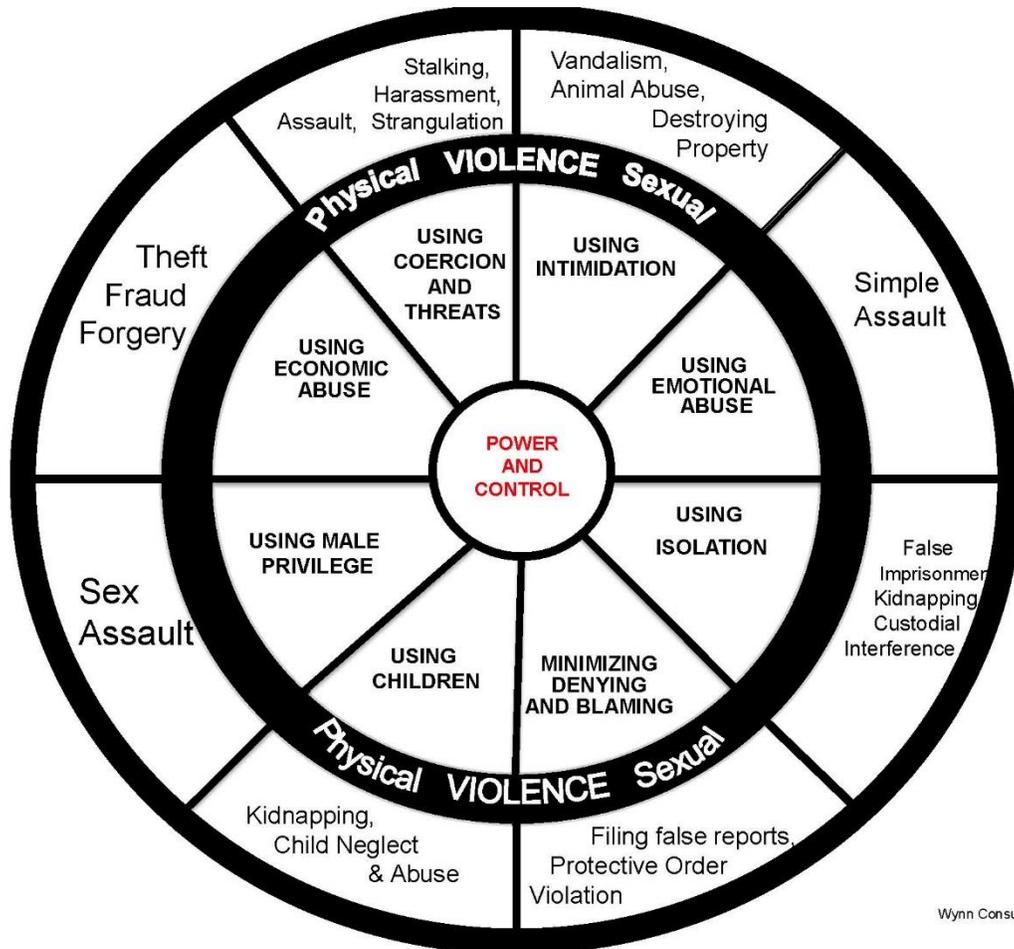
The offense of Vehicular Hijacking is elevated from a Class 1 Felony under Section 18-3 to a Class X Felony under Section 18-4(a)(1) if the person from whose physical presence the motor vehicle is taken is a physically handicapped person.

ARTICLE 26. DISORDERLY CONDUCT

5/26-1 Disorderly Conduct

Section 26-1(a)(8) provides that a person who transmits or causes to be transmitted a false report to the Department of Public Health under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act, or the ID/DD Community Care Act commits a Class B Misdemeanor.

# CHARGING WHEEL



Wynn Consulting 2007

<http://www.markwynn.com/>



### **Victims' Rights Regarding the Exam After Sexual Assault<sup>3</sup>**

A survivor with a disability has the exact same rights as any other survivor when reporting an assault, receiving medical care or going through the evidence collection process after the violence. A rape crisis center advocate can ensure you have the information you need to make decisions around these rights and procedures. You can refuse to participate in any part of the process or to any medical procedure. An advocate can make sure you have the information you need when making decisions and help you make these decisions known to the medical staff.

Survivors of sexual assault have the right to:

1. "Free" medical care and evidence collection .
2. Accommodations that you need and prefer.
3. A more private space.
4. Have a rape crisis center advocate with you during the exam to help you know your rights and communicate your choices.
5. Have a support person of your choice with you during the exam.
6. Qualified staff who follow standard procedures.
7. Request a medical staff member by gender, if available.
8. Know what is being done and why.
9. Ask questions about the exam and have information provided in a way you can understand.
10. Say no to any part of the exam or the entire exam.
11. Understand what you are signing.
12. Not release the kit to anyone.
13. Choose if your urine/pee is tested for drugs or medicines by the hospital and state police.
14. Know results of any tests.
15. Know what medicines are for.
16. Have 'free' follow-up with a doctor of your choice and medications needed.
17. Be informed about medications, risks, and options regarding pregnancy. and
18. Choose whether or not to talk to the police and to have a support person with you if you choose to talk to the police.

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<sup>3</sup> Illinois Coalition Against Sexual Assault, Illinois Imagines, <http://www.icasa.org/index.aspx?PageID=1045>

## Statute Quick Reference Guide

<p style="text-align: center;"><b><u>Physical Abuse</u></b></p> <p>First Degree Murder (720 ILCS 5/9-1)</p> <p>Aggravated Assault (720 ILCS5/12-2)</p> <p>Aggravated Battery (720 ILCS5/12-3.05)</p> <p>Abuse or Criminal Neglect of a Long-Term Care Facility Resident; Criminal Abuse or Neglect of an Elderly Person or Person with a Disability (720 ILCS5/12-3.05)</p> <p>Child Abandonment (720 ILCS5/12-21.5)</p>	<p style="text-align: center;"><b><u>Sexual Abuse</u></b></p> <p>Criminal Sexual Assault 720 ILCS 5/11-1.20)</p> <p>Aggravated Criminal Sexual Assault (720 ILCS 5/11-1.30)</p> <p>Criminal Sexual Abuse (720 ILCS5/11-1.50)</p> <p>Aggravated Criminal Sexual Abuse (720 ILCS5/11-1.60)</p> <p>Sexual Misconduct with a Person with a Disability (720 ILCS5/11-9.5)</p> <p>Promoting Juvenile Prostitution (720 ILCS5/11-14.4)</p> <p>Patronizing a Minor Engaged in Juvenile Prostitution (720 ILCS5/11-18.1)</p> <p>Child Pornography (720 ILCS5/11-20.1)</p>
<p style="text-align: center;"><b><u>Emotional Abuse</u></b></p> <p>Criminal Abuse or Neglect of an Elderly Person or Person with a Disability (720 ILCS5/12-3.05)</p> <p>Abuse or Criminal Neglect of a Long Term Care Facility Resident; (720 ILCS5/12-3.05)</p>	<p style="text-align: center;"><b><u>Financial Abuse</u></b></p> <p>Financial Exploitation of an Elderly Person or a Person with a Disability (720 ILCS5/17-56)</p> <p>Identity Theft (720 ILCS5/16-30)</p> <p>Robbery (720 ILCS5/18-1)</p> <p>Aggravated Vehicular Hijacking (720 ILCS5/18-4)</p>
<p style="text-align: center;"><b><u>Willful Deprivation</u></b></p> <p>Criminal Abuse or Neglect of an Elderly Person or Person with a Disability (720 ILCS 5/12-4.4a)</p> <p>Abuse and Criminal Neglect of a Long Term Care Facility Resident (720 ILCS 5/12-4.4a)</p>	<p style="text-align: center;"><b><u>Confinement</u></b></p> <p>Kidnapping (720 ILCS 5/10-1)</p> <p>Aggravated Kidnapping (720 ILCS 5/10-2)</p>
<p style="text-align: center;"><b><u>Passive Neglect</u></b></p> <p>Criminal Abuse or Neglect of an Elderly Person or Person with a Disability (720 ILCS 5/12-4.4a)</p>	<p style="text-align: center;"><b><u>Self-Neglect</u></b></p> <p>Self-Neglect is NOT a criminal offense unless a caregiver is involved.</p>

## Where to Report

INDIVIDUAL	SETTING WHERE ABUSE HAPPENED	REPORT TO:
60 YEARS OR OLDER	COMMUNITY OR DOMESTIC	ADULT PROTECTIVE SERVICES <b>1-866-1409</b>
WITH A DISABILITY 18 – 59 YEARS OLD	COMMUNITY OR DOMESTIC	ADULT PROTECTIVE SERVICES <b>1-866-1409</b>
60 YEARS OR OLDER OR WITH A DISABILITY 18 – 59 YEARS OLD	LICENSED LONG TERM CARE FACILITY	IL DEPT OF PUBLIC HEALTH <b>1-800-252-4343</b>
WITH A DISABILITY 18 – 59 YEARS OLD	LICENSED FACILITY	OFFICE OF INSPECTOR GENERAL <b>1-800-368-1463</b>

## LOCAL RESOURCES\*\*

Adult Protective Services	Center for Independent Living
<hr/> <b>Rape Crisis Center</b>	<hr/> <b>Domestic Violence Agency</b>
<hr/> <b>Senior Services</b>	<hr/> <b>Mental Health Agency</b>
<hr/> <b>Disability Agency(ies)</b>	<hr/> <b>Other</b>
<hr/>	<hr/>

\*\*Complete the chart above with resources in your local area.

# Communication

# Communication Tips for Responders

People with Cognitive Disabilities this may include people with intellectual/developmental disabilities or older adults with dementia

## Say:

- My name is \_\_\_\_\_ I'm here to help you, not hurt you.
- I am a \_\_\_\_\_ (name your job).
- I am here because \_\_\_\_\_ (explain the situation).
- I look different than my picture on my badge because \_\_\_\_\_ (for example, if you are wearing protective equipment).

## Show:

- Your picture identification badge (as you say the above).
- That you are calm and competent.

## Give:

- Extra time for the person to process what you are saying and to respond.
- Respect for the dignity of the person as an equal and as an adult (example: speak directly to the person).
- An arm to the person to hold as they walk. If needed, offer your elbow for balance.
- If possible, quiet time to rest (as possible, to lower stress/fatigue).

## Use:

- Short sentences.
- Simple, concrete words.
- Accurate, honest information.
- Pictures and objects to illustrate your words. Point to your ID picture as you say who you are, point to any protective equipment as you speak about it.

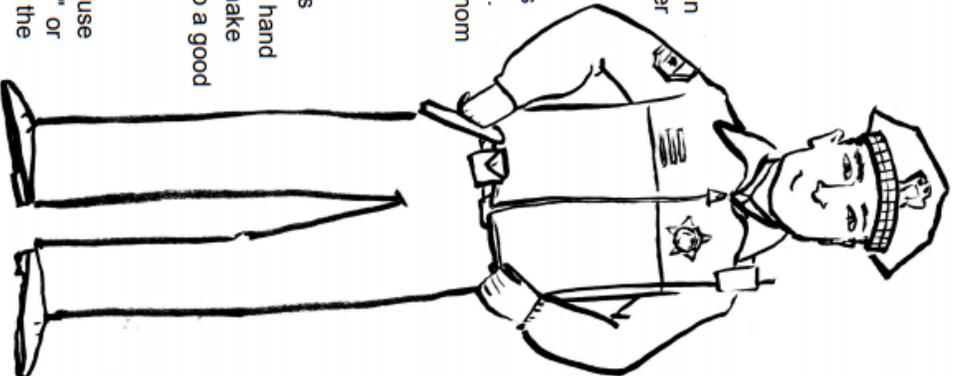
## Predict:

- What will happen (simply and concretely)
- When events will happen (tie to common events in addition to numbers and time, for example, "By lunch time" "By the time the sun goes down").
- How long this will last? When things will return to normal (if you know).
- When the person can contact/rejoin loved ones (for example: calls to family, re-uniting pets).

## THE TEN COMMANDMENTS: Etiquette for Communicating with People with Disabilities and deaf people

You may not always be aware that a person has a disability and the ten tips above are helpful in communicating with anyone.

- When speaking with a person in a wheelchair or a person who uses crutches, place yourself at eye level in front of the person to help with the conversation.
- Speak directly facing that person rather than through a companion or sign language interpreter who might be present.
- When meeting a person with a low vision, always identify yourself and others who may be with you. When talking in a group, identify the person to whom you are speaking as well as yourself.
- When introduced to a person with a disability, it is okay to offer to shake hands. People with limited hand use, or who wear an artificial limb, can usually shake hands. Using the left hand to shake hands is also a good way to greet someone.
- Relax. Do not be embarrassed if you happen to use common expressions such as, "See you later," or "Did you hear about this?" that seem related to the person's disability.



- Listen attentively when talking with a person who has difficulty speaking. Be patient and wait for the person to finish. Never pretend to understand if you are having difficulty doing so.
- Look directly at the person and speak clearly and slowly to find out if the person can read your lips. For those who do lip read, be sensitive to their needs by placing yourself facing the light source and keeping hands, cigarettes and food away from your mouth while speaking.
- Leaning or hanging on a person's wheelchair is similar to leaning or hanging on a person and is not okay. The chair is part of the personal body space of the person who uses it.
- If you offer assistance, wait until the offer is accepted. Then listen or ask for instructions. Do not be offended if the offer is not accepted.
- Treat adults as adults. Address people who have disabilities by their first name only when extending the same familiarity to all others present.

*\* Adapted the Ten Commandments from Karen Meyer, ADA National Center for Access Unlimited.*

# The TEN Commandments:

## Etiquette for communicating with people with disabilities and deaf people

You may not always be aware that a person has a disability or hearing loss and the ten tips below are helpful in communicating with anyone.

### 1 When talking to a person with a disability or hearing loss...

Speak directly facing that person rather than through a companion or sign language interpreter who might be present. Even if you think that a person cannot understand or respond to you, it is rude to talk through someone else.

### 2 When introduced to a person with a disability...

It is appropriate to offer to shake hands. People with limited hand use, or who wear an artificial limb, can usually shake hands. Using the left hand to shake hands is also an acceptable greeting.

### 3 When meeting a person with low vision...

Always identify yourself and others who may be with you. When conversing in a group, remember to identify the person to whom you are speaking as well as yourself.

### 4 If offering assistance...

Wait until the offer is accepted. Then listen or ask for instructions. Do not be offended if the offer is not accepted.

### 5 Treat adults as adults...

Address people who have disabilities by their first name only when extending the same familiarity to all others present. Never patronize people who use wheelchairs by patting them on the head or shoulder.

**6****Do not lean or hang...**

Leaning or hanging on a person's wheelchair is similar to leaning or hanging on a person's body and is not okay. The chair is a part of the personal body space of the person who uses it. When speaking with a person in a wheelchair or using

**7****When talking with a person who has difficulty speaking...**

Listen attentively. Be patient and wait for the person to finish, rather than correcting or speaking for the person. If necessary, ask yes or no questions. Never pretend to understand, instead, repeat what you have understood and allow the person to respond. The response will clue you in and guide your understanding. Also keep in mind that a person may use other tools and devices as a way to communicate.

**8****When speaking with a person in a wheelchair or using crutches...**

Place yourself at eye level in front of the person to help with the conversation.

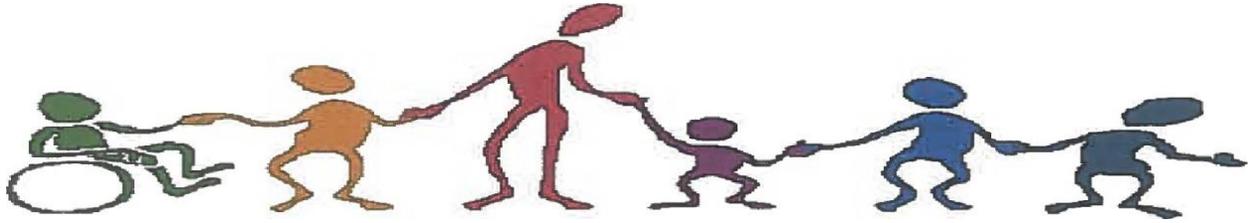
**9****To get the attention of a person who has hearing loss...**

Face toward them and wave your hand. Look directly at the person and speak clearly, slowly and expressively to find out if the person can read your lips. Not all people with hearing loss can lip read. For those who do lip read, be sensitive to their needs by placing yourself facing the light source and keeping hands, cigarettes and food away from your mouth while speaking.

**10****Relax...**

Do not be embarrassed if you happen to use common expressions such as, "See you later," or "Did you hear about this?" that seem related to the person's disability.

\*The Ten Commandments adapted from many sources as a public service by Karen Meyer, ADA National Center for Access Unlimited.



## **PEOPLE WITH DISABILITIES ARE PEOPLE FIRST**

- Disabilities can be visual, auditory, physical, communicative, developmental or emotional. Some individuals have a combination of disabilities.
- People with disabilities are a part of a group that cut across racial, ethnic, religious, economic and social lines.
- Disabilities affect a wide range of activities—from small to great.
- Your neighbor, loved one or even you may have a disability.
- Disabilities are not contagious.
- Miracles may sometimes happen, but people with disabilities are not usually waiting for them.
- Not all disabilities can be seen.
- People with disabilities know they have a disability, and tend to know that you know.
- People with disabilities prefer to emphasize what they can do rather than what they cannot.
- Disability is not the sum of an individual's life, any more than having a certain hair color is the sum of your life.
- People with disabilities can and do engage in sex and have intimate relationships.

**DISability is not INability**

# PEOPLE FIRST

'People First' is a mindset. It is a way of looking at other people, not by their disability, race, gender or any other characteristic, but rather as PEOPLE FIRST.

As people we are all more alike than we are different. In general, we are all people first. The same is true of people with disabilities—we are more like people without disabilities than we are different.

## People With Disabilities Are Not:

- freaks
- cripples
- incapable
- weak or disabled
- contagious
- heroes or extraordinary

**We are people, just like you, living our lives the best we know how.**

Disabilities, and perhaps more importantly peoples' reactions to disabilities, create barriers for people with disabilities through stereotypes, myths, prejudices, fears and ignorance.

We all have the same rights and responsibilities, and we should all be able to enjoy them as what we all are...**PEOPLE FIRST**

**We are people, just like you and everyone else.**

## **Communicating with Individuals with Alzheimer's or Dementia**

- Remember that the individual with dementia might be feeling confused, anxious, irritable and depressed, and suffering from low self-esteem.
- Speak clearly, slowly, and in a calm friendly tone.
- Be aware of body language. Individuals with dementia are very receptive to body language. They are often able to detect if a person's body language depicts happiness, anger or other emotions, and then mimic the cues they see. If a frustrated officer, for example, gives off a certain negative energy, the individual with the disease might mirror back the emotion and respond with an equal amount of anger or impatience.
- Use visual cues, pointing to things to show what you mean.
- Make certain that the person with dementia has the best chance of seeing and hearing you. This involves checking that the person is wearing glasses and hearing aids, if necessary, and that talking occurs in a quiet environment.
- Approach the individual from the front. An unexpected touch or drawing near from behind may startle or upset the person.
- Before asking the individual to do something, address the person by name to get this attention. While you are speaking, maintain eye contact to help the person focus.
- Ask only one question at a time and allow time for an answer. If the person does not seem to understand, repeat the question using the same wording. If this does not work, after a few minutes, rephrase it.

- Allow the individual adequate time to respond in conversation or when performing an activity. Rushing will increase confusion.
- If the individual repeatedly asks a question, keep in mind that the person cannot remember the response you have just given them. Instead of answering the question after a second or third repetition, reassure the individual in some way- everything is fine, you will be with them, you will help them.
- Eliminate distraction, such as the TV or radio, when talking to the person with dementia.
- Avoid statements that sound negative. For example, instead of “Don’t go outside,” say, “Stay inside.”
- Use humor whenever possible, though not at the individual’s expense.
- Break down all tasks into simple steps. Tell the individual one step at a time what to do. Giving too many directions at once or too quickly will increase confusion. If the individual gets upset and becomes uncooperative, stop and try again later.

## Communicating with People Who Are Deaf or Hard of Hearing

### ADA Guide for Law Enforcement Officers

As a law enforcement officer, you can expect to come into contact with people who are deaf or hard of hearing. It is estimated that up to nine percent of the population has some degree of hearing loss, and this percentage will increase as the population ages.

Under the Americans with Disabilities Act (ADA), people who are deaf or hard of hearing are entitled to the same services law enforcement provides to anyone else. They may not be excluded or segregated from services, be denied services, or otherwise be treated differently than other people. Law enforcement

agencies must make efforts to ensure that their personnel communicate effectively with people whose disability affects hearing. This applies to both sworn and civilian personnel.

Your agency has adopted a specific policy regarding communicating with people who are deaf or hard of hearing. It is important to become familiar with this policy.



### Requirements for Effective Communication

The ADA requires that . . .

- Law enforcement agencies must provide the communication aids and services needed to communicate effectively with people who are deaf or hard of hearing, except when a particular aid or service would result in an undue burden or a fundamental change in the nature of the law enforcement services being provided.
- Agencies must give primary consideration to providing the aid or service requested by the person with the hearing disability.
- Agencies cannot charge the person for the communication aids or services provided.
- Agencies do *not* have to provide personally prescribed devices such as hearing aids.
- When interpreters are needed, agencies must provide interpreters who can interpret effectively, accurately, and impartially.
- Only the head of the agency or his or her designee can make the determination that a particular aid or service would cause an undue burden or a fundamental change in the nature of the law enforcement services being provided.
- Your agency's policy explains how to obtain interpreters or other communication aids and services when needed.

## **Communicating with People Who are Deaf or Hard of Hearing**

Officers may find a variety of communication aids and services useful in different situations.

- Speech supplemented by gestures and visual aids can be used in some cases.
- A pad and pencil, a word processor, or a typewriter can be used to exchange written notes.
- A teletypewriter (TTY, also known as a TDD) can be used to exchange written messages over the telephone.
- An assistive listening system or device to amplify sound can be used when speaking with a person who is hard of hearing.
- A sign language interpreter can be used when speaking with a person who knows sign language.
- An oral interpreter can be used when speaking with a person who has been trained to speech read (read lips).

**Note:** Do not assume that speech reading will be effective in most situations. On average, only about one third of spoken words can be understood by speech reading. The type of situation, as well as the individual's abilities, will determine which aid or service is needed to communicate effectively.

### **Practical Suggestions for Communicating Effectively**

- Before speaking, get the person's attention with a wave of the hand or a gentle tap on the shoulder.
- Face the person and do not turn away while speaking.
- Try to converse in a well-lit area.
- Do not cover your mouth or chew gum.
- If a person is wearing a hearing aid, do not assume the individual can hear you.
- Minimize background noise and other distractions whenever possible.
- When you are communicating orally, speak slowly and distinctly. Use gestures and facial expressions to reinforce what you are saying.
- Use visual aids when possible, such as pointing to printed information on a citation or other document.

- Remember that only about one third of spoken words can be understood by speech reading.
- When communicating by writing notes, keep in mind that some individuals who use sign language may lack good English reading and writing skills.
- If someone with a hearing disability cannot understand you, write a note to ask him or her what communication aid or service is needed.
- If a sign language interpreter is requested, be sure to ask *which* language the person uses. American Sign Language (ASL) and Signed English are the most common.
- When you are interviewing a witness or a suspect or engaging in any complex conversation with a person whose primary language is sign language, a qualified interpreter is usually needed to ensure effective communication.
- When using an interpreter, look at and speak directly to the deaf person, not to the interpreter.
- Talk at your normal rate, or slightly slower if you normally speak very fast.
- Only one person should speak at a time.
- Use short sentences and simple words.
- Do not use family members or children as interpreters. They may lack the vocabulary or the impartiality needed to interpret effectively.

### **What Situations *Require* an Interpreter?**

Generally, interpreter services are not required for simple transactions – such as checking a license or giving directions to a location – or for urgent situations – such as responding to a violent crime in progress.

**Example:** An officer clocks a car on the highway going 15 miles per hour above the speed limit. The driver, who is deaf, is pulled over and is issued a noncriminal citation. The individual is able to understand the reason for the citation because the officer points out relevant information printed on the citation or written by the officer.

**Example:** An officer responds to an aggravated battery call and upon arriving at the scene observes a bleeding victim and an individual holding a weapon. Eyewitnesses observed the individual strike the victim. The individual with the weapon is deaf. Because the officer has probable cause to make a felony arrest without an interrogation, an interpreter is not necessary to carry out the arrest.

However, an interpreter may be needed in lengthy or complex transactions – such as interviewing a victim, witness, suspect, or arrestee – if the person being interviewed normally relies on sign language or speech reading to understand what others are saying.

**Example:** An officer responds to the scene of a domestic disturbance. The husband says the wife has been beating their children and he has been trying to restrain her. The wife is deaf. The officer begins questioning her by writing notes, but her response indicates a lack of comprehension. She requests a sign language interpreter. In this situation an interpreter should be called. If the woman's behavior is threatening, the officer can make an arrest and call for an interpreter to be available later at the booking station.

It is inappropriate to ask a family member or companion to interpret in a situation like this because emotional ties may interfere with the ability to interpret impartially.

**Example:** An officer responds to the scene of a car accident where a man has been seriously injured. The man is conscious, but is unable to comprehend the officer's questions because he is deaf. A family member who is present begins interpreting what the officer is saying.

A family member or companion *may* be used to interpret in a case like this, where the parties are willing, the need for information is urgent, and the questions are basic and uncomplicated. However, in general, do not expect or demand that a deaf person provide his or her own interpreter. As a rule, when interpreter service is needed, it must be provided by the agency.

List your agency's contact information for obtaining an interpreter, an assistive listening device, or other communication aid or service here.

**For further information on the Americans with Disabilities Act contact:**

**ADA Website**

[www.ada.gov](http://www.ada.gov)

**ADA Information Line**

800-514-0301 (voice)

800-514-0383 (TTY)

This pamphlet was developed by the U.S. Department of Justice for law enforcement personnel.

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January 2006

Illinois Law Enforcement Training and Standards Board Executive Institute Excellence  
– Our Guiding Principle December 2015 Volume 2015, Issue 6

Enhancing Communication: Remote Video Interpreting Connection for the Deaf  
By Angela Botz & Eric Arnold

Advancing technologies are helping law enforcement across the country ensure effective communication with individuals who are deaf or hard of hearing. These new technologies assist law enforcement personnel with gathering information, responding to calls, conducting investigations, and supporting Deaf and hard of hearing victims. Video Remote Interpreting (VRI), Videophones (VP), Video Relay Services (VRS), and FaceTime Interpreting are examples of advancing technologies that are assisting law enforcement in meeting the regulations of the U.S. Department of Justice as well as the Americans with Disabilities Act (ADA). Through these advancing technologies law enforcement can now provide reasonable accommodations or modifications for equal access and equal effective services that ensure all citizens covered by the ADA understand and have the ability to communicate their circumstances and situations effectively. Under the ADA and its regulations, law enforcement agencies must consult with the deaf or hard of hearing individual about the choice of auxiliary aid or service that would assist in effective communication. Law enforcement must give primary consideration to the accommodation requested by the individual who is deaf or hard of hearing. For people who communicate primarily by



American Sign Language, qualified interpreters are a critical link to the hearing world. For people who do not communicate primarily Enhancing Communication: Remote Video Interpreting Connection for the Deaf By

Angela Botz & Eric Arnold by American Sign Language (ASL), there are mobile apps available using voice recognition software, such as talk to text, where you speak into your phone and the words are transcribed on the screen of the device. Text to speech and speech synthesis are also available. Additionally, art voice recognition technology, such as Captioned Telephone (CapTel), “captions” everything your caller

says. Some individuals are comfortable with using text sms/mms tools or a note application on their phone rather than using pen and paper. For too long, accessibility has been an afterthought for the main mobile tech companies. However, many are now offering real-time language interpretation, which is a tremendous development that has been long overdue. Available technologies, such as Video Remote Interpreting, Videophone, and FaceTime Interpreting, are considered auxiliary aids and services that are necessary requests of the individual who is deaf or hard of hearing. These advances have made it possible to bring greater access to interpreting

when and where it is needed. We hope that these advancing technologies will promote commitment by law enforcement to improve interpreting practices in their communities. For more information you may contact your nearest Center for Independent Living.

Available technologies include: Video remote interpreting (VRI) is a fee-based interpreting service conveyed via videoconferencing where at least one person, typically the interpreter, is at a separate location. As a fee-based service, VRI may be arranged through service contract, rate plans based on per minute or per hour fees, or charges based on individual usage. VRI can be provided as on-demand service and/or by appointment. You can set up an account with the interpreting service. This can be used on a larger visual screen such as a laptop, tablet, or TV monitor. You can contact a center for independent living for more information. Video remote interpreting is currently used in a variety of settings and provides communication access for situations with an immediate need for interpreters. In addition, it meets interpreting demands when qualified onsite interpreters are not available, especially in rural areas where qualified interpreters are less accessible. And yes, VRI

can reduce interpreting costs through fee structures and elimination of travel and mileage costs. Successful VRI uses qualified sign language interpreters who have linguistic competence, are experienced in settings for which they will work, and adhere to professional interpreting standards. It is imperative for law enforcement to be familiar with the equipment and videoconferencing protocols, effective environmental controls, and compatibility of technical set-up and connectivity. VRI may not be appropriate for situations involving individuals with a secondary disability (e.g. low vision) that

impedes their ability to utilize the technology. Similarly, VRI may not be appropriate for situations with complex dialogic exchange, such as abstract philosophical interchange, dialogue with veiled intentions or multiple meanings, and situations involving communications of a sensitive nature. Videophone (VP) is a two-way video communication system employing a videophone at each end. The videophone incorporates a personal video camera and display, a microphone and speaker, and a data-conversion device. It is a video camera that simultaneously transmits and receives both audio and video signals through high speed internet. Oftentimes, the police do not understand when a deaf person requests a VP, which would mean they need to call a family member or someone such as a lawyer, social worker or others to contact. Video Relay Services (VRS) is a 24-hour service paid for by the government's Telecommunications

Relay Service (TRS) fund. VRS empowers a deaf person to place and receive calls with a professional American Sign Language (ASL) interpreter via a videophone or other compatible device and a high speed internet connection. Through a high-speed internet connection, deaf or hard of hearing individuals using a videophone, PC, Mac, tablet, or mobile device place VRS calls that are routed to a VRS interpreting center. The deaf individual signs to the interpreter, who then calls the hearing user via a standard phone line and relays the conversation between the two parties. A request for a videophone or VP is considered a standard phone call for a visual communication method. FaceTime Interpreting is Apple's FaceTime ASL video interpreting (VRI) service. This technology uses FaceTime to connect to individuals nationwide who are deaf or hard of hearing for

a service up to 30 minutes. This technology is rather new, like community/onsite interpreting to deaf citizens. Therefore, it is critical that law enforcement understands what VRI and FaceTime ASL are, how they function, and the benefits of utilizing them. With this service, any person can submit a form to FaceTime Interpreting, such as CODA Brothers, and set up as an account. This service can be paid for by the individual or organization. Additionally, there are other mobile apps for communication besides video interpreting services, including voice recognition converting to captioning. These alternative applications can be utilized by someone who prefers reading. Author Bios:

Angela Botz is a leader, mentor, and a civil rights and liberties advocate. Botz has years of experience in leadership skills / development, value-based decision making, and mentoring. She is a Community Outreach Coordinator and also coordinates Deaf Services at IMPACT Center for Independent Living in Alton, IL. Botz became the first deaf woman to serve 2nd term President of the Illinois Association of the Deaf. She was the President and co-founder of Show-Me Accessible Health Care, Inc., a nonprofit organization dedicated to helping deaf and hard of hearing individuals by increasing access to and improving the quality of health care in the Saint Louis metropolitan area and other counties in Missouri and Illinois. In 2012, she received the Robert M. Greenmun Memorial Award from the National Association of the Deaf. Botz also received the Legislative Advocate of the Year Award from LINC, Inc. She was involved in numerous



committees and boards including the Illinois School for the Deaf Advisory Board. She is the District 5 Representative for the Illinois Telecommunications Access Corporation. Botz is Sponsorship and Exhibitor Coordinator for the St. Louis Deafestival 2016. Email: [botz@impactcil.org](mailto:botz@impactcil.org)

Eric C. Arnold is the Program Manager for the Illinois Law Enforcement Training and Standards Board (ILETSB) Executive Institute at Western Illinois University in Macomb, Illinois. Eric joined the ILETSB Executive Institute as a Program Manager in 2009.



Eric manages the ILETSB Executive Institute's Online Learning Network (OLN) as well the Effective Police Supervision-Transformation to Leadership curriculum.

Eric has developed 7 state and federally funded violence against women training modules for the OLN system. In addition, Eric has worked with the International Association of Chiefs of Police (IACP) on conducting the Illinois Leadership Institute on Violence Against Women as well as IACP curriculum development for frontline supervisor training. Eric works extensively on the topic of human trafficking and has also organized and deployed both online and face-to-face campus law enforcement trainings on the topic of interpersonal violence. Eric is a 15 year veteran of several law enforcement agencies including the Bradley University Police Department, Tazewell County Probation Department, Illinois Department of Juvenile Justice and IPPC Technologies Inc. Email: [EC-Arnold@wiu.edu](mailto:EC-Arnold@wiu.edu) Volume 2015, Issue 6 [www.iletsbei.com](http://www.iletsbei.com)

# **Tools and Tips For Law Enforcement**

# The Top Ten Things Law Enforcement Needs to Know About People with Disabilities

By Shirley Pacey

The words below are taken from personal and professional experiences with people with disabilities.

- 1. We need you.** People with disabilities experience violence more often than people without disabilities. These crimes are rarely reported by families, educators, disability agencies and even by the people who are being hurt. We are learning about our rights now and we may reach out to you. We need your help. But first...
- 2. We want you to know the truth.** There are many myths about us...or should I say lies? Some people think because we are different, we aren't equal and they can take advantage of us and get away with it. Some people think we have less value, that we don't feel pain, and that we can't learn. Those are lies. We have feelings like everyone else. We are more like you than we are different. Get to know us and you will learn that...
- 3. We are not our labels.** Don't worry about learning everything there is to learn about people with disabilities before you work with me. A label doesn't tell you who I am. Each person with the same label is different; just like everyone with diabetes is different. While my label might help you understand something about me, I am a person first. Just ask me if you want to know something about me. I am the expert on myself. Please remember...
- 4. Everyone communicates.** We may not communicate the same way that you do so you might think you can't understand us. Some of us communicate with devices, some of us use pictures, and some of us can show you with gestures and pointing. Take the time to get to know how we communicate. Together, we can figure out lots of things. Please give me time and I will help the best I can. If you don't understand something...
- 5. Ask me to repeat what I said.** Those of us who are difficult to understand know that. We would rather you ask us to repeat something than pretend you know what we said. You will get better with practice. There is a label called 'non-verbal' which means I can't use my voice, but I can still communicate. Don't be tricked by these labels, or the person who hurt us gets to win. Instead understand that...
- 6. Some of us need accommodations to participate.** Some of us need something to be able to participate in the criminal justice process. For example, some of us need an American Sign Language Interpreter, some of need Braille documents, some of may need pictures to show what happened; many of us need to be spoken with in plain language. Ask what we need so we can best

participate and you will find that...

7. **Many of us are credible witnesses.** When you make a quick judgment that we can't go to court so there is nothing you can do, the offender wins. People with all kinds of disabilities have testified in court; many with accommodations. In other situations, a case has been based on corroborating evidence. We need you to move the case forward because...
8. **Offenders target people with disabilities.** It is hard for the public to understand why someone would hurt someone with a disability but it happens all the time. Offenders are pretty sure they can hurt us and no one will believe us—that the case will never go to court. So they keep hurting us and...
9. **You can help stop crimes against people with disabilities.** Each time an offender learns that the police take these cases seriously, it slows them down. Some offenders will be stopped and sent to prison. We really need you to make that happen. Work with the Child and Adult Protective Services in your state. Get to know people with disabilities. Be committed to helping us get justice.
10. **Thank you.** Thank you for believing us when we tell you what happened. Thank you for taking the time to get to know us. Thank you for seeing the value in our lives. Thank you for listening and trying to understand when it is difficult. Thank you for making us safer. Thank you for your time and skills and efforts to find evidence and get the offenders locked up. We are counting on you.

## Feedback from Older Adults in Illinois from Arrest Grant Interviews

- We may not understand what you are saying, be patient, take time with us.
- We may be forgetful.
- If we are falling down or stumbling, don't assume we are drunk, assume we need help.
- Assume we are intelligent not senile.
- It scares me to see that police are mistreating older people, spend time figuring out what the problem is before you get physical.
- Please be more compassionate when walking up to a "senior".
- Some people are hard of hearing, when law enforcement asks someone to stop or do something, they may not respond because they can't hear.
- Some people have limited vision.
- Police talk too fast. Slow down.

## Advice from People with Disabilities in Illinois from Arrest Grant Interviews

- If you pull over a car, check in the back to make sure there is not a wheelchair. I am afraid I am going to be a passenger in a car that gets pulled over and I won't be able to get out of the car.
- A young African American man with autism said that he knows he must be very careful around the police so they don't "shoot me".
- People with disabilities might be afraid to call the police.
- Explain situations to people so they understand what kind of treatment they are going to get. Clarify things and ask if the person understands or needs something explained again.
- Stay calm when you are around them, be authoritative but try not to be overly demanding.
- It takes more time for us to process things. Sit down, be patient and don't just immediately react.
- Be friendly to me all the time so I am not afraid if I have to talk to you.
- I may not know how to speak up for myself.
- Be respectful of me and my circumstances.
- Don't be aggressive with me.
- Offer to help solve the problem, not just yell like a parent.
- People with disabilities get frustrated when they don't understand.
- People with disabilities may behave in ways that are unexpected.
- We are just like you! Not second-class citizens, stupid or dumb.
- It helps if you approach assault as an ally and not be accusatory or victim-shaming.
- If you can't realize that what I say has value, then I may shut down.
- Please don't use the "R" word.

## Interviewing Tips

### Preparing for the Interview

- Assure the space is physically accessible, including the restroom.
- Recognize what the victim's disability is and provide any possible accommodations.
  - When in doubt...**ASK!**
- Take time to "listen" to the victim's account.
- Schedule extra time for the interview so you do not feel rushed.
- Be aware of the victim's schedule.
- Prepare to tell family members or support persons that you will need to interview the victim alone.
- It is best if a trained investigator can be assigned to handle this case through its entirety.

### During the Interview

- Explain to the person that you are here to help.
- Ask the person for their consent to be interviewed.
- Provide facts about who you are, what you are going to do, and what happens next.
- Establish a rapport.
- Communicate with individual like an adult and use a normal tone of voice.
- Speak directly to the person and not a support person or interpreter.
- Make eye contact and get at eye level with the person.
- If the person uses a wheelchair, mobility device or communication tool, ask permission before touching these.
- It is okay to offer assistance, but let the person decide if and what help is needed.

- Allow time for the person to respond – handshakes, questions.
- Use plain language, avoid jargon and sarcasm.
- Use the variety of sensory approaches, i.e. visual, auditory, movement.
- Let the person know that they are not in trouble and that you believe them.
- Let the person know that they are brave and they are helping others to be safe.

### Following the Interview

- Contact the individual utilizing the preferred method of communication.
- If a follow up interview is needed, provide as much advance notice as possible.
- Check in to see if any additional accommodations are needed for the follow up interview.
- Provide updates on the status of the report.

Following a traumatic experience, all individuals need at least 2 nights of sleep, food and support before being able to provide complete and accurate information.



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## COMMONLY ASKED QUESTIONS ABOUT THE AMERICANS WITH DISABILITIES ACT AND LAW ENFORCEMENT

### I. Introduction

Police officers, sheriff's deputies, and other law enforcement personnel have always interacted with persons with disabilities and, for many officers and deputies, the Americans with Disabilities Act (ADA) may mean few changes in the way they respond to the public. To respond to questions that may arise, this document offers common sense suggestions to assist law enforcement agencies in complying with the ADA. The examples presented are drawn from real-life situations as described by police officers or encountered by the Department of Justice in its enforcement of the ADA.

#### 1. **Q: What is the ADA?**

**A:** The Americans with Disabilities Act (ADA) is a Federal civil rights law. It gives Federal civil rights protections to individuals with disabilities similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion. It guarantees equal opportunity for individuals with disabilities in State and local government services, public accommodations, employment, transportation, and telecommunications.

#### 2. **Q: How does the ADA affect my law enforcement duties?**

**A:** Title II of the ADA prohibits discrimination against people with disabilities in State and local governments services, programs, and employment. Law enforcement agencies are covered because they are programs of State or local governments, regardless of whether they receive Federal grants or other Federal funds. The ADA affects virtually everything that officers and deputies do, for example:

- receiving citizen complaints;
- interrogating witnesses;
- arresting, booking, and holding suspects;
- operating telephone (911) emergency centers;
- providing emergency medical services;
- enforcing laws;
- and other duties.

#### 3. **Q: Who does the ADA protect?**

**A:** The ADA covers a wide range of individuals with disabilities. An individual is considered to have a "disability" if he or she has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment\*

Major life activities include such things as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. To be substantially limited means that such activities are restricted in the manner, condition, or duration in which they are performed in comparison with most people.

- The ADA also protects people who are discriminated against because of their association with a person with a disability.

**Example:** Police receive a call from a woman who complains that someone has broken into her residence. The police department keeps a list of dwellings where people with AIDS are known to reside. The woman's residence is on the list because her son has AIDS. Police fail to respond to her call, because they fear catching the HIV virus. The officers have discriminated against the woman on the basis of her association with an individual who has AIDS.

#### 4. Q: What about someone who uses illegal drugs?

**A:** Nothing in the ADA prevents officers and deputies from enforcing criminal laws relating to an individual's current use or possession of illegal drugs.

## II. Interacting with People with Disabilities

#### 5. Q: What are some common problems that people with disabilities have with law enforcement?

**A:** Unexpected actions taken by some individuals with disabilities may be misconstrued by officers or deputies as suspicious or illegal activity or uncooperative behavior.

**Example:** An officer approaches a vehicle and asks the driver to step out of the car. The driver, who has a mobility disability, reaches behind the seat to retrieve her assistive device for walking. This appears suspicious to the officer.

- Individuals who are deaf or hard of hearing, or who have speech disabilities or mental retardation, or who are blind or visually impaired may not recognize or be able to respond to police directions. These individuals may erroneously be perceived as uncooperative.

**Example:** An officer yells "freeze" to an individual who is running from an area in which a crime has been reported. The individual, who is deaf, cannot hear the officer and continues to run. The officer mistakenly believes that the individual is fleeing from the scene. Similarly, ordering a suspect who is visually impaired to get over "there" is likely to lead to confusion and misunderstanding, because the suspect may have no idea where the officer is pointing.

Some people with disabilities may have a staggering gait or slurred speech related to their disabilities or the medications they take. These characteristics, which can be associated with neurological disabilities, mental/emotional disturbance, or hypoglycemia, may be misperceived as intoxication.

**Example:** An officer observes a vehicle with one working headlight and pulls the vehicle over. When the driver hands the registration to the officer, the officer notices that the driver's hand is trembling, and her speech is slurred. The officer concludes that the individual is under the influence of alcohol, when in fact the symptoms are caused by a neurological disability.

**Example:** A call comes in from a local restaurant that a customer is causing a disturbance. When the responding officer arrives at the scene, she discovers a 25-year-old man swaying on his feet and grimacing. He has pulled the table cloth from the table. The officer believes that the man has had too much to drink and is behaving aggressively, when in fact he is having a seizure.

### **What can be done to avoid these situations?**

Training, sensitivity, and awareness will help to ensure equitable treatment of individuals with disabilities as well as effective law enforcement. For example:

- When approaching a car with visible signs that a person with a disability may be driving (such as a designated license plate or a hand control), the police officer should be aware that the driver may reach for a mobility device.
- Using hand signals, or calling to people in a crowd to signal for a person to stop, may be effective ways for an officer to get the attention of a deaf individual.
- When speaking, enunciate clearly and slowly to ensure that the individual understands what is being said.
- Finally, typical tests for intoxication, such as walking a straight line, will be ineffective for individuals whose disabilities cause unsteady gait. Other tests, like breathalyzers, will provide more accurate results and reduce the possibility of false arrest.

### **6. Q: What if someone is demonstrating threatening behavior because of his or her disability?**

**A:** Police officers may, of course, respond appropriately to real threats to health or safety, even if an individual's actions are a result of her or his disability. But it is important that police officers are trained to distinguish behaviors that pose a real risk from behaviors that do not, and to recognize when an individual, such as someone who is having a seizure or exhibiting signs of psychotic crisis, needs medical attention. It is also important that behaviors resulting from a disability not be criminalized where no crime has been committed. Avoid these scenarios:

- A store owner calls to report that an apparently homeless person has been in front of the store for an hour, and customers are complaining that he appears to be talking to himself. The individual, who has mental illness, is violating no loitering or panhandling laws. Officers arriving on the scene arrest him even though he is violating no laws.
- Police receive a call in the middle of the night about a teenager with mental illness who is beyond the control of her parents. All attempts to get services for the teenager at that hour fail, so the responding officer arrests her until he can get her into treatment. She ends up with a record, even though she committed no offense.

### **7. Q: What procedures should law enforcement officers follow to arrest and transport a person who uses a wheelchair?**

**A:** Standard transport practices may be dangerous for many people with mobility disabilities. Officers should use caution not to harm an individual or damage his or her wheelchair. The best approach is to ask the person what type of transportation he or she can use, and how to lift or assist him or her in transferring into and out of the vehicle.

**Example:** An individual with a disability is removed from his wheelchair and placed on a bench in a paddy wagon. He is precariously strapped to the bench with his own belt. When the vehicle begins to move, he falls off of the bench and is thrown to the floor of the vehicle where he remains until arriving at the station.

- Some individuals who use assistive devices like crutches, braces, or even manual wheelchairs might be safely transported in patrol cars.
- Safe transport of other individuals who use manual or power wheelchairs might require departments to make minor modifications to existing cars or vans, or to use lift-equipped vans or buses. Police departments may consider other community resources, e.g., accessible taxi services.

**8. Q: What steps should officers follow to communicate effectively with an individual who is blind or visually impaired?**

**A:** It is important for officers to identify themselves and to state clearly and completely any directions or instructions -- including any information that is posted visually. Officers must read out loud in full any documents that a person who is blind or visually impaired needs to sign. Before taking photos or fingerprints, it is a good idea to describe the procedures in advance so that the individual will know what to expect.

**9. Q: Do police personnel need to take special precautions when providing emergency medical services to someone who has HIV or AIDS?**

**A:** Persons with HIV or AIDS should be treated just like any other person requiring medical attention. In fact, emergency medical service providers are required routinely to treat all persons as if they are infectious for HIV, Hepatitis B, or other blood borne pathogens, by practicing precautions. Many people do not know that they are infected with a blood born pathogen, and there are special privacy considerations that may cause those who know they are infected not to disclose their infectious status.

- Universal precautions for emergency service providers include the wearing of gloves, a mask, and protective eye wear, and, where appropriate, the proper disinfection or disposal of contaminated medical equipment. Protective barriers like gloves should be used whenever service providers are exposed to blood.

**Example:** Police are called to a shopping mall to assist a teenager who has cut his hand and is bleeding profusely. As long as the attending officers wear protective gloves, they will not be at risk of acquiring HIV, Hepatitis B, or any other blood borne pathogen, while treating the teenager.

- Refusing to provide medical assistance to a person because he or she has, or is suspected of having, HIV or AIDS is discrimination.

**Example:** Police are called to a shopping mall, where an individual is lying on the ground with chest pains. The responding officer asks the individual whether she is currently taking any medications. She responds that she is taking AZT, a medication commonly prescribed for individuals who are HIV-positive or have AIDS. The officer announces to his colleagues that the individual has AIDS and refuses to provide care. This refusal violates the ADA.

### III. Effective Communication

#### 10. Q: Do police departments have to arrange for a sign language interpreter every time an officer interacts with a person who is deaf?

**A:** No. Police officers are required by the ADA to ensure effective communication with individuals who are deaf or hard of hearing. Whether a qualified sign language interpreter or other communication aid is required will depend on the nature of the communication and the needs of the requesting individual. For example, some people who are deaf do not use sign language for communication and may need to use a different communication aid or rely on lip-reading. In one-on-one communication with an individual who lip-reads, an officer should face the individual directly, and should ensure that the communication takes place in a well-lighted area.

- Examples of other communication aids, called "auxiliary aids and services" in the ADA, that assist people who are deaf or hard of hearing include the exchange of written notes, telecommunications devices for the deaf (TDD's) (also called text telephones (TT's) or teletypewriters (TTY's)), telephone handset amplifiers, assistive listening systems, and videotext displays.
- The ADA requires that the expressed choice of the individual with the disability, who is in the best position to know her or his needs, should be given primary consideration in determining which communication aid to provide. The ultimate decision is made by the police department. The department should honor the individual's choice unless it can demonstrate that another effective method of communication exists.
- Police officers should generally not rely on family members, who are frequently emotionally involved, to provide sign language interpreting.

**Example:** A deaf mother calls police to report a crime in which her hearing child was abused by the child's father. Because it is not in the best interests of the mother or the child for the child to hear all of the details of a very sensitive, emotional situation, the mother specifically requests that the police officers procure a qualified sign language interpreter to facilitate taking the report. Officers ignore her request and do not secure the services of an interpreter. They instead communicate with the hearing child, who then signs to the mother. The police department in this example has violated the ADA because it ignored the mother's request and inappropriately relied on a family member to interpret.

- In some limited circumstances a family member may be relied upon to interpret.

**Example:** A family member may interpret in an emergency, when the safety or welfare of the public or the person with the disability is of paramount importance. For example, emergency personnel responding to a car accident may need to rely on a family member to interpret in order to evaluate the physical condition of an individual who is deaf. Likewise, it may be appropriate to rely on a family member to interpret when a deaf individual has been robbed and an officer in hot pursuit needs information about the suspect.

**Example:** A family member may interpret for the sake of convenience in circumstances where an interpreter is not required by the ADA, such as in situations where exchanging written notes would be effective. For example, it would be appropriate to rely on a passenger who is a family member to interpret when an individual who is deaf is asking an officer for traffic directions, or is

stopped for a traffic violation.

**11. Q: If the person uses sign language, what kinds of communication will require an interpreter?**

**A:** The length, importance, or complexity of the communication will help determine whether an interpreter is necessary for effective communication

- In a simple encounter, such as checking a driver's license or giving street directions, a notepad and pencil normally will be sufficient.
- During interrogations and arrests, a sign language interpreter will often be necessary to effectively communicate with an individual who uses sign language.
- If the legality of a conversation will be questioned in court, such as where Miranda warnings are issued, a sign language interpreter may be necessary. Police officers should be careful about miscommunication in the absence of a qualified interpreter -- a nod of the head may be an attempt to appear cooperative in the midst of misunderstanding, rather than consent or a confession of wrongdoing.
- In general, if an individual who does not have a hearing disability would be subject to police action without interrogation, then an interpreter will not be required, unless one is necessary to explain the action being taken.

**Example:** An officer clocks a car on the highway driving 15 miles above the speed limit. The driver, who is deaf, is pulled over and issued a noncriminal citation. The individual is able to understand the reasons for the citation, because the officer exchanges written notes with the individual and points to information on the citation. In this case, a sign language interpreter is not needed.

**Example:** An officer responds to an aggravated battery call and upon arriving at the scene observes a bleeding victim and an individual holding a weapon. Eyewitnesses observed the individual strike the victim. The individual with the weapon is deaf, but the officer has probable cause to make a felony arrest without an interrogation. In this case, an interpreter is not necessary to carry out the arrest.

**12. Q: Do I have to take a sign language interpreter to a call about a violent crime in progress or a similar urgent situation involving a person who is deaf?**

**A:** No. An officer's immediate priority is to stabilize the situation. If the person being arrested is deaf, the officer can make an arrest and call for an interpreter to be available later at the booking station.

**13. Q: When a sign language interpreter is needed, where do I find one?**

**A:** Your department should have one or more interpreters available on call. This is generally accomplished through a contract with a sign language interpreter service. Communicating through sign language will not be effective unless the interpreter is familiar with the vocabulary and terminology of law enforcement, so your department should ensure that the interpreters it uses are familiar with law enforcement terms.

**14. Q: Is there any legal limit to how much my department must spend on communication aids like interpreters?**

**A:** Yes. Your department is not required to take any step that would impose undue financial and administrative burdens. The "undue burden" standard is a high one. For example, whether an action would be an undue financial burden is determined by considering all of the resources available to the department. If providing a particular auxiliary aid or service would impose an undue burden, the department must seek alternatives that ensure effective communication to the maximum extent feasible.

**15. Q: When would an officer use an assistive listening device as a communication aid?**

**A:** Assistive listening systems and devices receive and amplify sound and are used for communicating in a group setting with individuals who are hard of hearing.

- At headquarters or a precinct building, if two or more officers are interrogating a witness who is hard of hearing, or in meetings that include an individual who is hard of hearing, an assistive listening device may be needed.

**16. Q: What is a TDD and does every police station have to have one?**

**A:** A telecommunications device for the deaf (TDD) is a device used by individuals with hearing or speech disabilities to communicate on the telephone. A TDD is a keyboard with a display for receiving typed text that can be attached to a telephone. The TDD user types a message that is received by another TDD at the other end of the line.

- Arrestees who are deaf or hard of hearing, or who have speech disabilities, may require a TDD for making outgoing calls. TDD's must be available to inmates with disabilities under the same terms and conditions as telephone privileges are offered to all inmates, and information indicating the availability of the TDD should be provided.
- TDD is typically cost \$200-300 each and can be used with a standard telephone. It is unlikely that the cost of purchasing a TDD will be prohibitive. Still, a small department with limited resources could arrange to share a TDD with a local courthouse or other entity, so long as the TDD is immediately available as needed.

**17. Q: What about "911" calls? How are those made accessible to people with speech or hearing disabilities?**

**A:** Individuals with hearing and speech disabilities must have direct access to "911" or similar emergency telephone services, meaning that emergency response centers must be equipped to receive calls from TDD and computer modem users without relying on third parties or state relay services. It is important that operators are trained to use the TDD when the caller is silent, and not only when the operator recognizes the tones of a TDD at the other end of the line. For additional information, please refer to the Department of Justice's publication, Commonly Asked Questions Regarding Telephone Emergency Services. For information about how to obtain this and other publications, see the resources section at the end of this document.

**18. Q: Procedures at my office require citizens to fill out forms when reporting crimes. What if the person has a vision disability, a learning disability, mental retardation or some other disability that may prevent the person from filling out a form?**

**A:** The simplest solution is to have an officer or clerk assist the person in reading and filling out the form. Police officers have probably been doing this for years. The form itself could also be provided in an alternative format. Providing a copy of the form in large print (which is usually as simple as using a copy machine or computer to increase type size) will make the form accessible to many individuals with moderate vision disabilities.

## **IV. Architectural Access**

**19. Q: Does the ADA require all police stations to be accessible to people with disabilities?**

**A:** No. Individuals with disabilities must have equal access to law enforcement services, but the ADA is flexible in how to achieve that goal. The ADA requires programs to be accessible to individuals with disabilities, not necessarily each and every facility. Often, structural alterations to an existing police station or sheriff's office will be necessary to create effective access. In some situations, however, it may be as effective to use alternative methods, such as relocating a service to an accessible building, or providing an officer who goes directly to the individual with the disability. Whatever approach to achieving "program access" is taken, training of officers and deputies, well-developed policies, and clear public notice of the approach will be critical to ensuring successful ADA compliance.

**Example:** A police station in a small town is inaccessible to individuals with mobility disabilities. The department decides that it cannot alter all areas of the station because of insufficient funds. It decides to alter the lobby and restrooms so that the areas the public uses for filling out crime reports, obtaining copies of investigative reports for insurance purposes, or seeking referrals to shelter care -- are accessible. Arrangements are made to conduct victim and witness interviews with individuals with disabilities in a private conference room in the local library or other government building, and to use a neighboring department's accessible lock-up for detaining suspects with disabilities. These measures are consistent with the ADA's program accessibility requirements.

**Example:** An individual who uses a wheelchair calls to report a crime, and is told that the police station is inaccessible, but that the police department has a policy whereby a police officer will meet individuals with disabilities in the parking lot. The individual arrives at the parking lot, waits there for three hours, becomes frustrated, and leaves. By neglecting to adequately train officers about its policy, the police department has failed in its obligation to provide equal access to police services, and has lost valuable information necessary for effective law enforcement.

**20. Q: What about holding cells and jails that are not accessible?**

**A:** An arrestee with a mobility disability must have access to the toilet facilities and other amenities provided at the lock-up or jail. A law enforcement agency must make structural changes, if necessary, or arrange to use a nearby accessible facility.

- Structural changes can be undertaken in a manner that ensures officer safety and general security. For example, grab bars in accessible restrooms can be secured so that they are not removable.
- If meeting and/or interrogation rooms are provided, those areas should also be accessible for use by arrestees, family members, or legal counsel who have mobility disabilities.

**21. Q: Is there a limit to the amount of money my agency must spend to alter an existing police facility?**

**A:** Yes. It is the same legal standard of "undue burden" discussed earlier with regard to the provision of communication aids. Your agency is not required to undertake alterations that would impose undue financial and administrative burdens. If an alteration would impose an "undue burden", the agency must choose an alternative that ensures access to its programs and services.

**22. Q. We are building a new prison. Do we need to make it accessible?**

**A:** Yes. All new buildings must be made fully accessible to, and usable by, individuals with disabilities. The ADA provides architectural standards that specify what must be done to create access.

- Either the Uniform Federal Accessibility Standards (UFAS) or the ADA Standards for Accessible Design (without the elevator exemption) (ADA Standards) may be used. UFAS has specific scoping requirements for prisons that require, among other things, that 5% of all cells be made accessible to individuals with mobility disabilities.
- Unlike modifications of existing facilities, there is no undue burden limitation for new construction,
- In addition, if an agency alters an existing facility for any reason — including reasons unrelated to accessibility the altered areas must be made accessible to individuals with disabilities.

## **V. Modifications of Policies, Practices, and Procedures**

**23. Q: What types of modifications in law enforcement policies, practices, and procedures does the ADA require?**

**A:** The ADA requires law enforcement agencies to make reasonable modifications in their policies, practices, and procedures that are necessary to ensure accessibility for individuals with disabilities, unless making such modifications would fundamentally alter the program or service involved. There are many ways in which a police or sheriff's department might need to modify its normal practices to accommodate a person with a disability.

**Example:** A department modifies a rule that prisoners or detainees are not permitted to have food in their cells except at scheduled intervals, in order to accommodate an individual with diabetes who uses medication and needs access to carbohydrates or sugar to keep blood sugar at an appropriate level.

**Example:** A department modifies its enforcement of a law requiring a license to use motorized vehicles on the streets, in order to accommodate individuals who use scooters or motorized wheelchairs. Such individuals are pedestrians, but may need to use streets where curb cuts are unavailable.

**Example:** A department modifies its regular practice of handcuffing arrestees behind their backs, and instead handcuffs deaf individuals in front in order for the person to sign or notes.

**Example:** A department modifies its practice of confiscating medications for the period of confinement, in order to permit inmates who have disabilities that require self-medication, such as cardiac conditions or epilepsy, to self-administer medications that do not have abuse potential.

**Example:** A department modifies the procedures for giving Miranda warnings when arresting an individual who has mental retardation. Law enforcement personnel use simple words and ask the individual to repeat each phrase of the warnings in her or his own words. The personnel also check for understanding, by asking the individual such questions as what a lawyer is and how a lawyer might help the individual, or asking the individual for an example of what a right is. Using simple language or pictures and symbols, speaking slowly and clearly, and asking concrete questions, are all ways to communicate with individuals who have mental retardation.

- Informal practices may also need to be modified. Sometimes, because of the demand for police services, third party calls are treated less seriously. Police officers should keep in mind that calling through a third party may be the only option for individuals with certain types of disabilities.

## **VI. Resources**

### **24. Q: It sounds like awareness and training are critical for effective interaction with individuals with disabilities. How can I find out more about the needs of my local disability community?**

**A:** State and local government entities were required, by January 26, 1993, to conduct a "self-evaluation" reviewing their current services, policies, and practices for compliance with the ADA. Entities employing 50 or more persons were also to develop a "transition plan" identifying structural changes that needed to be made. As part of that process, the ADA encouraged entities to involve individuals with disabilities from their local communities. Continuing this process will promote access solutions that are reasonable and effective. Even though the deadlines for the self-evaluation, transition plan, and completion of structural changes have passed, compliance with the ADA is an ongoing obligation.

### **25. Q: Where can I turn for answers to other questions about the ADA?**

**A:** The Department of Justice's toll-free ADA Information Line answers questions and offers free publications about the ADA. The telephone numbers are: 800-514-0301 (voice) or 800-514-0383 (TTY). Publications are also available from the ADA Website [www.ada.gov](http://www.ada.gov).

## **Capacity, Consent, and Undue Influence**

In working with victims with disabilities it is important that law enforcement personnel understand the issues of credibility, consent, and undue influence. Many people with disabilities are capable of making all of their life decisions and it is important to presume competence. Some people with disabilities, however, do not have the capacity to consent to sexual activity. Others may not meet the criteria to testify in a court hearing. Some individuals can be considered credible witnesses without having the capacity to consent to sexual activity.

### **Credible witness issues**

The general criteria for a credible witness includes understanding the difference between truth and lie, remembering what happened, and being able to communicate what happened. The majority of people with disabilities are credible witnesses. To assess 'understanding the difference between truth and lie' in a person with an intellectual disability, it is best to use several concrete questions. For example: "There is an elephant in the room. Is that the truth or a lie?" or "My shirt is red (when your shirt is green). Is that truth or lie?" After a few of these questions, ask the person, "Is it better to tell a lie or the truth?" and "What happens if someone tells a lie?" This concrete approach can give you a wealth of information.

Keep in mind that the person may need some accommodations to be able to explain what happened to them in a way that is easy for others to understand. Common accommodations for someone with an intellectual disability include allowing extended time to respond to questions, use of concrete words to communicate with the individual, and allowing the person to point to pictures or use a communication device or book.

A victim's ability to sequence events is not required. In this situation, it is helpful to establish understanding of the victim's routine. The victim may be able to reference events surrounding the assault(s) by their activities when they are unable to use a clock or calendar.

### **Capacity to consent to sexual activity**

Consent for sexual activity is when someone can voluntarily make a decision whether or not to participate in sexual activity. If a person is not able to make that decision, legal charges can be filed against the person who engages in sexual activity with the person who lacks capacity to consent. Therefore, it is important that law enforcement and prosecutors understand what this diminished capacity means. This capacity is evaluated by a professional (usually a psychologist) who has specific training and understands the professional guidelines for making such determinations. The determination is then decided through adjudication. It is best for law enforcement to work with prosecutors in determining what needs to be investigated in this regard.

Consent for sexual activity has three components: knowledge, reasoning, and voluntariness. Knowledge includes facts needed to make a decision and risks such as diseases, pregnancy. Reasoning is the ability to understand and weigh different options

in making an informed choice. Voluntariness is the ability to protect oneself against coercion in making sexual decisions.

One study of more than 300 psychologists (Kennedy and Niederbuhl, 2001), revealed that important elements of consent include

- Being able to say or demonstrate “no.”
- Knowing that having intercourse can result in pregnancy.
- Being able to make an informed choice when given options.
- Knowing that having intercourse or other sexual relations can result in obtaining a disease.
- Being able to differentiate between appropriate and inappropriate times and places to engage in intimate relations.
- Being able to differentiate between males and females.
- Being able to recognize individuals or situations which might be a threat to him/her.
- Being able to stop a behavior if another person tells him/her “no”.

This list may be helpful to prosecutors in determining if someone needs an evaluation of their capacity to give consent for sexual activity.

Just as someone who is under the influence of alcohol or illegal drugs may lack the capacity to give consent for sexual activity, a person with mental illness who is adjusting to new medications may lack consent for sexual activity.

### **Capacity**

Capacity refers to an individual’s ability to perform certain tasks. Mental capacity refers to the ability to perform mental tasks such as remembering, reasoning, and understanding the repercussions of one’s actions. When these abilities are impaired, the individual becomes vulnerable to financial exploitation.

The level of capacity that is needed for performing financial transactions depends on the specific nature of the transactions. The more complex the transaction, the more capacity is needed. For legal purposes, there are several levels of capacity: testamentary capacity; the capacity to contract; the capacity to give medical consent; and the capacity to testify. The types of capacity that generally come into question in financial abuse cases are testamentary capacity and the capacity to sign contracts and other documents.

Testamentary capacity is needed for on making wills. For a will to be legal, the individual must have sufficient mental capacity to:

- Understand the nature of the act.
- Understand and recollect the nature and extent of his or her property.
- Remember and understand his or her relation to living descendants, spouse, and parents whose interests will be affected by the will.

Although there is no universal standard for what mental capacity is needed to enter into a contract, capacity for signing contracts is generally defined as understanding the nature and consequences of the transaction (i.e. the ability to know what one is doing and appreciate the effects of their actions). Some states have also addressed “volition” in assessing capacity. This relates to the fact that some individuals understand the nature and consequences of their actions, but lack volitional control. An individual suffering from manic depressive illness may, at times, lack volitional control.

A myriad of problems surround discussion about capacity. This includes disagreement about what levels of capacity are needed for specific tasks. In Illinois, for example, courts have generally ruled that executing deeds requires the same level of capacity as executing contracts. However, in another state recently, a court ruled that the level of capacity needed for executing deeds was testamentary.

Another inherent problem in discussing capacity is that mental status is usually measured through mental status examinations. These tests measure categories of mental functioning including cognition and memory. It is not always clear how these measurements apply to the performance of specific legal functions. A variety of other issues further complicate assessments of capacity. Additionally, some severely impaired individuals have periods of lucidity. For this reason, abusers who are charged with exploiting an older person’s incapacity can always claim that a victim was “lucid for a moment” (e.g. when he/she signed a contract or gave a gift). Consequently, financial exploitation investigators must consider how often a person is affected and how long the impairment lasts. Additionally, a mental impairment in and of itself does not render a person incompetent to make decisions or testify. The seriousness or gravity of a situation also affects the degree of competency that is needed.

### **Consent**

Determining whether financial exploitation has occurred may involve assessing if an individual consented to make purchases, accept assistance, or transact business. To exercise consent, an individual must have knowledge of the true nature of an actor transaction. He/she must also act freely and voluntarily and not under the influence of threats, force, or duress. He/she must further possess sufficient mental capacity to make intelligent choices about whether or not to do something that is proposed by another individual. Mere passivity does not amount to consent.

## **Undue Influence**

Another factor which comes into play when signing contracts or, executing wills, or managing other financial matters is undue influence. Undue influence is a shorthand legal phrase that is used to describe excessive pressure or persuasion by a dominant person to someone who is vulnerable to pressure. Undue influence is a result of weakness on the side of the vulnerable party, strength on the other party's, or a combination of the two. When undue influence is exerted, the weaker party is prevented from acting according to his/her own wishes or judgment or are induced to do something that he/she would not do if left to act freely. If a contract is obtained through undue influence, the document is invalid. Courts will consider several factors when assessing if undue influence or over persuasion has been used (Neivod, 1992), including:

- Discussion of the transaction at an unusual or inappropriate time.
- Consummation of the transaction in an unusual place.
- Consistent demand that the business be finished at once.
- Extreme emphasis on untoward consequences of delay.
- Use of multiple persuaders by the dominant side against the vulnerable party.
- Absence of the third-party advisors to the vulnerable party.

## **Financial Exploitation Investigative Checklist**

While the type of information that should be collected in financial exploitation cases will depend on the form of exploitation that is alleged and the reason for the investigation, the following guidelines can be instructive to law enforcement officers:

- Interview victims and alleged abusers separately.
- Determine the relationship between the parties: Is the suspect a member of the victim's family? Is he or she in a position of trust? Does he or she live with the victim? Is he or she in a position of trust? Does he or she live with the victim?
- Find out the sources of income, dollar amounts, and payment due dates. Where are checks deposited?
- Determine the extent of the victim's estate, including real properties, bank accounts, certificates of deposit, stocks, home furnishings, personal belongings, and vehicles, where are these located? Are there safety deposit boxes? Where and who has keys and/or access to the box? Where are the personal belongings (jewelry, art, valuable collections) kept? Insurance policies? What kinds and who are beneficiaries?

- Find out who owns the victim's home, whose name is on the deed, who pays rent, and who pays the taxes.
- Find out whose names are on bank accounts, investment accounts, etc. Where, what type and approximate balance in each.
- Find out who is the representative payee, power of attorney, accountant, or guardian.
- Find out who pays the bills. What is the amount of monthly bills? Who writes and signs checks? What debts exist?
- Find out how the person's pension, social security, or other income checks are received and deposited in the bank.
- Find out how cash is obtained. Are there credit cards or ATM cards? Does victim use them? Who else is listed on accounts?
- Determine if anyone is using the victim's residence or utilities without permission.
- Find out if loans and/or gifts have been recently made and to whom.
- Determine if there is a will and where it is located.
- Determine whether the victim is literate.
- Secure samples of the victim's and the alleged abuser's signature.
- Determine what documents signed by the victim have placed the estate in the suspect's control. They may include powers of attorney, bank signature cards, and vehicle pink slips.
- Get copies of whatever documents were signed.
- Determine the income of the alleged abuser.
- Collect evidence from other agencies.
- Check for previous criminal charges against the alleged abuser. Find out whether the victim is receiving adequate medical care, food, clothing, etc.
- Determine the victim's mental status: Is the victim mentally capable of understanding documents, testifying, or assisting in the investigation?

- If the person is incapacitated, or his or her capacity is questionable, contact family members, friends, or service providers to obtain mental health evaluations and histories. These should include information about the length of time that the victim has had diminished capacity in order to determine if he or she was able to give consent at the time it was given.
- If questionable purchases have been made, find out the value of the purchases, by and for whom they were made, the value of the purchases in relation to the abuser's salary and whether there has been a history of gift giving.
- Determine if the person's estate is still at risk of theft, misappropriation, or embezzlement. If so, secure the estate as soon as possible.
- Follow the funds! Determine who has (or had) possession of all misappropriated funds or property.

Adapted from the following resources:

Delaware Office of the Attorney General's *Financial Exploitation Investigative Check list Financial Abuse of the Elderly* by Lisa Nerenberg, produced by the San Francisco Consortium for Elder Abuse Prevention for National Center on Elder Abuse, 1996.

## Report of Adult in Need of Help

Name			
Address			
Age		Phone	
Emergency Contact		<input type="checkbox"/> Guardian	
Address & Phone #			
Date & Time of Contact			
Location of Contact			
<b><i>Check all boxes that apply</i></b>			
<b><u>PHYSICAL CONDITION</u></b>		<b><u>RESIDENCE CONDITION</u></b>	
<input type="checkbox"/> Questionable Bruises or Welts <input type="checkbox"/> Open Sores <input type="checkbox"/> Soiled Bandages <input type="checkbox"/> Malnutrition <input type="checkbox"/> Dehydration <input type="checkbox"/> Foul Smelling <input type="checkbox"/> Improper Clothing Worn <input type="checkbox"/> Soiled Clothing <input type="checkbox"/> Under/Over Weight <input type="checkbox"/> Repeated 911 Call <input type="checkbox"/> Inability to Move Independently <input type="checkbox"/> Abuse Suspected		<input type="checkbox"/> No gas <input type="checkbox"/> Excessive Heat <input type="checkbox"/> No Heat <input type="checkbox"/> No water <input type="checkbox"/> Hoarding <input type="checkbox"/> Garbage piled up <input type="checkbox"/> Excessive Household Pets <input type="checkbox"/> Animal or Insect Infestations <input type="checkbox"/> Residence in State of Disrepair <input type="checkbox"/> No Access to Mobility or Communication Devices	
		<b><u>DISABILITIES</u></b>	
		<input type="checkbox"/> Wheelchair User or Mobility Impairment <input type="checkbox"/> Deaf <input type="checkbox"/> Hard of Hearing <input type="checkbox"/> Speech Difficulty <input type="checkbox"/> Blind <input type="checkbox"/> Low Vision <input type="checkbox"/> Intellectual Disability <input type="checkbox"/> Epilepsy <input type="checkbox"/> Diabetes <input type="checkbox"/> Autism <input type="checkbox"/> PTST <input type="checkbox"/> Other Disabilities (Specify) _____	
<b><u>MENTAL/EMOTIONAL OBSERVATION</u></b>			
<input type="checkbox"/> Disoriented or Confused <input type="checkbox"/> Cannot Follow Conversation <input type="checkbox"/> Depression <input type="checkbox"/> Suspected Drug or Alcohol Abuse		<input type="checkbox"/> Severely Anxious or Fearful <input type="checkbox"/> Withdrawn <input type="checkbox"/> Denies Problems	
		<input type="checkbox"/> Incoherent <input type="checkbox"/> Suicidal Ideations <input type="checkbox"/> Hesitates to Talk Openly	
<b>Comments:</b>			
Reported by:		Date:	
Agency:		Phone #:	
Reported by:		Date:	
Agency:		Phone #:	
<b>Return form to:</b>			
Email:		Fax:	
Mail:		Phone:	

# Who Do You Call?

Reporting abuse of a person is an important role, but it isn't always clear who you should call to report abuse. The following chart can be utilized to clear up the distinctions of who should be contacted to make a report. In cases of sexual violence and domestic violence, contact information for local programs is listed below.

Who was abused?		Where did the Abuse Happen?		Report To
Person 60 years or Older	<b>If Yes</b> →	Community or Domestic Setting	<b>Then Call</b> →	Adult Protective Services 1-866-800-1409
Person with a disability 18-59 years old	<b>If Yes</b> →	Community or Domestic Setting	<b>Then Call</b> →	Adult Protective Services 1-866-800-1409
Person 60 years or older or a person with a disability 18-59 years old	<b>If Yes</b> →	Licensed Long Term Care Facility	<b>Then Call</b> →	Illinois Department of Public Health 1-800-252-4343
Person with a disability 18-59 years old	<b>If Yes</b> →	Licensed Facility	<b>Then Call</b> →	Office of Inspector General 1-800-368-1463

Rape Crisis Centers are also available to assist victims of sexual violence. Services at rape crisis centers are free and confidential. You can reach your local center by visiting [www.icasa.org](http://www.icasa.org) or call 800-656-4673.

Domestic Violence Centers are available to assist victims of domestic violence. Services at domestic violence centers are free and confidential. Local centers can be reached by visiting [www.ilcadv.org](http://www.ilcadv.org) or call 877-863-6338.

**Remember:** All crimes may be reported to the police. If the victim would like to contact law enforcement, please assist them with the process.

# I AM DEAF OR HARD OF HEARING.

This card is for law enforcement officers during a traffic stop with a person with hearing loss. This card will help you communicate with me.

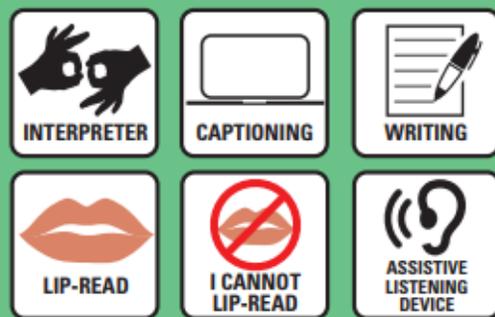
## Quick Communication Tips

- Maintain eye contact with me while speaking.
- Speak slowly & clearly.
- Give me a chance to understand you. However, I may still not be able to understand even with a hearing aid.
- Repeat, rephrase or write your request.
- Be sure there is light for me to see you (please don't shine the flashlight in my face because then that means I can't see you).

If I am going to be arrested or be asked to come in for questioning, I may need:

- A licensed sign language interpreter (one can be found via IDHHC's interpreter directory at <http://www.illinois.gov/idhhc/licensure/Pages/DirectoryHome.aspx>.)
- Communication Access Real-time Translation (CART) services (one can be found via IDHHC's website at <http://www.illinois.gov/idhhc/community/Pages/CART.aspx>.)
- In order for me to make a phone call, I may need some type of assistive technology. Please ask me what I need.

In this case, this is my communication request in how we can best communicate:



This assistance card was made through a cooperative effort by the State of Illinois Deaf & Hard of Hearing Commission, the AIM Center for Independent Living, and the Illinois Secretary of State.



Printed by the Authority of the State of Illinois. 4/16 10C116-463 10/07

# COMMUNICATION SIGNS

Please point at pictures to help me understand the reason for contact.

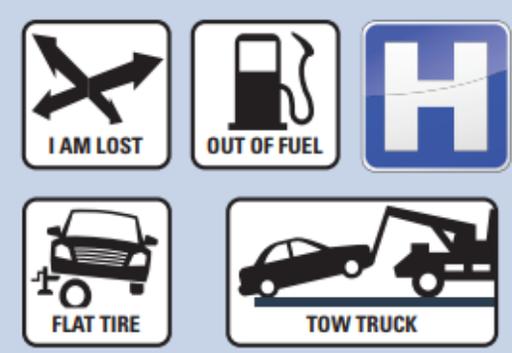
## INFORMATION NEEDED



## VIOLATIONS



## ASSISTANCE NEEDED



The following are sample police reports of an actual sexual assault. The victim has a disability. These reports are very thorough and complete, however one aspect of the case that needs to be added is information about the victim's disability. Violence against a person with a disability or an older adult may make the crime aggravated. It is important to respectfully document information about age and disabilities including physical, cognitive and developmental. The documents are redacted for privacy purposes.

Please use the sample reports and the checklist that follows to learn more about reports of violence against people with disabilities and older adults and guide your own report writing. The information in the checklist also may be used to determine needed follow-up actions such as disabling a key code or contacting a Center for Independent Living for assistance with accommodations or arranging care.



	<b>KANKAKEE POLICE</b>	CASE# 2015-00031255
<b>Field Report</b>		

<b>EVENT</b>	REPORTED DATE/TIME <b>08/06/2015 15:36</b>	OCCURRED INCIDENT TYPE <b>Sexual Offenses</b>	
	OCCURRED FROM DATE/TIME <b>8/6/2015 14:15</b>	OCCURRED THRU DATE/TIME <b>08/06/2015 15:36</b>	LOCATION OF OFFENSES <b>Kankakee, IL</b>

	# STATUTE/DESCRIPTION	COLTS	ATT/PT/COM/UT
<b>OFFENSES</b>	<b>01 720 ILCS 5/11-1.60-A-1 AGG CRIM SEXUAL ABUSE/WEAPON</b>	<b>1</b>	<b>Commit</b>

<b>SUBJECT</b>	JACKET/SUBJECT TYPE <b>Adult</b>	NAME (LAST, FIRST, MIDDLE, SUFFIX) <b>Victim</b>					
	DOB	AGE or AGE RANGE <b>57</b>	ADDRESS (STREET CITY STATE ZIP)				
	RACE <b>White</b>	SEX <b>Female</b>	HEIGHT or RANGE	WEIGHT or RANGE	HAIR	EYE	
	DL NUMBER/STATE	PRIMARY PHONE	PHONE #2	PHONE #3			
	<i>new number</i>						

<b>SUBJECT</b>	JACKET/SUBJECT TYPE <b>Adult</b>	NAME (LAST, FIRST, MIDDLE, SUFFIX) <b>Other Person</b>					
	DOB	AGE or AGE RANGE <b>26</b>	ADDRESS (STREET CITY STATE ZIP)				
	RACE <b>White</b>	SEX <b>Female</b>	HEIGHT or RANGE	WEIGHT or RANGE	HAIR	EYE	
	DL NUMBER/STATE	PRIMARY PHONE	PHONE #2	PHONE #3			

<b>SUBJECT</b>	JACKET/SUBJECT TYPE	NAME (LAST, FIRST, MIDDLE, SUFFIX)					
	DOB	AGE or AGE RANGE	ADDRESS (STREET CITY STATE ZIP)				
	RACE	SEX	HEIGHT or RANGE	WEIGHT or RANGE	HAIR	EYE	
	DL NUMBER/STATE	PRIMARY PHONE	PHONE #2	PHONE #3			

Disclaimer: This temporary Field Report should not be considered the final official police report on the incident described within. This report is to be used only for proceedings requiring a report prior to the final report being completed. Any information contained within is subject to verification and/or change.

REPORTING OFFICER #1 <b>0257/Andersen</b>	DATE <b>08/06/2015</b>	REPORTING OFFICER #2	REVIEWED BY	DATE
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**KANKAKEE POLICE**

Field Report Supplement

CASE# 2015-00031255

**NARRATIVE**

Statement of Plm. Andersen - 0257  
Case Number 15-31255

On 8-6-2015 at approx 3:36 PM this Reporting Officer, R/O, responded to 451 ██████████ for a report of a Home Invasion/Sexual Assault. While enroute, R/O learned the offense was not in progress, however had happened within the last 30 minutes. Upon arrival, R/O was met by a US Postal worker who stated the victim was now in ██████████, the realtor office. R/O made contact with ██████████, victim, who stated a black male had been hiding in her closet, then came out and attacked her. She stated he had left the apartment approx 10 minutes prior to her fleeing the apartment and coming here to call police. A. O'Connor works at ██████████ and called police on behalf of ██████████. I escorted ██████████ back to her apartment and began to gather the facts. She advised she had arrived home at approx 1:45 PM. She had noticed her smoke detector was going off so she went to ██████████ office, ██████████, to ask for assistance. ██████████ went to her apartment with her and assisted her with the smoke detector then left. ██████████ stated some time later I ██████████ returned to the office extremely upset stating she had just been raped. ██████████ stated it was a black male, stocky build with short curly hair. She stated he was wearing a white t-shirt with blue jeans. She could not provide an approx age range. She stated he took her cell phone and advised her not to call the police or he would return and kill her. He then left, unknown direction of travel or by foot or vehicle.

Detectives were called and took control of the scene. Detectives also spoke with ██████████ and transported her to the hospital for evaluation. End of Report.

Disclaimer: This temporary Field Report Supplement should not be considered the final official police report on the incident described within. This report is to be used only for proceedings requiring a report prior to the final report being completed. Any information contained within is subject to verification and/or change.

REPORTING OFFICER #1	DATE	REPORTING OFFICER #2	REVIEWED BY	DATE
0257/Andersen	8/6/2015		Hunt, Willie J	8/6/2015



# KANKAKEE POLICE

Field Report Supplement

CASE# 2015-00031255

## NARRATIVE

Case: 2015-31255 Criminal Sexual Assault  
Date: August 6, 2015

Statement of Lt. Hunt #6928:

On August 6, 2015, at approximately 3:36 p.m., I responded to [REDACTED] in reference to a Home Invasion/Sexual Assault. Upon arrival, I met with [REDACTED] who stated she was raped by a black male with curly hair wearing a white shirt and blue jean. I left [REDACTED] with Officer Andersen and I began to check the area for anyone matching that description.

End of Statement

*Willie Hunt*  
Willie Hunt #6928

Disclaimer: This temporary Field Report Supplement should not be considered the final official police report on the incident described within. This report is to be used only for proceedings requiring a report prior to the final report being completed. Any information contained within is subject to verification and/or change.

REPORTING OFFICER #1 6928/Hunt	DATE	REPORTING OFFICER #2	REVIEWED BY	DATE
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25-1



## Kankakee City Police Department

### Investigative Report



<i>Case Report #</i>	<i>Activity Date</i>	<i>Reporting Investigator</i>
15-31255	08/07/15	Det Jenn Schoon

<i>Title</i>	<i>Original Case Officer</i>	<i>Date of Occurrence</i>
Aggravated Criminal Sexual Assault	Andersen	08/06/15

*Purpose*

Statement of: ██████████

On August 7, 2015 at approximately 9:00 am ██████████ came to the police department to provide a statement in regards to the sexual assault that happened the day before. She was accompanied by her case worker from Thresholds, ██████████

██████████ wanted ██████████ in the room with her so I allowed ██████████ to be in the room and just requested that she not say anything during the interview. I then asked ██████████ if it was okay for me to record what we talked about and she agreed.

*In summary:*

I asked ██████████ to tell me about her day yesterday. She told me she got up got dressed and went to Thresholds. She said she stayed until around lunchtime. She said she then went home around 1pm and got undressed laid on her bed to relax. About 25 minutes later the black man with a white shirt possibly a tattoo on his left arm and short curly hair, leaped out of the closet. He told her to be quiet and told her he was going to have sex with her and he wouldn't hurt her. She said he then raped her. I wanted to get more detail so we went back to the beginning.

I asked her about leaving Thresholds. She told me she was there until noon but then stayed around to talk to some friends and had seconds. She said she then got on the bus at ██████████. She said she was dropped off by ██████████ Store which is at ██████████. She said she believes she got home around 1pm. I asked her if she made any contact with the girl at ██████████ Apartments. She told me she did, she said when she got home the Co2 detector was going off so she went next door and got ██████████ and they went back to ██████████ apartment. ██████████ told ██████████ the battery had expired. She said ██████████ went back and got a battery, came back and put it in. ██████████ said she believes the man was in her house the whole time. ██████████ told me after ██████████ left, she took off her clothes and laid down on her bed and was watching her fish. She said the next thing that happened was he jumped out of the closet. She said she asked him how he got in. He told her never mind and told her he wanted her to have sex



## Kankakee City Police Department

### Investigative Report



with him. He also told her not to call the cops or say anything or he would kill her. She told me she had to let him do it or he would have killed her. She told me she didn't want to. After he raped her he asked her for money and she told him she didn't have any. She said he then checked her wallet and that the police had it for DNA. She said he went through the wallet and then asked her about money on her link card. She told him she spent it all. He told her she was a liar. He asked her about her phone, and she said it was on the couch y the armrest. He told her not to move and to stay where she was. She said she asked him what he was going to do with her phone. He told her he was going to put it under the bed and the leave. She said after he left she went looking for the phone under the bed and it wasn't there. I then told [REDACTED] that I wanted to clarify some things she told me about that happened in the bedroom.

I asked [REDACTED] to tell me about the closet. She told me it had sliding doors she said one was open and one was closed. She said when he jumped out he told her not to move and not to say a word.

She said she asked him who he was and how he got in there and he told her through the window. She told him please don't hurt her and asked him what he wanted. He told her he wanted to have sex with her. He told her if you do like you are told I won't hurt you. She said he then raped her. I asked her when he came out of the closet what did he look like? She described a B/M 28-32 with a white tshirt, blue jeans a tattoo she thought and short curly black hair. I asked if he was thin or fat and she said a short little stocky guy. She said he had muscles in his arms and pointed to the bicep area. She said he was short. She said she is 5'5 1/2" and she believes he was shorter than her. She said he also had alcohol on his breath and was drunk. I then asked her about when she got off the bus. I asked her if she had to physically unlock the door when she got back from the bus and she said she did. I then asked her when she went to get [REDACTED] because the beeping was going off did she lock her door, and she said she believed so. I then asked her when she and [REDACTED] walked back to her apartment did she have to unlock the door again, she hesitated and said yes she believes she did. She then said the guy told her he got in through a screen window. She said she then noticed a plant on her window sill was moved. She said then a rock that was on the sill was moved also. She realized those things were out of place after she got home from the hospital.

I then asked her where she was at when he came out of the closet. She said she was laying on the bed naked, tossing and turning getting ready to take a shower. She said he pushed on the closet door then jumped out. I asked what the very next thing that happened was. He told her he was going to have sex with her and told her to lay down on the bed. She said she was on her back and he told her to spread her legs. She said he then sexually assaulted me. I asked her where he put his penis and she said her vagina. She said it didn't take very long that he had gotten it over and done with. She said he even took cigarettes from her pack. She denied oral or anal sex. I asked her if he ejaculated and she said yes, and there was no condom. She said he ejaculated a lot. She said she is being treated with antibiotics in case of an STD. She denied ever seeing him before. She told me he took his pants off and then placed his hand on his penis and pushed it into her. I



## Kankakee City Police Department

### Investigative Report



asked her what he did after he finished. She said he got off the bed, put his pants back on and went into the living room. She said he then asked her how much money she had while she was still standing in the bedroom. She told him she didn't have any she said she then walked out into the living room. She said she got her wallet out of her purse and showed him she had none. He then asked her about her link card and she told him she spent it. She then told me that she had to do what he said because she didn't know if he had a weapon in his pocket. I asked her if he ever showed her a weapon and she said no. She said he actually held her wallet and thinks his DNA should be on it. She said he then said to her you are going to call the cops let me see your phone. He then told her if she called the cops he would come back and hurt her really bad. She asked for her phone back and he told her he would give it to her he would leave it under the bed and then he would leave. She said after he left she looked under the bed and her phone was gone. She said she then ran next door to the office and [REDACTED] called the police. I asked her what she told [REDACTED] when she got over there. She said she told her she was just sexually assaulted and there was a man in her closet. She said she stayed with [REDACTED] until the police got there. She said Det Sgt Sims then took her to the hospital. She said they did all kinds of tests on her. She said the hospital staff wanted her to come back in 6 weeks for an STD follow up. She told me she is very terrified of this man. She said she thinks he had a tattoo up by his bicep muscle but didn't remember for sure which arm. She doesn't recall any piercings/gold teeth or any other distinguishing marks. She said he was really drunk and stunk like alcohol. She said she remembers him pushing her down and hurting her real bad. I asked when he was having sex with her was he holding her down and she said yes. She said she remembers him putting his hands around the sides of her neck.

She then told me she thought there were cameras in the wires on [REDACTED]. She also said she did not know if the suspect left in a car or on foot. I asked her how long she waited after he left to go get help from [REDACTED]. She said she went right over there when she didn't see him out there. I asked how she felt today and she said a little discomfort but she would be ok. She said she is a strong woman and that she just wants us to catch him. She told me when we find him she will pick him out for me because she knows exactly what he looks like.

I then had [REDACTED] sign a release for medical records for St Mary's Hospital, however it was later determined she was treated at Riverside. A new release will be obtained later.

Shortly thereafter the interview concluded.

  
 Detective Jenn Schoor



# Kankakee City Police Department

## Investigative Report



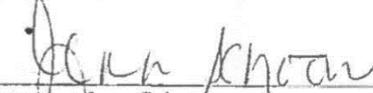
<i>Case Report #</i>	<i>Activity Date</i>	<i>Reporting Investigator</i>
15-31255	08/06/15	Det Jenn Schoon

<i>Title</i>	<i>Original Case Officer</i>	<i>Date of Occurrence</i>
Aggravated Criminal Sexual Assault	Andersen	08/06/15

*Purpose*  
Follow Up Cellphone Tracking

On August 6, 2015 I overheard patrol radio traffic of a home invasion/sexual assault that occurred on [REDACTED]. Patrol units were responding as well as two detectives. I continued to monitor the radio traffic when I heard that the suspect had taken the victim's cellular phone. Patrol requested dispatch to ping the phone. A short time later dispatch advised patrol that the phone company would not provide them the information they wanted without an officer calling. I contacted dispatch and requested the number they used and I made a call to At&T.

I called [REDACTED] and spoke with [REDACTED]. I advised [REDACTED] of the situation at hand and that I was requesting a locate be done on the victim's phone. She provided me a reference number of 180979. At 3:49 CST the phone was located at Latitude [REDACTED] and Longitude [REDACTED] when put into google maps it pinpointed 6th at [REDACTED]. Det Hunter and Det Monferdini checked that area with nothing found. A short time later I recontacted Diane and she told me that the coordinates were still the same and that she would set me up to get updates every 15 minutes for the next 24 hours. A short time later the coordinates changed to [REDACTED] that now placed the phone out east of [REDACTED] near the state line. During the next 24 hours there was no other movement.

  
Detective Jenn Schoon



# Kankakee City Police Department Investigative Report



<i>Case Report #</i>	<i>Activity Date</i>	<i>Reporting Investigator</i>
15-31255	8-6-15	Det. Sgt. Sims
<i>Title</i>	<i>Original Case Officer</i>	<i>Date of Occurrence</i>
Agg. Criminal Sexu. Assu	Anderson	8-6-15
<i>Purpose</i>		
Follow up		

On 8-6-15 at 3:49 pm Det. Sgt. Sims and Ivey arrived at [redacted] re: a sexual assault. Officers went to [redacted] and were met by [redacted] who walked officers thru the scene. Det. Sgt. Sims spoke with the victim a [redacted] who stated that she was lying on her bed when a black male subject had come out of her bedroom closet. The subject then raped her. [redacted] was very upset and shaking and stated she wanted her case worker from Threshold Det. Sgt. Sims then had dispatch called Threshold dispatch later advised that a caseworker would meet us at Riverside hospital. Det. Sgt. Ivey process the scene as Det. Sgt. Sims took [redacted] to Riverside hospital. At the hospital Det. Sgt. Sims asked [redacted] if the subject took anything else besides her cell phone. [redacted] then stated that the subject had gotten into her wallet and had taken out her ID card and her link card and asked her if there was any money left on her link card and she told the subject no. Det. Sgt. Sims asked [redacted] where the cards were at now and [redacted] stated that she had put the cards back in her wallet and the wallet was in her purse that she had with her. Det. Sgt. Sims then secured the wallet for evidence. The caseworker from Threshold then arrived at the hospital and Det. Sgt. Sims then cleared from Riverside. At 6:10pm Det. Sgt. Sims traveled back to Riverside Hospital and took control of a sexually assault kit from R.N. Coutant Det. Sgt. Sims also received a paper bag that contained the victims clothing that she had put on after the assault had occurred. Det. Sgt. Sims secured all items collected into the Kankakee City Police Dept. evidence room.

*Det Sgt Sims*



# Kankakee City Police Department

## Investigative Report



<i>Case Report #</i>	<i>Activity Date</i>	<i>Reporting Investigator</i>
15-31255	6 August 2015	Ivey
<i>Title</i>	<i>Original Case Officer</i>	<i>Date of Occurrence</i>
Criminal Sexual Assault	Andersen	6 August 2015
<i>Purpose</i>		
Document initial investigation		

On 6 August 2015 at approximately 3:36p, I overheard via police band radio of a sexual assault that just occurred at [REDACTED] Apartment [REDACTED]. I responded to assist with the investigation. Upon my arrival, Detective Sergeant Sims, Patrolman Andersen, and the victim- [REDACTED] was visibly shaken and stated that she was sexually assaulted by a black male. I limited [REDACTED] movement in her apartment to point out what occurred.

[REDACTED] stated she arrived home and was laying naked in the bed when a black male jumped out of the closet in her bedroom. [REDACTED] stated the black male sexually assaulted her and it occurred on her bed that was in disarray. There was a knife and scissors in the living room, but [REDACTED] stated that was her's and not what the suspect had or touched. [REDACTED] stated that there were paper napkins in her garbage that she used to "wipe up" after the assault. [REDACTED] stated the suspect stated that he entered the apartment by the screened windows.

[REDACTED] was taken to the hospital to be examined accompanied by Sims. I photographed the scene. I secured the bed sheet off [REDACTED] bed and the napkins from the trash cans. I attempted to fingerprint the closet the suspect was in with negative results. I checked the screens and the windows to the residence. The windows were unlocked but they did not appear to be disturbed for quite sometime. I had to use a pocket knife to open the screens and windows and I did not see any other tool marks on



# Kankakee City Police Department

## Investigative Report



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the windows. No fingerprints could be located at this time. I placed the sheet and napkins into evidence for processing. The above statement is as true and accurate to the best of my recollection.

  
\_\_\_\_\_  
Detective Sergeant Avery Ivey, Jr. #7279

## Abuse Against People with Disabilities and Older Adults Report and Response Review Checklist

<p><b>Background</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Identify the relationship between victim and suspect (staff, position of authority, trust or confidence).</li> <li><input type="checkbox"/> Were previous incidences documented?</li> <li><input type="checkbox"/> Does the individual have a legal guardian?</li> <li><input type="checkbox"/> Does victim have a service provider?</li> <li><input type="checkbox"/> Location of crime (nursing or group home).</li> <li><input type="checkbox"/> Does the suspect know that the victim has a disability or know the victim's age?</li> <li><input type="checkbox"/> Does the suspect know that the victim may be unable to give consent or understand the nature of the crime?</li> <li><input type="checkbox"/> Does the suspect claims injuries are result of disability or age?</li> </ul> <p><b>Observations/Statements</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Document any language or communication barriers.</li> <li><input type="checkbox"/> *Document any physical disabilities documented.</li> <li><input type="checkbox"/> *Document any intellectual disabilities documented.</li> <li><input type="checkbox"/> Is the victim capable of resistance?</li> <li><input type="checkbox"/> Document any mobility device or communication equipment.</li> <li><input type="checkbox"/> Are assistive devices used as a part of the crime? Withholding devices, destroying devices.</li> <li><input type="checkbox"/> Is medication, health care or access to the telephone withheld?</li> <li><input type="checkbox"/> Document abuse that addresses control tactics beyond physical violence and capture pre- and post-assault behavior.</li> </ul>	<p><b>Observations/Statement</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Was disability or age used to facilitate the offense? Document the entire context of force, fear, or threat. Capture details necessary to establish any premeditation/grooming behavior by the perpetrator, coercion, threats and/or force.</li> </ul> <p><b>Evidence</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Document physical evidence on victim's mobility device or communication equipment.</li> <li><input type="checkbox"/> Take photos of physical evidence on victim's mobility device or communication equipment.</li> <li><input type="checkbox"/> In cases of suspected abuse, neglect, or financial exploitation, submit a report to the entity authorized to investigate for persons with disabilities.</li> </ul> <p><b>Safety</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> In the situation when the caregiver is the offender and has a key or code to the victim's residence, ask the victim what they want in terms of securing their home. If the victim is not responsive then first responders need to disable any type of entry, in order to protect the victim.</li> <li><input type="checkbox"/> If the victim's mobility device or communication equipment is taken for evidence, find resource to replace this device immediately.</li> <li><input type="checkbox"/> Offer referrals to the local rape crisis center or domestic violence program.</li> </ul>
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\*Describe behaviors and conduct that you observe or report statements or facts that may be used to enhance the penalty due to disability or age. Avoid making interpretations or assumptions<sup>1</sup>. Officers are not expected to diagnose, i.e. the person has an intellectual disability. Instead use statements, such as "the victim was unable to respond to simple, concise questions and was unaware of basic facts, i.e. home address, full name of family members.



**End Violence Against Women International  
(EVAWI)**

**Incomplete, Inconsistent,  
and Untrue Statements  
Made by Victims:  
Understanding the  
Causes and Overcoming  
the Challenges**

Sergeant Joanne Archambault (Ret.)  
Kimberly A. Lonsway, PhD

Revised August 2008

## The Challenge

One of the fundamental challenges to the credibility of sexual assault victims is that many – if not most – make statements to the law enforcement investigator or others that are incomplete, inconsistent, or just plain untrue. There are a number of reasons for this. In this *Promising Practices* article, we explore the causes of such problems with victim statements and identify ways to overcome the challenges that they pose for a sexual assault investigation.

## Trauma and disorganization

First, sexual assault victims often make statements that are incomplete, inconsistent, or even untrue out of trauma and disorganization.

- This should not come as a surprise to law enforcement professionals, who recognize that people in trauma often have disorganized and disoriented thinking.
- In fact, decades of research have documented that trauma decreases our ability to provide information that is complete, consistent, and 100% accurate.

To illustrate, let's turn our attention away from the topic of sexual assault to one that is perhaps more familiar to law enforcement professionals – the experience of officers involved in a critical incident. There is a wealth of research on the experiences of law enforcement professionals involved in traumatic events, documenting the negative effects of that trauma on their physical and psychological processes. As one example, these negative effects were summarized in a publication by PPCT Management Systems, Inc. (1989). These effects were described as including: perceptual narrowing, loss of cognitive and motor skills, and critical incident amnesia. It is not hard to see how many of these effects would decrease the likelihood that someone would accurately perceive, store, and recall information about a traumatic event.

First, **perceptual narrowing** occurs when an individual “tunes into” the input from one of the five senses and excludes the others. For example, many officers and deputies involved in shooting incidents describe “auditory exclusion” where they do not hear a weapon firing, even if it is their own. Other examples include tunnel vision or other partial loss of visual processing, such as the “weapon focus effect,” where individuals faced with a firearm can often provide a very detailed description of the gun but almost no information about the person holding it. Obviously, the ability of an individual to accurately recall a traumatic incident is limited if their sensory input is not fully processed in the first place.

Another common effect of trauma is a **loss of cognitive and motor skills**. For law enforcement professionals experiencing a traumatic event, this could be seen in a decreased ability to concentrate or in seemingly irrational decision-making. It is not hard to see the parallel between these effects seen among sexual assault victims and law enforcement professionals who are involved in a critical incident.

Both may exhibit thoughts and actions that do not “make sense” to someone else, either during the event or afterward.

Perhaps most relevant for the present purposes, the publication by PPCT Management Systems describes “**critical incident amnesia**” that is experienced by law enforcement professionals in trauma. According to that publication: “This temporary amnesia will affect both the officer’s memory and the officer’s ability to write an incident report” (p. 1-6).

This characterization is certainly consistent with the research on trauma and memory (for a review, see Koss, Tromp, and Tharan, 1995). Research suggests that memories of traumatic events are generally accurate, because emotional experience heightens memory. However, the traumatic nature of the experience tends to focus a person’s memories on central rather than peripheral details. The research also suggests that the amount of accurate information a person can recall may actually increase over a limited time, because of the short-term memory impairment that is caused by the trauma (Koss et al., 1995). Memory of the event may also be facilitated when the person has had some time to rest and recover; it is important to keep in mind the restorative power of sleep on memory and well-being in the aftermath of any traumatic event.

Applying this to the context of critical incidents, the PPCT Management Systems publication recommends that the first version of a critical incident report should be verbal and titled as a “preliminary” report. The “supplemental” report should then be completed after the officer’s first sleep cycle, and the final report prepared after the officer has had a second full sleep cycle. Given these recommendations for law enforcement officers, it is not hard to see the implications for interviewing a victim of sexual assault.

Specifically, law enforcement investigators and others must recognize that victims of sexual assault will experience a variety of negative effects on their physical and psychological processing, and that all of these will in turn influence their ability to provide complete and accurate information about the sexual assault. For example, the research reveals that memories of sexual assault – as compared with other types of memories are:

*“less clear and vivid, less visually detailed, less likely to occur in a meaningful order, less well-remembered, less talked about, and less frequently recalled either voluntarily or involuntarily; with less sensory components including sound, smell, touch, and taste; and containing slightly less re-experiencing of the physical sensations, emotions, and thoughts than were present in the original incident” (Koss, Figueredo, Bell, Tharan, & Tromp, 1996).*

These findings also suggest that victims might often recall accurate information about the sexual assault after one or even two full sleep cycles. As Lord and Rassel (2000) recommend on the basis of their review of the law enforcement response to sexual assault in nine North Carolina counties:

*“It is particularly important to give the victim a day to rest before conducting an in-depth interview” (p. 72).*

While it may not be realistic – or even desirable – to wait 2-3 days before interviewing a sexual assault victim, it is helpful to remind law enforcement professionals that a short postponement of the interview is not necessarily a bad thing. All too often, there is a sense that the interview must be conducted immediately, as if it were a question of “now or never.” Rather, the decision can be made to conduct the interview now or later, based on consideration of a number of factors.

- For example, there are certainly some sexual assault victims who may be difficult to locate at a later point. In that case, it probably is best to conduct the interview immediately.
- For other victims, however, it may be a good thing to postpone the interview until at least the next day. This would be the case if the victim is likely to be easily located and able to make arrangements to talk in more detail with the investigator.
- Postponing the victim interview may be particularly appropriate in cases where the victim is exhausted and/or still under the influence of drugs or alcohol.

All too often, law enforcement professionals and others have been suspicious of sexual assault victims when they provide information that is disorganized or inconsistent – or when they recall additional information days, weeks, or even months after the sexual assault. Rather than being a cause for suspicion, however, such behavior should be seen as the natural result of trauma. Therefore, law enforcement professionals can greatly benefit their investigative skills, not only by keeping in mind the effects of trauma on memory, but also realizing that postponing an interview may sometimes help victims to more clearly think, remember, and communicate.

## **Discomfort with sexual (or other) details**

A second reason why sexual assault victims often make incomplete, inconsistent, or even untrue statements is because they are uncomfortable in the law enforcement interview. Even when the investigator responds competently and compassionately, this interview is likely to be difficult for victims because they must tell a stranger – often one who is dressed in a uniform and armed with a gun – about the details of their sexual assault.

## **Many disclosures, many different people**

It is also important to keep in mind that once a person discloses that they have been the victim of a sexual assault, they may have to describe what happened – not only to law enforcement – but also to friends, family members, rape crisis counselors, victim advocates, medical professionals, and others providing various social services. Even if the victim does not ultimately have to tell all those people about the sexual assault, the prospect of doing so can be terrifying. Many victims envision having to tell all of these people what happened; this is often enough for victims to omit or distort certain aspects in their description of the sexual assault.

## **Fear of doubt and blame**

Another reason that victims often make statements that are incomplete, inconsistent, or even untrue is because they are afraid they will be doubted or blamed for the sexual assault. It is critically important for law enforcement professionals and others to recognize that these fears are very well grounded. But of course victims want to be believed, and they don't want to be blamed for their sexual assault. Therefore, victims often make statements that are not 100% complete or accurate. Sometimes, victims do this to omit certain behaviors that were particularly risky or even illegal. Other times, victims alter their description to make their experience sound more like "real rape."

In this kind of case, it is important for law enforcement professionals to reassure victims that nothing they did could have given someone permission to sexually assault them. By making the environment safe and nonjudgmental, this will alleviate the concern victims often have that their behavior will be used to judge the seriousness of the incident or the validity of their claim.

## **Fear of being arrested**

Another particularly serious challenge to the victim's credibility is any illegal behavior that he or she may have been involved in at the time of the assault. As many law enforcement professionals know, when victims have engaged in illegal drug use or underage drinking, they are likely to omit this information or even lie about it when they are talking with an investigator.

This reaction makes sense, because victims often fear being doubted, blamed, or even arrested for their unlawful behavior. However, it is important for law enforcement professionals to reassure victims that they will not be arrested for such behavior, and it is critical that departments have a policy of not arresting in such instances, unless it is absolutely necessary given the seriousness of the offense.

Just as people who have overdosed on illegal drugs are treated for their medical emergency and not arrested, the priority in sexual assault cases must remain on investigating the crime and treating the victim with compassion. Arresting the victim will likely damage any trust that has been established with law enforcement, eliminate any chance that the victim will cooperate with the investigation, interfere with the victim's emotional recovery, and perhaps even deter future additional victims from reporting. Only when absolutely necessary should law enforcement personnel consider arresting the victim of a sexual assault. When crafting a policy for law enforcement agencies, it is therefore important to make a distinction in the policy for responding to felonies versus misdemeanors that may have been committed by the victim.

## **Inconsistencies due to the method of documentation**

Finally, a major reason for potential inconsistencies in the victim's statement is the method of documentation used by the law enforcement investigator(s). Inconsistencies in the victim's statement often arise because the investigator failed to record the information accurately. This is perhaps the best argument there is for taping victim interviews (whether audiotaping or videotaping). If the investigator uses a tape recorder or video camera to record the interview with the victim, this allows the investigator to ensure that the written report is entirely consistent with statements made in the actual interview. Taping also communicates that the investigator takes the report seriously and wants to get all the details correct.

A second issue arising from the method of documentation is that victims often provide information in a format that doesn't correspond with the nice, neat, chronological timeline that law enforcement investigators are attempting to create. Instead, the victim

may provide information in a way that feels like various “snapshots” of the event to them, perhaps leaping from some part of the sexual assault that was particularly significant to them, and then bouncing around in time from things that happened at the beginning of the event, and then the end, etc.

Obviously, this can be difficult for investigators to follow, and their training doesn't always prepare them well for this type of situation. Rather, investigators will often provide the victim with prompts such as: “Then what happened?” or “What happened next?” Yet this type of chronology may not correspond to the way events are stored in the victim's memory, so investigators who ask questions in this way may risk interrupting the victim's narrative account and frustrating the victim's attempts to provide information to the best of their ability. Then, if the investigator tries to write the narrative summary of the interview as if the victim had provided information in chronological order, it is likely to contain errors, gaps, inconsistencies, and other problems. Clearly, such problems can hinder the effectiveness of an investigation.

This can even lead to challenges to the victim's credibility, because errors, gaps, and inconsistencies in the victim's statement are all too often seen as evidence that the victim is lying and/or the sexual assault report is false. It is therefore critical that law enforcement investigators are clear – both with themselves and with victims – that victims are only being asked to relay the information during the interview that they can recall at the moment. Investigators must communicate to victims that they may very well have information that is missing from their memory of the sexual assault, and they should feel free to contact the investigator to provide that information when it emerges in their memory at some later time.

Of course, this also highlights the advantage of taping the victim interview, so the investigator doesn't have to piece together the chronology of the sexual assault while the victim is talking. However, even if the interview is not taped, the investigator does not necessarily have to piece together all of the details of the chronology during the victim interview. The process of piecing together the chronology can take place while the investigator is writing a report, and the victim can be contacted later if the investigator has questions regarding the timeline or missing details. This is especially true during the victim interview that is conducted as part of a preliminary investigation. At that point, the interview with the victim only needs to provide enough information to meet the following objectives:

- Establish that the elements of a sexual assault are met.
- Evaluate the need for a forensic examination.
- Identify the crime scene and any related evidence, witnesses, and the suspect(s).

- Establish the identity of the suspect, and contact information if known.

This preliminary interview will typically be conducted as soon as possible with the victim, after any emergency medical or other immediate needs have been met. It is important to note that the preliminary interview is not the time to establish the number of counts or to obtain an extremely detailed account of the assault. After collecting enough information to achieve these four goals, the preliminary investigation will then proceed either by obtaining a forensic examination of the victim or by pursuing leads that have been provided by the victim or from other sources of information (e.g., other interviews, or evidence that has been identified such as clothing or photographs). A preliminary investigation should never be used as the basis for making a final determination in a sexual assault case (e.g., unfounded, exceptional clearance). At that point, there simply isn't enough information to make such a determination, based on the preliminary interview with a victim who is in trauma. That type of determination can only be made on the basis of the evidence that is identified and collected during a thorough investigation.

It is worth noting that this preliminary investigation may look a bit different when it is conducted by a patrol officer versus a detective who rolls out to respond. However, in both situations, their goals should be the same – to coordinate the investigation and provide support for the victim, while meeting those four fundamental objectives of a preliminary investigation. Even for those agencies that roll out a detective to respond to every sexual assault call, it is critically important to keep in mind that the initial response is not the time to conduct a comprehensive interview with the victim. Rather, the preliminary interview should be conducted to meet those four basic objectives, and a more comprehensive interview should be scheduled for a time after the victim has had a chance to eat, sleep, and reach out for support to begin the process of recovery.

## **Overcoming this challenge**

For all of the reasons provided above, it is understandable that victims often give information in their statement that is incomplete, inconsistent or even untrue. Nonetheless, these issues can destroy the victim's credibility if they are not handled appropriately by the law enforcement investigator. As a first step in overcoming this challenge, law enforcement professionals must recognize that these omissions, inconsistencies, and even untrue statements are understandable and should never be confused with a "false report." This is so significant that it bears repeating.

**It is critically important that law enforcement professionals realize that these omissions, inconsistencies, or even untrue statements are understandable and should never be confused with a "false report."**

The determination that a sexual assault report is false can only be made when there is sufficient evidence to establish that the sexual assault was not completed or attempted. In other words, a report is only false when the sexual assault never happened. What we are talking about here, however, is a much more common situation – where the sexual assault really happened, but the victim reports it with some information that is missing, inconsistent, or even untrue. When this happens, the investigator must address these issues by exploring them gently and nonjudgmentally with the victim.

- The most important objective is to create a safe and nonjudgmental environment that encourages honesty even for unflattering or illegal behavior.
- Then when an omission, inconsistency, or untrue statement is suspected, the investigator can respond by pointing out the issue to the victim and asking for clarification. It is entirely possible that the victim simply made a mistake or the investigator misheard or misunderstood what the victim was saying.
- As we will note later, the appropriate time for this type of clarification is after the victim has completed his or her description of what happened – not immediately when the issue arises, because this will interrupt the victim’s narrative account.
- It is also important to fully explain to victims the negative impact of such omissions, inconsistencies, or untrue statements on their credibility during the law enforcement investigation. By doing so, investigators can emphasize the importance of complete truthfulness.

If the issue remains, the investigator can explain that conflicting information has arisen and ask for the victim’s help to make sense of it. For example, an officer could say: *“I need to ask these questions because I have to write a report on this, and I want to get every detail correct.”*

## **Reduce the number of unnecessary professional contacts**

Problems such as inconsistent statements from the victim can also be decreased by reducing the number of unnecessary professional contacts. This is often a goal for communities that implement a coordinated Sexual Assault Response and Resource Team (SARRT).

- This does not mean that investigators should be reluctant to conduct follow-up interviews during the course of the investigation, as additional evidence and information is uncovered. In fact, such follow-up interviews are necessary to conduct a comprehensive investigation.

Rather, the goal is to reduce the number of unnecessary professional contacts that take place, either because the case is being screened or the victim is being “handed off” to another professional due to a shift change, job rotation, etc. The purpose of any follow-up interviews should therefore be to gather additional information and clarify any questions, not to go over the same information again.

- Because it takes time to develop rapport and trust with sexual assault victims, law enforcement agencies should never allow officers to “hand off” a sexual assault investigation in mid-stream, if there is any way to avoid it. This is a frequent cause of inconsistencies in the victim’s statement, and it creates serious difficulties in establishing rapport and trust with the investigating officer.
- The bottom line is that sexual assault victims should not have to deal with multiple officers or deputies handling their case, just because of a shift change within the law enforcement organization.

Rather, law enforcement agencies should have policies in place that provide their personnel with the resources needed to complete thorough sexual assault investigations. To illustrate, all law enforcement agencies should place a priority on their sexual assault calls to avoid having responding officers called away.

- As another way of reducing the number of unnecessary professional contacts, some jurisdictions have implemented a policy of having the responding officer or deputy and the forensic examiner (physician, SANE, or other nurse) conduct a joint preliminary interview.
- Again, this is sometimes a goal for communities implementing a Sexual Assault Response and Resource Team (SARRT), because this type of joint interview can improve communications between the professionals involved and it can potentially reduce the number of redundant questions asked of the victim. It also reinforces the team concept and can help the victim to feel that the various professionals are working together to provide the best and most coordinated services possible.
- When such a joint preliminary interview is conducted, however, it must be clear to everyone (including the victim) that detailed interviews will still need to be conducted separately by each of the different professionals (law enforcement investigator and forensic examiner). It should be obvious that the detailed interview conducted by the forensic examiner and law enforcement investigator have a different focus and purpose, but it is worth clarifying nonetheless.

- Another way that some jurisdictions have sought to reduce the number of unnecessary professional contacts is to have a prosecutor available to conduct follow-up interviews along with the law enforcement investigator.
- Again, this is a goal for some communities with a Sexual Assault Response and Resource Team (SARRT), because it can benefit both the quality of the investigation and the well-being of victims.
- Of course, this practice can also reduce the likelihood of inconsistencies in the victim's statement, because the same information is covered once in the joint interview and not repeated in separate interviews with the officer and prosecutor.

Given the advantages of reducing the number of unnecessary professional contacts, some communities have also implemented a policy of "vertical prosecution" in sexual assault cases. This strategy allows victims to work with the same prosecutor throughout their case processing, which can be especially valuable in larger jurisdictions where cases are typically initiated by one prosecutor and "handed off" to another. All of these strategies represent "Best Practices" for the investigation and prosecution of sexual assault.

The purpose of a medical interview is to:

1. obtain information about what sexual acts were committed to perform a comprehensive medical forensic examination and to collect biological evidence
2. Samples;
3. obtain information about physical injuries to document use of physical force and for medical examination and treatment purposes; and
4. determine whether the medical forensic findings are consistent with the history, and to provide this information to law enforcement officers.

The purpose of an investigative interview are to:

1. obtain the sexual assault history; and
2. obtain a details description of the events (e.g. who, when, what, where, and how).

Quoted verbatim from the SART Manual developed by the California Coalition Against Sexual Assault (CALCASA, 2001, p. 43).

## Decide whether to postpone the comprehensive victim interview

Next, the decision must be made regarding whether or not to postpone the follow-up interview. Of course, this will partly depend on the protocol of the law enforcement agency, whether the preliminary investigation of a sexual assault case is conducted by a patrol officer or a detective.

When victims report their sexual assault immediately, they may have a forensic medical examination, so the detailed interview could possibly be conducted afterward -- if a detective rolls out on the case or the responding officer is the one handling the entire investigation. However, a better idea is often to postpone the comprehensive interview for a day or two. There may be a number of reasons why it makes sense to postpone this more detailed follow-up interview. One primary reason is to give the victim a chance to rest and take care of personal needs (such as changing clothes, bathing, and getting something to eat).

- Especially when a sexual assault is reported immediately, victims are likely to be **exhausted** after the preliminary interview and forensic medical examination, and may still be **under the influence of drugs or alcohol**.
- Also, recall the information about **physical and cognitive impairment** due to traumatic stress reviewed earlier. If the experts recommend that officers who have experienced a traumatic incident should not be interviewed until after they have had one full sleep cycle, and then again after they have had a second full sleep cycle – it makes sense that victims will need to rest before they participate in a more detailed follow-up interview as well.
- In addition, most victims **need some time to process what has happened**. In many cases, victims who are initially unable to participate in a law enforcement investigation may be able to do so after receiving support from friends, family members, and possibly even a rape crisis counselor or other victim advocate.

Postponing the follow-up interview also allows the victim to **make any necessary arrangements**, such as transportation or child care. An advocate can also arrange to be available at that time, to accompany the victim and provide both information and emotional support during the follow-up interview.

There may also be additional reasons for postponing the interview, to accommodate to some extent the convenience of the victim and/or law enforcement investigator. In fact, even for victims who report their sexual assault to law enforcement after some delay, it may still make sense to delay the comprehensive interview for a day or two. In many cases, even victims who report their sexual assault after a lengthy delay may be in crisis

at the time of the report, because of some event or experience that triggered their decision to contact law enforcement.

Actually, several follow-up interviews may be needed following different parts of the investigation, such as interviews with witnesses, a review of reports, evaluating the results of the forensic examination, suspect statements, laboratory analysis, etc. All of these investigative steps take time, and will most likely raise additional issues to address with the victim. Therefore, investigators do not ever need to feel that they have to get every single piece of information or every single question answered by the victim during a single interview. While every effort should be made to optimize the efficiency of the interviews, follow-up contact is often best for the success of the investigation and even the recovery of the victim who is more likely to feel that the case is being taken seriously and pursued vigorously.

### **Seek corroboration for details in the victim's statement**

There are clearly a number of strategies that investigators can use to clarify inconsistencies, omissions, or untruths in the victim's description of what happened. However, as important as it is to seek clarification of such inconsistencies or omissions, it is equally important to highlight the accuracy of other details in the victim's statement. Thus, a primary goal of any sexual assault investigation will be seeking corroboration for details in the victim's account of events, regardless of whether or not they are relevant for establishing an element of the offense.

### **Conclusion**

An effective interview is a critical step in building a case and it also helps establish a trusting relationship with the sexual assault victim. But the trauma of the assault and other unique factors often make it difficult for victims to clearly recall the incident -- and for investigators to record the details accurately in a written statement. It is therefore critically important for law enforcement professionals and others involved in the community response system to recognize these factors and seek to address them. For example, some ideas for "best practices" include:

- Reducing the number of unnecessary professional contacts with the victim;
- Delaying the comprehensive interview if the victim has not had adequate sleep;
- Creating a safe and non-judgmental environment for the victim interview;
- Tape recording interviews with sexual assault victims;
- Gently clarifying any inconsistencies that arise;
- Seeking to corroborate all possible details in the victim's statement;
- Developing a policy of not arresting victims unless absolutely necessary;

## For More Information

The EVAW International **On-Line Training Institute** offers a comprehensive module on this subject, entitled: *Interviewing the Victim: Techniques Based on the Real Dynamics of Sexual Assault*. For more information on this modules or others within the On-Line Training Institute, please see:

<http://www.evawintl.org/evaw%5Fcourseware/courseinfo.aspx?courseid=6>]

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## Investigating Sexual Assault Against People with Disabilities: Part 1

### *How to Develop an Investigative Strategy*

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This training bulletin is the first in a series developed from the law enforcement perspective, to improve the investigation and prosecution of sexual assaults perpetrated against people with disabilities. This information is designed to be helpful for any professional whose work intersects with the criminal justice system, to ensure that people with disabilities who are victimized have equal access to information, programs, and services – and that they are treated with fairness, compassion, and respect. Everyone involved in the criminal justice and community response system plays a critical role in providing that access and fair treatment.

### **Responding to Victims with Disabilities**

Typically, police officers are taught to approach victims with disabilities and the investigation “like they would in any other case.” The hope is that victims who have a disability will be treated with the same respect as other victims, and this is an important goal we all need to support. However, when training for law enforcement focuses solely on respect, police officers are left wondering what they should actually *do* when they are assigned to investigate a crime against a person with a disability. This training bulletin is designed to provide the information, resources, and referrals that officers and investigators need to improve the response to crime victims with disabilities, particularly those who have been sexually assaulted.

### **OnLine Training Institute (OLTI)**

The material provided in this training bulletin series is drawn from the OnLine Training Institute (OLTI) module entitled: [\*Successfully Investigating Sexual Assault Against People with Disabilities\*](#). The OLTI module offers more extensive, detailed information, beginning with an overview of the prevalence and impact of sexual assault committed against people with disabilities. Various stages of the investigation are described next, including the initial response and preliminary investigation, the detailed follow-up interview(s) with the victim, and other steps taken to identify additional evidence and witnesses. We then offer a section focusing exclusively on the sexual assault of victims who have cognitive disabilities, with particular emphasis on intellectual disabilities. The module concludes with a section on victims who have physical, sensory, or communication disabilities, as well as victims who have mental illnesses or other disability issues.

In this first training bulletin in the series, we draw from this module by offering information on how to develop an investigative strategy in this type of case. However, we begin by explaining the legal elements that must be met in various types of sexual assault cases, regardless of whether or not the victim has a disability.

## Establishing Legal Elements

For any type of criminal offense, there are a number of legal elements that must be met to pursue successful prosecution. For example, the most commonly reported form of sexual assault is forcible penile/vaginal penetration, where the two primary elements are:

1. Sexual penetration (no matter how slight), and
2. Force, threat or fear.

Another common type of sexual assault involves a sexual act committed against someone who is incapable of consenting due to drugs or alcohol. In this scenario, the fundamental legal elements are:

1. Sexual contact or penetration took place,
2. The victim was unable to give consent because of incapacitation due to drugs or alcohol, and
3. The suspect knew or should have known the extent of the victim's impairment.

In addition, some states require that the suspect personally administer the drug (or alcohol) to the victim for the act to qualify as a drug facilitated sexual assault.

## Inability to Consent to Sexual Acts

As with incapacitation due to drugs or alcohol, cognitive impairments (such as intellectual disabilities, traumatic brain injury, and dementia) can temporarily or permanently prevent a person from being able to legally consent to sexual activity. In such cases, investigators and prosecutors must establish that:

1. Sexual contact or penetration took place,
2. The victim was unable to give consent because of the severity of the cognitive impairment, and
3. The suspect knew or should have known the extent of the victim's impairment.

In theory, a consent defense cannot be raised in such a case. However, there is no clear legal standard for establishing how severe a cognitive

### **SARRT Tip:**

Sexual assault investigation protocols should include planning for cases where the victim has a cognitive disability, especially when the impairment is severe or profound. This will include appropriate health care and advocacy services.

impairment must be to render an individual incapable of consent, so this must be established with evidence gathered during a thorough law enforcement investigation.

Much of the existing training for law enforcement on people with disabilities focuses on topics such as how to use *People First Language*, and how to express respect, empowerment, and patience toward them. These are extremely important topics. Professionals are often specifically told *not* to focus on the victim's disability, and instead to focus on a person's abilities. However, when evaluating a sexual assault committed against a person with a severe or profound cognitive disability, the investigation *must* focus on the disability, as well as any evidence or corroboration that the suspect was aware of the victim's disability. This is because these factors are legal elements of the criminal offense.

This training bulletin offers a variety of investigative strategies that can be pursued when an investigator responds to a suspected sexual assault against a person with a disability. In fact, many, if not most cases, require a combination of investigative strategies.

## **Developing an Investigative Strategy**

Investigating a sexual assault against a person with a disability can be uniquely challenging, because the strategy will vary depending on whether the victim has a physical or sensory disability, a cognitive or intellectual disability, and/or a disability impacting communication or mental health. It will also depend on the severity of the disability, because the nature and extent of the victim's disability determines what legal elements must be established to successfully investigate and prosecute the case. If there are drugs or alcohol involved in the sexual assault, this will also need to be considered. This includes medications taken by, or administered to, the victim.

The selection of an investigative strategy can therefore be framed as a series of questions, rather than a simple or straightforward choice. We offer a few of these questions in this training bulletin, to help guide investigators and prosecutors in considering the full range of information and evidence that could ultimately be important in this type of case.

### **Is the Suspect a Caregiver?**

First, investigators should ask whether the suspect is a caregiver for the victim. If the jurisdiction has a law prohibiting sexual contact on the basis of a caregiver relationship, this can be the most straightforward scenario for an investigator or prosecutor to pursue. This is because there are only two primary elements that must be proven:

1. The suspect's role as a caregiver.

2. The sexual acts committed by the suspect against the victim. Of course, any evidence of force, threat, or fear will still be documented if it is present.

Information will also be gathered on any drugs or alcohol that may have been involved. We will address these issues in another question below. However, if there is no law in your jurisdiction that prohibits sexual contact in a caregiver relationship, the case will need to be investigated using other strategies outlined below.

### **Does the Victim have a Cognitive Impairment that is Severe or Profound?**

The next determination is whether or not the victim is capable of consenting to sexual activity, based on a cognitive disability that is *severe or profound*. This is no simple task, and we dedicate a significant portion of the OLT module to providing guidance to help make this determination.

For more information, please consult the OLT module, [Successfully Investigating Sexual Assault Against People with Disabilities](#). In particular, Appendix C provides detailed information about the various levels of severity for intellectual disability, as defined by the most recent version of the *Diagnostic and Statistical Manual (DSM-5)*, published by the American Psychiatric Association (2013).

When a victim of suspected sexual assault has a severe or profound cognitive impairment, the criminal offense is based on the person's inability to consent to sexual acts. As a result, the investigative strategy will focus on documenting the extent of the victim's impairment. Specifically, three things must be established:

1. The sexual act(s) committed by the suspect,
2. The victim's lack of capacity to consent to sexual activity, and
3. The suspect's knowledge of the victim's level of impairment.

Proof of force is not needed to establish an element of this offense, but it is always advisable to collect and document evidence of force when it is available. The same is true for drugs and alcohol; this factor is not directly relevant for the three legal elements outlined above, but it may be critically important for other purposes.

Keep in mind that even when investigators assume that the victim's cognitive impairment is severe or profound, other experts may make a determination that it is not. The case will then revert to a standard consent defense, with evidence needed to establish the element of force or incapacitation (e.g., by using drugs or alcohol).

## **Does the Victim have a Cognitive Impairment that is Mild or Moderate?**

When victims have a *mild to moderate* level of cognitive impairment, they will typically be seen as having the capacity to consent to sexual activity. Law enforcement will therefore need to investigate the case to determine if the evidence undermines a consent defense, by documenting evidence of force, threat, or fear – or incapacitation of the victim due to drugs or alcohol. A disability may be framed as something that increased the victim's vulnerability and is relevant to the question of force. However, the disability itself will not be directly relevant to establishing a legal element of the crime.

## **Unsure about the Severity of the Victim's Cognitive Impairment?**

For investigators unsure about the severity of a victim's cognitive impairment, it is best to start from a position that the investigation may take any of these paths – and collect all of the information or evidence that could be relevant. In fact, investigators will often be uncertain about this question during the beginning stages of an investigation. Frequently, it will be evident that victims have some level of cognitive impairment, but a key point of contention during the investigation and prosecution will be whether it is significant enough to preclude the person from being able to consent to sexual activity.

If the information and evidence gathered during a thorough investigation supports a position that the victim is *incapable* of consenting to sexual activity, this will form the basis of the investigation and prosecution strategy. On the other hand, if the information and evidence appears to suggest that the victim *can* legally consent to sex, the case will revert to a standard consent defense and evidence will be needed to establish the element of force or incapacitation (e.g., using drugs or alcohol).

## **Were Drugs or Alcohol Involved?**

Investigators should seek to determine whether drugs or alcohol played a role in the sexual assault. This includes the misuse of prescription medications, which are often easily accessible to those who care for people with disabilities or illnesses.

Perpetrators frequently use prescription drugs to facilitate sexual assaults, either by rendering their victims unconscious or incapacitating them to the point where they cannot physically resist or cognitively process the perpetrator's actions. Drugs are also used to prevent victims from disclosing their abuse and to reduce the chance that any disclosures will be taken seriously or investigated properly. The investigation of this question may also lead to additional charges for crimes related to the illegal possession of drugs, misuse of prescription medications, or the provision of drugs or alcohol to victims who are minors or have disabilities.

## **Is the Disability Unrelated to the Victim's Capacity to Consent?**

Finally, there are a number of physical, cognitive, and communication disabilities that will not have any impact on the victim's capacity to consent. For example, if the victim is blind or hard of hearing, this is irrelevant to the question of whether the person can consent to sexual activity.

These cases will therefore be investigated using the same general strategy as any other sexual assault where a consent defense is anticipated. Evidence will be gathered to overcome the consent defense, either by establishing the element of force, threat, or fear – or documenting the victim's incapacitation, typically due to drugs or alcohol. As described above, the evidence may suggest that the victim's disability increased his/her vulnerability and may be relevant to the question of whether force, threat or fear was used to perpetrate the sexual assault. However, it will not directly establish a legal element of the offense.

Of course, investigators should also prepare for the possibility that another defense will be raised, including a denial of the sexual acts or a claim of misidentification. Evidence to establish the sexual acts and identify the perpetrator is always important.

## **Up Next**

Developing an investigative strategy is only one aspect of how to successfully investigate sexual assault against people with disabilities. In upcoming training bulletins, we will discuss how to evaluate the victim's general capabilities as well as the specific capacity to consent to sexual activity. We will also outline strategies to prepare for and conduct a detailed follow-up interview with the victim, and we will explore what professionals can do to effectively communicate with victims who have various types of disabilities.

## **For More Information**

This training bulletin is an adapted excerpt from the OnLine Training Institute (OLTI) module entitled: *Successfully Investigating Sexual Assault Against People with Disabilities* by Sgt. Joanne Archambault (Retired, San Diego Police Department), Kimberly A. Lonsway, Ph.D., Shirley Paceley, MA, and Christine Herrman, JD.

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*This project is supported by Grant No. 2013-TA-AX-K021 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.*



## Investigating Sexual Assault Against People with Disabilities: Part 2

*Evaluate the Victim's General Capabilities*

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This is the second installment in our series of training bulletins on the investigation of sexual assault committed against people with disabilities. In the first installment, we provided an overview on how to develop an investigative strategy when the victim has a disability, including information on establishing the legal elements of a sexual assault offense.

We also discussed how cognitive impairments (such as intellectual disabilities, traumatic brain injury, and dementia) may be an element of the offense, because they can temporarily or permanently prevent a person from being able to legally consent to sexual activity.

### **SARRT Tip:**

One helpful project that can be undertaken by a community SARRT is to produce an “investigation guide” that can be accessed by law enforcement officers on their mobile data terminals (MDTs), so it is available when responding to a call and conducting a preliminary investigation of a suspected sexual assault committed against a person with a disability.

In this installment, we discuss how to conduct a preliminary evaluation of the victim's general capabilities, when the victim has some type of intellectual or developmental disability. While any disability the victim has can affect a sexual assault investigation, only those affecting cognition and communication have the potential to constitute a legal element of the crime. The question is whether the impairment is severe enough to prevent the person from being able to legally consent to sexual activity.

This initial evaluation will not serve as the final determination regarding the victim's capacity, to be argued in court by prosecutors, defense attorneys, and expert witnesses. It will not even address the specific question of whether the victim has the legal capacity to consent to sexual acts. This determination will take place later, during the more formal assessment of victim capacity during a detailed, follow-up interview as well as an assessment performed by a clinician.

Rather, this initial evaluation should focus more generally on the victim's capabilities and functioning in daily life – because this will guide what happens next in terms of what crime is being investigated, what information and evidence should be sought, and what steps need to be taken to protect the victim's safety.

## ***Information for Responding Officers***

Clearly, law enforcement officers have numerous responsibilities and training requirements that prevent them from becoming experts at everything they are required to respond to on a daily basis. For example, an officer may be responding to a radio call involving a person with a disability at 11:00 at night or 3:00 in the morning, long after most people have left their offices for the day. In that situation, an initial decision regarding the victim's capabilities will need to be made without the professional support that might be available from 9:00 to 5:00, Monday through Friday. Fortunately, this type of initial evaluation *can* be successfully conducted by responding officers, as long as they have training to prepare them for the situation and tools they can use to help. For responding officers, the best place to start is by recognizing that there is some fact or observation causing them to suspect that the victim has a severe cognitive impairment. Otherwise, they would not even be considering it as relevant to the case. In other words, as a responding officer you can begin by asking yourself what leads *you* to believe that the victim has a cognitive impairment of some kind – and then document those facts.

The next question is whether there are trusted people who can assist with this initial evaluation of the victim's general capabilities. Because so many people with a cognitive disability depend on others for daily assistance, caregivers can often provide basic information about a victim's capabilities. Does the victim live with her/his parents? In a group home? If so, those caregivers may be a good place to start for gathering information.

Care must be taken, however, to respect the victim's privacy as much as possible. For instance, it may be possible to explain the nature of the crime you are investigating to caregivers or others, while still withholding certain details to protect the victim's privacy. It is also critical to avoid unwittingly using a possible suspect in this role of gathering information about the victim. This can be challenging during the initial stages of an investigation when it is not yet clear what crime has been committed, let alone who might be a suspect. In these early stages, it may also remain unclear what motivations might exist for other people to assist – or interfere – with the investigation.

## ***Questions to Evaluate General Capabilities***

Responding officers can then proceed by asking victims a number of questions to assess their general capabilities. These questions will also solicit information about the victim's relationship with the suspect as well as family members and other caregivers. For example, victims can be asked questions such as the following:

- Who decides what you are going to eat for dinner?
- Do you ever make dinner reservations?
- Who decides when it's time for you to go to bed?
- If you wanted to go to the store, how would you get there?
- If you wanted to buy something at the store, how would you do that?
- Do you have money of your own?
- Do you go to school?
- What do you learn at school?
- Can you read?
- Can you write your name?

For victims who have a cognitive disability, it is important to get a sense of whether they can make informed choices when presented with options. Also critical is whether they can say “no” to unwanted activity of any kind, particularly if it involves someone in a position of authority (Kennedy & Niederbuhl, 2001).

### ***Up Next***

Assessing the victim's general capabilities is the first aspect of evaluating a person's capacity during the course of a sexual assault investigation. In the next installment, we will discuss how to formally evaluate the victim's ability to consent to sexual acts.

### ***For More Information***

This training bulletin is an adapted excerpt from the OnLine Training Institute (OLTI) module entitled: *Successfully Investigating Sexual Assault Against People with Disabilities*, by Sgt. Joanne Archambault (Retired, San Diego Police Department), Kimberly A. Lonsway, Ph.D., Shirley Paceley, MA, and Christine Herrman, JD.

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## **References**

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## Investigating Sexual Assault Against People with Disabilities: Part 3

### *Evaluating Capacity to Consent to Sexual Acts*

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This is the third installment in our series on successfully investigating sexual assault against people with disabilities. In the previous installment, we introduced the topic of how to evaluate a victim's general capabilities during the course of a sexual assault investigation. This is relevant when the victim's cognitive disability might be severe enough to preclude the ability to consent to sexual acts. If this is the case, the victim's lack of capacity to consent constitutes a legal element of the crime. In this installment, we continue this topic by discussing the more formal assessment of a victim's specific capacity to consent to sexual acts.

### **Severe or Profound Cognitive Disabilities**

While any disability the victim has can affect a sexual assault investigation, only cognitive disabilities have the potential to constitute a legal element of the crime. The question is whether the impairment is severe enough to prevent the person from being able to legally consent to sexual activity. If so, the investigation must establish three legal elements:

1. Sexual contact or penetration was committed by the suspect against the victim.
2. The victim lacked the capacity to consent to the sexual activity, based on a severe cognitive impairment.
3. The suspect knew, or should have known, the severity of the victim's cognitive impairment.

In theory, a consent defense cannot be raised in such a case. However, there is no "bright line" for establishing how severe a cognitive impairment must be to render an individual incapable of consent. This must be determined based on the evidence gathered during a thorough law enforcement investigation, including a current assessment of the victim's disability and a formal evaluation of the victim's capacity to consent.

## Conducting a Formal Evaluation of Capacity to Consent

There are a number of characteristics that influence an individual's ability to consent to sexual activity, including their IQ, adaptive behavior, and current sexual behavior, as well as any sex education they may have received (Kennedy & Niederbuhl, 2001). Various tests are used around the country to evaluate such characteristics and make this determination. Knowing what test is used in your jurisdiction will guide the questions that need to be addressed during the law enforcement investigation.

On the following page, we provide a summary of the various tests for capacity to consent that are used in each state. The material is adapted from Morano (2001), but it has been updated with new information as of December 2013.

Name of Test	States that Use This Test
<b>Nature of Conduct:</b> This test requires that a person have an understanding of the sexual nature of any sexual conduct as well as the voluntary aspect of such activity, in order to be considered capable of consent.	Montana, Nebraska, Nevada, New Jersey, North Carolina, North Dakota, Ohio, Oregon, Rhode Island, South Carolina, Texas, and Utah.
<b>Nature and consequences:</b> This test requires that a person understand both the nature and consequences of a sexual act in order for consent to be valid. Additionally, the individual must understand the potential risks of sexual behavior, including negative outcomes such as unwanted pregnancy or sexually transmitted infections.	Alabama, Alaska, Arizona, Arkansas, Indiana, Iowa, Kansas, New Hampshire, New Jersey, New Mexico, Oklahoma, Pennsylvania, Tennessee, Vermont, Virginia, and Wyoming
<b>Morality test:</b> This test necessitates that a person have a moral understanding of sexual activity in addition to understanding its nature and consequences for consent to be valid.	Colorado, Hawaii, Idaho, Illinois, New York, and Washington
<b>Totality of circumstances:</b> This test requires the fact finder to examine all of the relevant circumstances to determine whether the victim was capable of consenting to the sexual acts in question.	Illinois
<b>Evidence of mental disability:</b> This test must consider "evidence of mental disability."	Connecticut, Maryland, Massachusetts, Michigan, Mississippi, Missouri, South Dakota, West Virginia, and Wisconsin
<b>Judgment test:</b> This test is used in to determine whether the individual can give knowing and intelligent consent to sexual activity.	Georgia and Minnesota

Law enforcement professionals are not required to become experts in determining a victim's capacity to consent to sexual activity. However, understanding the test used in a particular jurisdiction can help guide officers and investigators in the type of information that should be gathered to help others make that determination. For more detailed information on each of these tests, please see the OLTJ Module entitled: [\*Successfully Investigating Sexual Assault Against People with Disabilities\*](#).

## **Specific Questions That Can Be Asked**

While the specific questions asked during an assessment will vary based on the test used in a particular jurisdiction, it will be important to begin by establishing what terms the victim uses for male and female genitalia. Once these terms are established, the interviewer should use the same words the victim does and proceed by asking questions such as the following:

- What do boys/girls do with that part of their body [using the victim's terms]?
- Do you have a \_\_\_\_\_?
- What do you call it when a man puts his \_\_\_\_\_ inside a woman's \_\_\_\_\_? Do you know a name for that?
- What is sex?
- Why do people have sex?
- Where do babies come from?
- If a woman wants to have a baby, what does she do?
- If a woman wants to stop from having a baby, what does she do?
- Do boys have babies?
- When a man does that, does he like it? Does a woman?

Other questions can address whether the victim understands that people can contract a disease from sexual activity, is able to differentiate between appropriate and inappropriate times and places to have sex, and recognizes situations or people that may pose a threat (Kennedy & Niederbuhl, 2001).

## **Up Next**

Now that we have provided an overview of how to evaluate the victim's general capabilities as well as their specific capacity to consent to sexual acts, we transition to the topic of the victim interview. In the next two bulletins, we provide information on how to prepare for, and conduct the detailed follow-up interview with a victim who has an intellectual or developmental disability.

## For More Information

This training bulletin is an adapted excerpt from the OnLine Training Institute (OLTI) module entitled: *Successfully Investigating Sexual Assault Against People with Disabilities*, by Sgt. Joanne Archambault (Retired, San Diego Police Department), Kimberly A. Lonsway, Ph.D., Shirley Paceley, MA, and Christine Herrman, JD.

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## Investigating Sexual Assault Against People with Disabilities: Part 4

### *Preparing for the Detailed, Follow-Up Interview with the Victim*

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This is the fourth installment in our series on successfully investigating sexual assault against people with disabilities. In a previous installment, we discussed how to develop an investigative strategy in various types of cases involving a victim with a disability. We also offered a number of suggestions for investigating a case specifically involving a victim with a cognitive disability, including how to evaluate the victim's general capabilities in daily life and the specific capacity to consent to sexual acts.

In this installment, we discuss one of the most important components of a sexual assault investigation – the detailed, follow-up interview conducted with the victim. Much of this information pertains specifically to victims who have a disability affecting cognition or communication, but some material is also relevant for victims who have other types of disabilities. In general, our goal is to provide a number of factors to consider when preparing for the interview, to ensure that the individual needs of the victim are met in advance.

### **When to Schedule the Follow-Up Interview**

In general, we recommend that the detailed, follow-up interview is scheduled a day or two after the assault was committed (or initially reported), to allow time for the victim's acute trauma levels to subside. However, when the victim has a disability it is often necessary to wait even longer, so the investigator can conduct background research, prepare for the interview, and access any community resources available.

Interviews should be scheduled to accommodate the victim whenever possible.

Participation in the criminal justice process is difficult enough, without creating additional challenges associated with employment, child care, or other life arrangements. By accommodating the victim's needs and schedule, your efforts can go a long way toward supporting their participation in the process and holding more offenders accountable.

Once these objectives are met, the interview should be scheduled for as soon as practically possible. This is done to prevent memory loss on the part of the victim, but

also to defend against any claim that someone unduly influenced the victim's statement (e.g., family members, caregivers, or other professionals involved in the case).

## **Conduct Background Research**

To begin preparing for the interview, start by conducting background research on the victim. Depending on the type and severity of the disability, this might include talking with family members, caregivers, social service professionals, and other people who know the victim, to find out about the victim's living situation and work environment, as well as their abilities, habits, likes, dislikes, etc. In other words, you need to evaluate whether the victim's disability impacts her/his ability to understand and communicate.

This will provide critical information regarding any accommodations that might be needed, including communication aids and services.

It is also important to get a sense for how victims typically function, as well as how this might change when they are under stress. You will also want to ask care providers about any medications the victim may be taking. This information may determine when the interview should be scheduled. Other steps can also be taken to increase the victim's ability to participate successfully in the interview. For example:

Many individuals with disabilities need to follow a strict schedule for taking their medication, and for resting, exercising, and eating. It is important to accommodate this regimen as you make plans for the interview. Some individuals with disabilities adhere to a strict time schedule and become upset or distressed when changes in their routine occur.

Therefore, it is best to know if these factors exist and to schedule the interview for a day or time when the victim will be less distressed or distracted. Those who know the victim best can provide information about the victim's schedule and can offer you insight about the level of flexibility you will need to exercise to complete the interview (Office for Victims of Crime, 2011, p. 15).

In general, the goal is to discover whatever information is available that will help you and the victim during the interview – and to avoid anything that might be harmful.

## **Write Key Interview Questions In Advance**

If the victim has a disability affecting cognition or communication, the next step is to write key interview questions in advance. If the interview questions are not written ahead of time, investigators have to formulate them “on the spot,” as ideas occur to them. As a result, they will likely revert to their standard patterns of communication, which are not likely to be effective for victims with cognitive or linguistic challenges.

If the victim has a difficult time understanding the questions and/or providing accurate responses, this reduces the chance that a thorough investigation will be conducted. This in turn makes it difficult to corroborate the victim’s statement, which lessens the odds of successful investigation and prosecution. Regardless of whether misunderstandings are on the interviewer’s part or the victim’s, they are likely to be seen as inconsistencies and used by the defense as a basis to challenge the victim’s credibility.

Follow-up questions will still need to be asked spontaneously during the interview, based on information provided by the victim, because investigators cannot anticipate the exact course any interview will take. These questions can be reviewed by someone who knows the victim personally or has professional expertise in the victim’s specific type of disability. Based on this review, the questions may need to be revised, to increase the likelihood that the victim will be able to understand the questions and provide a clear response. This process of review and revision has the potential to significantly improve the victim’s ability to participate effectively in the interview and provide accurate information.

## **Evaluate the Need for Accommodations**

For a sexual assault victim with a disability, an appropriate accommodation might mean the difference between being able to participate in a successful investigation and prosecution – versus one that ultimately fails to provide the victim equal access to the criminal justice system. A number of factors are therefore worth considering. One is whether a specialist is needed to assist with communications, particularly if the victim’s disability is severe. If the victim uses some kind of assistive communication aid or device, it will be necessary to identify what it is and learn how it works before using it in the interview. If a sign language interpreter or other service is needed, a qualified person will need to be located as soon as possible to perform the task.

Sometimes an accommodation that would help a particular victim is well-known to that person and their caregivers. In this case, it may be quickly identified and mobilized. In other situations, however, family members and caregivers may have adapted their mode of communication with the victim for so long they are not even aware of what they are doing anymore. By observing victims when they communicate with family members

or caregivers, it is often possible to gather a great deal of information about how to best communicate with them.

## Consider Using a Forensic Interviewing Specialist

Another consideration is whether a forensic interviewing specialist should be used to conduct the detailed, follow-up interview. These specialists will most often be used to interview victims who have a severe disability affecting cognition or communication.

Forensic interviewing specialists are typically social workers or other child abuse professionals who are trained to use the skills and techniques needed to successfully interview young children. For example, they will ask questions in a way that can be understood by a person with limited cognitive abilities and experience, by using concrete language and avoiding leading questions. They are also trained to use tools such as drawings and anatomically correct dolls if this will help the victim communicate more effectively.

### **SARRT Tip:**

Protocols for sexual assault investigation should identify which types of cases with an adolescent or adult victim with a disability are appropriate for the services of a forensic interviewing specialist. MOUs can then be established between the relevant agencies. SARRTs can also work with forensic interviewers to ensure that interview rooms generally used for children are also appropriate for use with adolescent and adult victims.

Because of their training and specialized background, forensic interviewing specialists may be able to more easily access and use communication devices. They may also be better able than the investigator to dedicate the amount of time needed to conduct the most effective interview with a person who has a cognitive or communication disability.

When a forensic interviewing specialist conducts an interview, it can be monitored by the investigator and prosecutor, as well as any representatives from Child or Adult Protective Services or other social service agencies. These professionals can typically observe the interview through a one-way mirror or live video feed so they can pass along questions to the interviewer using written notes, text messages, or a listening device in the interviewer's ear. At an appropriate point, the interviewer can also take a break and ask observers whether they have any additional questions or issues that need clarification.

There is currently some debate regarding which types of cases should involve the services of a forensic interviewing specialist. In most jurisdictions, they are used only for forensic interviews with children. However, given their unique skills and expertise, it is reasonable to suggest that forensic interviewing specialists should also be used with adolescent and adult victims who have cognitive or communication disabilities that are severe or profound.

## **Select the Appropriate Setting and Prepare To Record the Interview**

The site for the detailed, follow-up interview should be selected with care. It should be safe and comfortable for the victim, as well as private, quiet, and free from distractions. It must also meet law enforcement requirements for officer safety and confidentiality. Other concerns include space considerations for wheelchairs and/or interpreters, as well as advocates or other support people who will be present (Office for Victims of Crime, 2011). However, the decision regarding where to conduct the interview will also be related to the question of whether it will be audiotaped or videotaped.

For most victims, the primary concern when selecting a location for the interview should be their comfort level. Victims will typically feel most comfortable in a setting that is safe and familiar, such as their own home. This is therefore the type of location where they will be able to participate most effectively during the detailed, follow-up interview. If home is the site of their abuse, however, a better choice might be the home of another family member or loved one. Another option is an agency or facility that has a room where victims will feel comfortable and secure.

When the interview is conducted in such a setting, it should be audio or videotaped or to preserve the best record. As the victim and investigator are getting to know each other and settling into the interview, the investigator can let the victim know this is happening and explain why. For example, the investigator could say something like:

I am going to record our conversation today, so I can give you my full attention and not worry about writing down everything you say. I want to be able to listen to you carefully and know the information you provide will be accurately recorded. Okay? Great. I'm going to start the tape now.

When victims have a severe cognitive or communication disability, the entire scenario is quite different. In these cases, a forensic interviewing specialist will typically be needed,

and the interview should be conducted in a facility specifically designed for this purpose. This type of facility will be designed to be accessible for people with a variety of physical disabilities and be equipped for one-way observation and videotaping of the interview. In fact, observation and videotaping will likely be part of the standard operating procedure for conducting such an interview. This is done for a number of reasons:

It provides documentation of the victim's responses, demeanor, characteristics, and other important data on the date of the interview. The trial may come many months or even years later, so the video captures the victim's statement and ability to participate in the interview (Office for Victims of Crime, 2011, p. 14).

The recording will also document the fact that leading questions were not asked, so it can protect against any later claim that the victim was unduly influenced during the interview.

Victims may or not may not be able to provide consent for videotaping, depending on the level of their cognitive impairment. Remember that the reason this type of interview protocol is being followed is because the victim has a severe or profound cognitive disability. However, every effort should be made to advise victims of this fact and explain it using the same general strategy outlined above. The language will likely be different, but the goal is the same – to help victims understand what is happening and why, and to allow them the opportunity to provide consent to the extent possible.

## **Up Next**

There are many factors to consider when preparing for the detailed follow-up interview with a victim who has a disability. By learning more about individual victims and their disabilities in advance, you can ensure that any necessary accommodations are put in place prior to the victim's interview, and help to create an environment that meets the victim's individual needs – this ultimately makes it possible to conduct a successful interview.

In the next installment, we continue the topic of the detailed follow-up interview with a sexual assault victim, and provide a number of tips and tools to use to increase the likelihood of success.

## **For More Information**

This training bulletin is an adapted excerpt from the OnLine Training Institute (OLTI) module entitled: *Successfully Investigating Sexual Assault Against People with Disabilities*, by Sgt. Joanne Archambault (Retired, San Diego Police Department), Kimberly A. Lonsway, Ph.D., Shirley Paceley, MA, and Christine Herrman, JD.

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## Investigating Sexual Assault Against People with Disabilities: Part 5

### *Conducting the Detailed Victim Interview*

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This is the fifth installment in our series of training bulletins on successfully investigating sexual assault against people with disabilities. In the previous installment, we discussed the importance of conducting background research and evaluating the need for possible accommodations to prepare for the detailed follow-up interview with a victim who has a disability. In this bulletin, we provide a number of specific tips and tools for conducting this interview. Once again, much of this information pertains specifically to victims who have a disability affecting cognition and communication. However, some of the material is also relevant for sexual assault victims who have any type of disability.

### **Allow Enough Time**

Investigators should begin by recognizing that more time may be needed to interview a person with a disability than might be needed for other victims. However, with sufficient patience, time, and investigative skill, victims with a disability can have equal access to the criminal justice system when they are victims of crime.

After conducting your background research, it is time to meet with the victim to establish rapport, observe communication patterns, practice using any communication aids, and gain comfort in the situation.

### **Introduce Yourself and Address Concerns**

When you begin talking with a victim who has a disability, start by introducing yourself, explaining who you are, and emphasizing that you are there to help. If the initial report was made by a third party, the next step will be to find out whether the victim actually wants to talk to you. This can help to establish rapport, because it demonstrates that you are treating the victim with respect and not assuming that the third party speaks on his or her behalf.

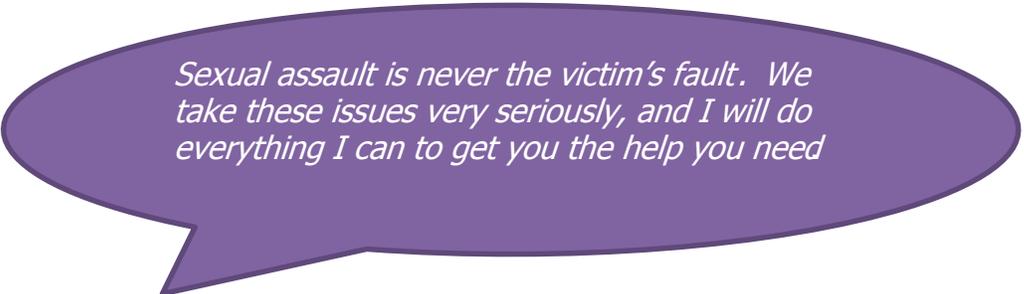
When victims do not want to talk with the investigator, they can be asked why. The resulting discussion may reveal some misunderstanding that can be clarified or other

concerns that can be addressed. If their fears can be alleviated with respect and compassion, victims may decide they are willing to talk with you. However, victims should never be forced to talk with you if they do not want to.

## **Acknowledge the Victim's Ordeal**

Acknowledge the ordeal that the victim has endured, with statements like: "I'm sorry that this happened to you." This helps establish empathy and creates an open and nonjudgmental demeanor. This is also an appropriate time to address any fears or self-blame expressed by the victim.

For victims who appear to blame themselves for the sexual assault, you can stress the seriousness of the incident and emphasize that it is not their fault.



*Sexual assault is never the victim's fault. We take these issues very seriously, and I will do everything I can to get you the help you need*

## **Determine Who Will Be Present**

For victims who have a disability, it is important that they are allowed to decide whether they want a support person with them during the interview, to provide support and encouragement. In fact, this is recommended for any victim of sexual assault, not just those with disabilities; they should be offered the option of having a victim advocate or other support person present during the law enforcement interview.

Sometimes having a support person can help a victim provide better information. For victims with a disability, however, this may be a necessity. A family member, caregiver, or other staff person may be needed to assist with communication and generally facilitate the victim's cooperation. As long as the victim expresses a wish to have the

person present, and the person is not disruptive, the benefit of having them included is usually well worth the presence of an additional person in the room.

On the other hand, there will be situations where sexual assault victims *do not want* a particular person present, but they do not feel comfortable saying so in front of that person. This can be especially challenging when the victim has a disability, because family members and caregivers will often expect to be in the room with them. They may even be accustomed to “speaking for” the victim. Therefore, investigators must be very careful to avoid asking the victim whether or not to include a support person while that person is present. You will need to find a way to ask victims privately whether or not they want a particular person present in the room with them during the interview.

Of course, support people should not be included in the interview if there is any reason to believe they might be a suspect in the case or otherwise motivated to cover up for the suspect or the organization where the assault was committed. Unfortunately, this is easier said than done because such motivations are not always clear during the early stages of an investigation. However, it should be one of the highest priorities to try and make this determination.

## **Explain the Role of Support People**

Whoever is going to be in the room as a support person, it is critical that their role is clearly explained – both to the support person as well as the victim. For example, it must be clear that they are there to provide emotional support to the victim and to facilitate the victim's communication and cooperation, but not to provide responses to questions that are directed toward the victim. They should also be advised not to take notes or write reports to document any part of the interview.

## **Help the Victim Feel Comfortable**

Beyond determining who will be present, other steps can be taken to ensure that the victim is comfortable during the detailed, follow-up interview. For example, you can offer victims water or another beverage, indicate where the restroom is, and ask for their consent to conduct the interview. Let victims know you will be taking breaks from time to time and explain that they can ask for a break whenever they want one.

Another thing you can do to help victims feel comfortable is to increase your own comfort level:

If you have had little interaction with individuals with disabilities, the person's physical appearance may initially cause you some difficulty or discomfort. This is normal and only requires for you to adjust. Soon, you will find that after greater

exposure to people with differences these feelings will subside and disappear (Office for Victims of Crime, 2011, pp. 9-10).

Some have even recommended that you can increase the victim's comfort level by having materials available in the interview room they can handle and touch, "such as drawing paper, pencils, and stress balls" (Office for Victims of Crime, 2011, p. 18).



## **Ask Victims What They Want and Need**

Another basic strategy is to ask victims what they want and need in a particular situation. This includes how the person would like you to refer to their disability, what assistance they need, and how you can most effectively communicate with each other:

Most victims would prefer to answer these few questions upfront rather than endure your uneasiness or be uncomfortable themselves throughout an entire interview. Your respectful and sensitive questions will ensure that the language you use and the accommodations you make are appropriate, not detrimental (Office for Victims of Crime, 2008, p. 15).

However, do not ask questions merely to satisfy your own curiosity. For example, if a crime victim was blinded in an accident as a child, it would not be necessary or appropriate to ask detailed questions about the event or its impact on the person's life – unless it is relevant to the assault. Your questions should focus on the victim's needs and specific accommodations to address the issues at hand.

## **Evaluate the Victim's Ability to Participate**

While observing the victim's communication patterns, keep in mind that any medications they are taking may have side effects that could affect their ability to participate in the interview. This could include memory loss, decreased concentration and a loss in cognitive functioning. Sometimes they may resemble the effects of drug or alcohol use (e.g., staggering gait or slurred speech). While this might be misperceived as the result of drinking or drug use it may actually be the effect of a neurological disability, a mental or emotional disturbance, or hypoglycemia (U.S. Department of Justice, 2006).

Other problems may also be observed in the victim's communication patterns. For example, the victim may have trouble following your conversation or producing coherent thoughts. Victims may also slur their words or even fall asleep during the interview. In this situation, it will be critical to determine whether the problem is the result of the victim's disability or any medications they have been given. Check with the caregiver or treatment facility to find out what medications the victim was given and what time they were administered.

If the problem is the result of medications, there may be another day or time that would be better for the interview. Investigators should be flexible about scheduling, so victims can provide the most accurate and reliable information possible.

However, it is also possible that medications were deliberately administered with the goal of inhibiting the victim's ability to participate in the interview. In fact, this may be the same medication that was given to the victim to facilitate the sexual assault or impair the victim's memory. If there is reason to suspect that the victim is being deliberately medicated to impede the investigation, law enforcement may need to take a number of measures: taking the victim into protective custody, obtaining a blood sample for toxicological analysis, and expanding the investigation to look into this question as well as other forms of possible abuse.

## **Assess For Abuse or Coercion**

You should also be looking for signs to indicate whether the victim is able to communicate openly. As in cases involving domestic violence, elder abuse, and child abuse, investigators must carefully consider whether the victim can provide information without pressure, coercion, or undue influence by caregivers or others. This requires watching for signs that the victim is being abused or coerced into not disclosing information to authorities.

These signs could include the caregiver:

- Isolating the victim from the outside world, family or friends
- Speaking for the victim
- Ignoring or not speaking to the victim, or emotionally isolating the victim
- Not touching or comforting the victim

- Threatening or intimidating the victim
- Acting defensively
- Behaving intrusively, or not allowing the victim to have any privacy
- Displaying a negative attitude toward people with disabilities
- Handling the victim roughly
- Showing hostility, agitation, and/or volatility
- Cursing, screaming, insulting and/or calling the victim names
- Resisting outside help, refusing to apply for aid or services (adapted from the New Mexico Coalition, n.d.)

When such behaviors are observed, law enforcement will need to expand the investigation to determine whether the victim is in fact being abused or coerced.

### **Allow Additional Time When Needed**

Especially for victims who have disabilities affecting cognition and/or communication, it will be important to allow plenty of time for the detailed, follow-up interview.

In most cases, you will be able to complete the interview in one sitting. However, due to either cognitive or communication disabilities, there may not be enough time in one interview to gather all the information you need. Be prepared to schedule several shorter interviews to accommodate the needs of victims who have disabilities. They may tire, become too upset, or for other reasons be unable to answer all of your questions in one session (Office for Victims of Crime, 2011, p. 15).

Keep these factors in mind as you schedule and plan to interview the victim.

### **Up Next**

Now that we have provided background on how to prepare for and conduct the detailed follow-up interview, our final installment in this series will offer specific strategies to help communicate effectively with sexual assault victims who have disabilities.

## For More Information

This training bulletin is an adapted excerpt from the OnLine Training Institute (OLTI) module entitled: *Successfully Investigating Sexual Assault Against People with Disabilities*, by Sgt. Joanne Archambault (Retired, San Diego Police Department), Kimberly A. Lonsway, Ph.D., Shirley Paceley, MA, and Christine Herrman, JD.

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For detailed information on how to conduct a successful interview with a sexual assault victim, you can also see the [OLTI](#) module entitled, *Interviewing the Victim: Techniques Based on the Realistic Dynamics of Sexual Assault*.

For guidance specifically focused on interviews conducted by forensic interviewing specialists with sexual assault victims who have a disability, there is a DVD and guidebook published by the [Office for Victims of Crime](#) (2011).

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*This project is supported by Grant No. 2013-TA-AX-K021 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.*



## Investigating Sexual Assault Against People with Disabilities: Part 6

### *Techniques for Effective Communication*

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This is the final installment in our series on investigating sexual assault against people with disabilities. Previously, we provided tips on how to develop an investigative strategy and an overview of how to evaluate a victim's general capabilities as well as the specific capacity to consent to sexual acts. We also offered recommendations on how to prepare and conduct the detailed follow-up interview of a victim with a disability affecting cognition or communication.

In this installment, we describe techniques to effectively communicate with a victim who has any disability that may impact his or her ability to understand you, or your ability to understand the victim.

### **Start with the Assumption You Can Communicate**

First, you should start from the assumption that you can have a normal conversation with the victim. Unless the victim has a severe cognitive or communication disability, you should be able to communicate effectively, even if it takes a while to become accustomed to the victim's "speech patterns, inflections, and accent" (Office for Victims of Crime, 2011, p. 21).

You should also allow sufficient time for this natural process, but monitor the length of the interview, because this can become burdensome for victims (Office for Victims of Crime, 2011). Also try to "focus on what the person is saying, rather than how she/he is saying it" and "do not try to finish the individual's sentences or thoughts (SafePlace, 2007).

### **If You Cannot Understand the Victim**

If you find that you cannot understand the victim, no matter how hard you try, do not pretend that you do. Seek clarification using the strategies offered by SafePlace (2007):

**Wait:** Listen to the whole sentence or phrase. Wait for a second and try to relax. Let the conversational context help you.

**Repeat:** Simply repeating the sentence or thought may be enough. There are times, though, when repeating will not help because the speaker is not going to be able to change the way a specific word is pronounced. If repeating does not work, move on to another strategy.

**Rephrase:** Ask the individual to try and express the same thought using various words. Often, the misunderstanding hinges on one or two words in a sentence.

**Identify** which part of the sentence or thought was misunderstood. If you know most of the phrase and can identify which part(s) are unclear, you might try repeating what you know, and ask him/her to focus on finding a way to communicate just the part you did not get.

**Spelling:** Once you have located the word you do not understand, ask the individual to spell it for you. It usually just takes the first few letters of the word to clear up the confusion.

**Writing:** You can ask the person to write it down, or you can write down what you heard.

**Getting help:** if nothing else is working, you may want to ask the person if there is someone who might assist in communications (SafePlace, 2007, pp. 63-64).

If you do have someone assist with communications, however:

Carefully consider whether this other party is safe, or will have opinions that influence her/his interpretations. Do not allow this person to add to or critique the crime victim's comments, or comment about the crime itself. The crime victim must know that you believe her/his own statements (SafePlace, 2007, p. 64).

## **When to Switch Interviewers**

When none of these strategies work, then it may be time to switch interviewers.

Guidance for this difficult situation is offered by the Office for Victims of Crime (2008):

You may need to call in someone as an interpreter who knows the individual and is not invested in any way in the outcome of the interview, such as a teacher or speech therapist. If this is necessary, the interpreter must be briefed on what is expected of him or her during and after the interview. The interpreter may require debriefing following the interview, both for the person's psychological well-being and for issues of confidentiality that may concern the victim. In the best circumstances, the new interviewer would have been observing the interview (Office for Victims of Crime, 2011, pp. 21-22).

## **Specific Techniques for the Interview**

Assuming the interview will continue, some additional recommendations are adapted from Dr. Nora Baladerian's (1998a) work and the Office for Victims of Crime (2008):

- Except for very brief interactions, try to position yourself at eye level with the person you are talking with. You may need to squat or sit down to communicate with someone who is sitting.
- Begin the conversation with general information to establish rapport and observe communication patterns. Keep in mind that all human beings are more difficult to understand when they are distressed. By starting an interview with topics that are general or not directly related to the sexual assault, this can allow time for both parties to feel more comfortable.
- Discussion relating to general information or shared interests should be kept relatively limited, so it does not seem like you are focusing on trivial matters at such a traumatic moment in their lives.
- Make regular eye contact with – and speak directly to – the person from whom you are obtaining the information, not the support person or interpreter. This can be hard to do, because we are accustomed to making eye contact with the person we are actually speaking to. However, it is important to remember that the interpreter or support person is not the person you are actually speaking to.
- Proceed with rapport building. Ask general questions, use active listening, and get to know the person as an individual. Active listening requires the listener to pay attention to not only what is said, but how it is said. Reflecting back to the victim what you think is being said – and finding out how the person feels – can be helpful for understanding the communication and establishing rapport.
- If the person is an adult, communicate with the person like an adult and use a normal tone of voice. Do not speak like you might to a child, using a condescending tone or terms of endearment.

- Do not touch the victim or exhibit affectionate behaviors normally reserved for friends and family such as hugging, hand holding, or patting.
- Make sure to allow sufficient time for the person to respond to you, both for questions and other prompts. For example, if you extend your hand for a handshake, give the person time to respond by extending her or his hand in return. If you ask a question, allow ample time for the person to respond before speaking again.
- Explain that most sexual assault victims do not report to police or participate in a criminal prosecution, so you realize it took courage for them to do so. Let victims know you are honored that they trusted you enough to talk to you.
- Before terminating an interview, thank the victim for the information and assistance that she/he provided, and let the victim know what will happen next. This sets the tone for future interactions.
- Give the victim the case/incident number and your own contact information or the contact information for the investigative unit so he or she can follow-up if needed.
- Make sure victims and support people have received written information on resources and referrals for community agencies.

## **Conclusion**

In this training bulletin series, we offered a number of tips and tools you can use when investigating a sexual assault against a person with a disability. We also provided recommendations you can use to successfully plan and execute a detailed, follow-up interview with the victim by ensuring that the victim's needs are met and incorporating best practice recommendations for gathering accurate information. In this final installment, we focused on strategies to incorporate respectful and effective communication practices when interviewing victims who have one or more disabilities.

We hope the information provided in this training bulletin series has increased your understanding of how to successfully investigate and prosecute a sexual assault committed against a person with a disability. The ultimate goal is to improve our responses to crime victims with disabilities and enhance their access to safety and justice.

## **For More Information**

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*Disabilities*, by Sgt. Joanne Archambault (Retired, San Diego Police Department), Kimberly A. Lonsway, Ph.D., Shirley Paceley, MA, and Christine Herrman, JD.

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*This project is supported by Grant No. 2013-TA-AX-K021 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.*

The following article was given to the Illinois Family Violence Coordinating Councils directly from Russell Strand, the co-author (January 2017).

## **The Forensic Experiential Trauma Interview (FETI)**

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Traumatized individuals often undergo a process many professionals and victims do not commonly understand. Many professionals inside and outside law enforcement have been trained to believe when an individual experiences an event, to include a trauma event, the cognitive (prefrontal cortex) brain usually records the vast majority of the event including the who, what where, why, when and how and peripheral vs. central information. This approach often ignores the role of bottom-up attention of the more primitive portion of the brain during highly stressful or traumatic event. Therefore, when the criminal justice system responds to the report of a crime most professionals are trained to obtain this type of peripheral and higher level thinking and processing information often discounting the enhancement of memory traces – for what was attended, via bottom-up mechanisms and norepinephrine and glucocorticoid effects on the amygdala and hippocampus. Sadly, collecting information about the event in this manner while overlooking the manner in which the memory and trauma shapes the memory may actually inhibit traumatic or highly stressful or fear producing memory and the accuracy of the details provided. Trauma victims/witnesses do not generally experience trauma in the in the same way most of us experience a non-traumatic event. The body and brain react to and record trauma in a different way then we have traditionally been led to believe. When trauma occurs, the prefrontal cortex will frequently shut down leaving the less primitive portions of the brain to experience and record the event. The more primitive areas of the brain do a great job recording experiential and sensory information but don't do very well recording the information many professionals have been trained to obtain. Most interview techniques have been developed to interview the more advance portion of the brain (prefrontal cortex) and obtain specific detail/peripheral information such as the color of shirt,

When trauma occurs, the prefrontal cortex will frequently shut down leaving the less primitive portions of the brain to experience and record the event.

description of the suspect, time frame, and other important information. Some victims are in fact capable of providing this information in a limited fashion. Most trauma victims however are not only unable to accurately provide this type of information, but when asked to do so often inadvertently provide inaccurate information and details which frequently causes the fact finder to become suspicious of the information provided. Stress and trauma routinely interrupt the memory process thereby changing the memory in ways most people do not accurately appreciate. One of the mantras within the criminal justice system is "inconsistent statements equal a lie". Nothing could be further from the truth when stress and trauma impact memory, research shows.

In fact, good solid neurobiological science routinely demonstrates that, when a person is stressed or traumatized, inconsistent statements are not only the norm, but sometimes strong evidence that the memory was encoded in the context of severe stress and trauma. In addition, what many in the criminal justice field have been educated to believe people do when they lie (e.g., changes in body language, affect, ah-filled pauses, lack of eye contact, etc.) actually occur naturally when human beings are highly stressed or traumatized. Science of memory and psychological trauma must be applied to interview approaches and techniques.

Since the vast majority of traditional training and experience has caused many to focus on the higher functioning portions of the brain and research clearly shows these portions of the brain is not generally involved in experiencing, reacting to or recording the experience, the FETI process was developed and implemented as proven methods to properly interview the more primitive portions of the brain. This technique not only reduces the inaccuracy of the information provided but will greatly enhance understanding of the the experience, thereby increasing the likelihood of a better understanding of the totality of the event. FETI is highly effective technique for victim, witness and some suspect/subject interviews. FETI entails the adaptation of the principles used in critical incident stress debriefing and defusing (impact of the event including emotional and physical responses) as well as principles and techniques developed for forensic child interviews (open-ended non-leading questions, soft interview room and empathy) as well as neurobiology of memory and psychological trauma (initially tapping into the lower functioning portion of the brain to understand the experience as well as the meaning of the experience in a non-threatening, non-suggestive manner). This concept and approach of this technique can be described as a *forensic psychophysiological investigation* - an opportunity for the victim to describe the *experience* of the sexual assault or other traumatic and/or fear producing event, physically and emotionally. This method has resulted in reports of better victim interviews by those who have

used it. More importantly, the FETI interview process obtains significantly more information about the experience, enhances a trauma victim's ability to recall, reduces the potential for false information, and allows the interviewee to recount the experience in the manner in which the trauma was experienced. The FETI interview enhances the investigative process by taking a one-dimensional traditional investigation and turning it into a three-dimensional offense-centric investigation including subjective experiences indicative of trauma-based brain states. Traumatic memories are often encoded and retrieved differently than non-traumatic memories, so they have that dimension of the experience, and then presenting the fullness – and limitations – of the victim's memories, including the fragmented sensations and emotions, lack of narrative and sequencing, etc., which are then critical facts of their own.

This technique significantly enhances the quality and quantity of testimonial and psychophysiological evidence obtained. This method has also been shown to drastically reduce victim recantations, increase victim cooperation and participation and significantly improves chances for successful investigations and prosecutions.

The forensic experiential trauma interview includes using interview techniques described below:

## **A Paradigm Shift...**

### **Forensic Experiential Trauma Interview**

- **Acknowledge their trauma/pain/difficult situation**
  - **What are you able to tell-me about experience?**
    - **Tell me more about ... or that...**
  - **Help me understand your thoughts when...?**
  - **What are you able to remember about...the 5 senses**
  - **What were your reactions to this experience**
    - **Physically**
    - **Emotionally**
  - **What was the most difficult part of this experience for you?**
  - **What, if anything, can't you forget about your experience?**
  - **Clarify other information and details...after you facilitate all you can about the "experience" (FETI Funnel)**
  - **Closure – prep for future information sharing**

a. **Acknowledge the victim's trauma and/or pain.** This will assist you, the

One of the greatest needs of anyone who has experienced or is experiencing high stress and/or trauma is the need to be safe, trust is central to that need.

listener, to demonstrate genuine concern and empathy towards the interviewee in an attempt to provide a sense of psychological and physical safety during the interview process. It may be difficult to establish trust with someone whose trust may have been horribly violated by another human being they may have trusted. Every effort should be made by you to demonstrate genuine empathy, patience and understanding towards the person with whom you are facilitating a disclosure of their experience. You may need to spend additional time establishing this your sincere

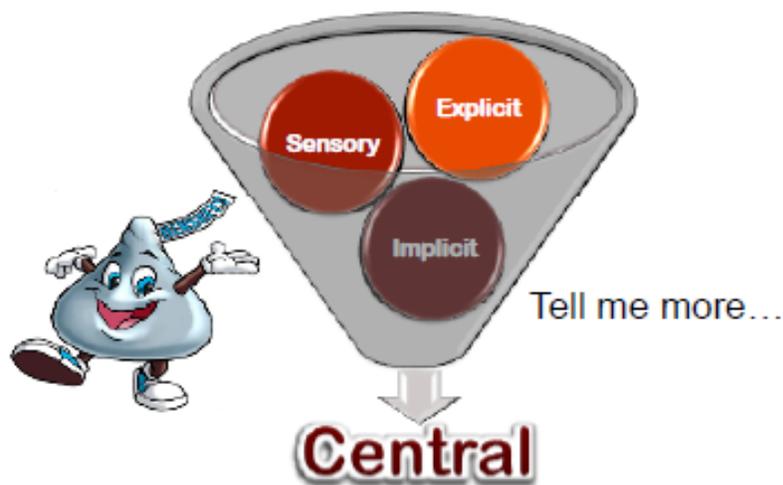
empathy and caring concern to be invited into their traumatic and/or painful experience. One of the greatest needs of anyone who has experienced or is experiencing high stress and/or trauma is the need to be safe, trust is central to that need. The interviewer must take responsibility to build trust in the most effective and appropriate way. Once trust is established, the interviewer may be invited into what can be termed as "the trauma bubble". The trauma bubble is where much of the most important psychophysiological evidence may reside. It is vitally important for the interviewer to demonstrate patience, understanding, and empathy in a non-judgmental manner throughout the interview process.

b. **Ask the victim/witness what they are able to remember about their experience.** Two key words in this question are "able" and "experience". Not all victims are able to recall all significant information about something that happened to them initially or even after a period of time. Using the word "able" has been proven to relieve some pressures on the trauma victim thereby increasing the information they are able to provide. Using the term "experience" encourages the victim to describe their actual experience relieving the pressure on the interviewee to try to figure out what is important to the interviewee in the context of a criminal investigation. As the victim/witness describes their experience, the Interviewer can better understand what happened as they are provided a recounting of the events that are generally extremely rich in details. Following the initial open-ended prompt, employ active listening techniques allowing the interviewee to free-flow their description of what they remember about their experience. The Interviewer

will enhance this description by adding additional open-ended prompts such as “tell me more about that” or “tell me more about \_\_\_”. This technique will allow the interviewee to provide even more significant information about their experience by prompting their memory in a more natural way. Open-ended prompts should include the interviewee’s emotional and physical experiences, before, during, and after the reported incident. Do not tell the interviewee to start at the beginning. This technique often inhibits trauma memory recall. Providing an opportunity for the victim to communicate his/her experience in the manner in which he/she recalls what happened is much more effective than initially requiring the victim to provide a chronological narrative. A sequential narrative may come to the victim later.

FETI Funnel – this term is used to describe the method to use clarifying questions to better understand both explicit and implicit memories. The use of “tell me more” questions are the most effective type of question to take an explicit memory such as “the rape”, “the man”, “the car”, “drinking”, “taking a shower”, etc. and better understand the context and impact of the particular remembrance. The interviewer should focus the interviewees thoughts on these particular topics to identify senses, thoughts, and feelings along with implicit memories. For example, if the interviewee states something along the lines of “and then he raped me.”, the interviewer should respond with “tell me more about the rape”. The interviewee may then respond by saying “he held me down and forced his penis into me.” The interviewer may then respond by saying “tell me more about him forcing his penis into you.” A follow-up question may then be “tell me what it felt like when...”, or what were you thinking when...”, or what did it smell like when...”

## ***The FETI Funnel***



**c. Ask the victim/witness about their thought process at particular points during their experience.** What was he/she thinking and how was he/she processing his/her experiences. This will assist the interviewer to better understand the actions/inactions and behaviors of the victim before, during, and after the assault. This will also reduce or even eliminate the need for the Interviewer to ask the victim/witness why they did or did not do something such as fight back, kick, scream, run, etc. Why questions of this nature have been proven to re-victimize victims, close them down, increase false information, and destroy or damage fragile trauma memories. By asking what their thought process was not only provides additional understanding of the victim/witness reaction and behaviors, but also increases their ability to recall additional psychophysiological evidence. For example, if the victim was sexually assaulted and during the sexual assault they may have “frozen” due to tonic immobility, asking them what they were thinking at the time they were being assaulted will often prompt will often solicit responses such as “I thought he was going to kill me”, “I couldn’t move or scream”, “I couldn’t understand what was happening at that moment”. This type of information not only assists the Interviewer in determining a better understanding of why the victim/witness did or did not do something, but also identifies significant forensic physiological evidence that will assist in proving or disproving and or corroborating the reported offense. ,

**d. Ask about tactile memories such as sounds, sights, smells, and feelings before, during, and after the incident.** This is one of the most important aspects of the FETI process and a central theme. Because the primitive portion of the brain is optimized to collect, store, and recount this information far more efficiently than peripheral information or details, this is crucial evidence to collect as well. It is also believed that tactile and sensory details may block some memories and negatively impact on the victim’s ability to disclose additional information. Asking about sensory information has been shown to increase the victim’s ability to relate to the experience in a way that produces significantly more information. Sensory information also assists fact-finders and juries to better relate to the experience of the victim as well. Asking about sights, sounds, smells, feelings (physical and emotional), and tastes throughout the interview about specific memories related by the interview is extremely beneficial for the interviewer to better understand the experience and assist the interviewee in remembering and

relating essential memories including central details (those details most important to the interviewee) and peripheral details (those details judged not important to the interviewee). For example, during the interview of an experienced police officer who witnessed a woman shooting herself in the head (specifically – “blew her brains out” as related by the officer) following an attempt to talk her out of shooting herself, this officer provided details of the events surrounding this experience. Following open-ended questions about this officer’s experience, the officer concluded he recounted all the details he could recall. This officer was then asked what, if anything he was able to remember about what it smelled like after the woman “blew her brains out”. This officer appeared to reel back in his chair, his nose started to twitch and he appeared to become emotional following this question. The officer then recounted in a very animated manner that he smelled “honeysuckle”. Following his disclosure about the honeysuckle, this officer became even more animated and disclosed, and demonstrated, that this woman’s hand was shaking and she was breathing deeply after she shot herself. This officer then added that her blood flowed from her open head “like motor oil”. This officer had not remembered these specific details during previous traditional interviews and was surprised by the amount of detail he was able to recall following the sensory cue provided by the FETI interviewer. This is but one example of many in which victims and witnesses of trauma can be assisted to recall specific sensory memories, which often assist them in remembering not only explicit memories, but implicit memories as well. Sensory information is often at the core of central details for most individuals. Therefore, asking specific questions about the various senses throughout the FETI process greatly enhances the likelihood of obtaining accurate experiential information increasing the ability of the interviewee to recall essential central details of the experience. Some individuals will recall certain senses better than others, so it is important to ask about all senses separately while obtain specific memories during specific aspects of the experience before, during and after the traumatic event.

**e. Ask the interviewee how this experience affected them**

**physically and emotionally.** This is extremely important to understand because the effects of the assault will increase the Interviewer’s understanding the context of the experience, as well as provide evidence and insights about the trauma in ways that will further an in-depth conception of the impact of the assault on the victim. How the victim felt before, during, and after the event under investigation is fundamentally important for the Interviewer to understand and collect. During fear producing and traumatic events the sympathetic and parasympathetic system of the human body react to the fear stimulus in significant ways. The victim/witness may experience the emotional feelings of fear, shock, anger, rage, sadness, etc. The

victim/witness may also experience physiological reactions to the trauma including the emotional feelings combined with the physical manifestations of stress, crisis, and trauma such as shortness of breath, increased heart rate, dilated pupils, muscle rigidity and/or pain, light-headedness and or headache, tonic immobility, dissociation, etc. Identifying and properly documenting these reactions to their experience are essential pieces of information that can greatly assist the Interviewer in understanding the context of the experience and provide significant forensic psychophysiological evidence.

**f. Ask the victim/witness what the most difficult part of the experience was for them.** Trauma victims/witnesses will often intentionally or unintentionally repress extremely difficult to handle information about their experiences. A sensitive inquiry about the most difficult part of their experience may provide significant evidence of the trauma experience and/or crime and will in many cases increase understanding of the totality of circumstances in reference to the victim/witness experience. Additionally, the most difficult part of the interviewee's experience is more often than not the "key" central detail that may have not only framed the manner in which the trauma was experienced and remembered, but may also be a fundamentally important aspect for investigators to better understand the context of that experience and subsequent reactions/behaviors of the interviewee following that experience.

**g. The interview should inquire what, of anything can't the interviewee forget about their experience.** This question may assist the interviewer and interviewee to better understand another critical "central detail" and a better understanding of the interviewee's perception and response to the trauma. This question also may obtain additional psychophysiological evidence. For example, a victim of a robbery in which the victim was brutally beaten by two assailants with hammers, was initially interviewed by a responding police officer utilizing traditional who, what, where, why, when, and how police questions in an attempt to obtain a chronological narrative immediately following the event. This particular victim became increasingly frustrated during the interview because he could not remember and did not know the answers to the majority of the questions the police officer was asking the robbery victim. Questions such as "what time did the incident occur", "how many times did they hit you", "how long did they hit you", "what did they look like", how tall were they", what were they wearing", "why didn't you let them take your watch" (the victim continued to hold his arm on which he was wearing the watch during the attack – possible tonic immobility). As these questions, and many others, were being asked, the victim continued to become more frustrated and agitated because he felt he should know the answers simply because

the police officer was asking them. This line of questioning was potentially increasing the victims stress level, increasing stress hormones, decreasing the ability of the victim to answer the questions and possibly increasing the possibility that the victim, with a desire to assist the officer, to provide inaccurate information. During a subsequent FETI interview of this same victim, the victim was initially unable to provide any additional experiential information. This victim was then asked, "what, if anything, can't you forget about your experience?" Following this question, the interviewee began to hit his head stating "the hammers hitting my skull, the hammers hitting my skull, I can't get that sound out of my mind, I can't sleep well, I can't concentrate, the hammers hitting my skull". After this disclosure, this victim was able to remember significant details about the robbery including other sensory information, what happened before, during and after the robbery, and other significant information about this experience.

**h. The interviewer should clarify other information and details (e.g. who, what, where, when, and how) after facilitation and collection of the forensic**

**psychophysiological experiential evidence.** Although the primitive portions of the brain collect, store, and recall information pertaining to the experience, the cognitive brain may have collected or is able to retrieve from other portions of the brain information pertaining to the who, what, where, when, and how types of information. Interviewers should be careful about asking specific questions pertaining to length of time and elements of distance due to the fact that fear and trauma often distorts time and distance. The Interviewer should explore the additional central/peripheral information and who, what, where, when, and how type of information in a sensitive and empathetic manner taking great care not to inhibit or change already fragile testimonial trauma evidence.

**i. The interviewer should remember to close the interview as empathically as it began.** The interviewee should be allowed to control the length and breadth of the interview. Upon termination of the interview the interviewer should provide reassurance to the interviewee that it is normal after the interview for them to remember additional elements of their experience. In large part this is due to the way in which the brain continues to process through a traumatic experience. Further there may be elements of their day to day activities that will cause particular remembrances. This is commonly known as triggers, such as sights,

Memory encoding during a traumatic event is diminished and sometimes inaccurate, and due to bottom-up attention processes focused only on central details perceived as essential to survival and self-defense many aspects of the event, including those deemed by investigators as essential facts of the crime, may not be encoded strongly or at all.

sounds smells, tastes, feelings, and body sensations. These triggers are often caused by these sensations and/or explicit memories triggering the implicit memories. The interviewee should be encouraged to make note of these remembrances and the interviewer should encourage them to share that information as it may prove critical and noteworthy to the investigation and potential prosecution. Finally the interviewer should address any concerns/questions the interviewee has at that time and close by thanking the interviewee for their participation and willingness to trust the interviewer with the disclosure. Also, it is important to remember, if done effectively, there may be a trauma related bond between the interviewer and interviewee. Provide some time for closure and normalization prior to the final completion of the interview. Ensure the interviewee has follow-on resources available, as needed, such as a victim advocate or other helping professional.

The FETI interview methodology is specifically designed to provide an opportunity for the Interviewer to obtain significantly more psychophysiological evidence than traditional interview techniques. Psychophysiological evidence is defined as "evidence which tends to prove or disprove the matter under investigation based on psychological and physical reactions to the criminal conduct the person experienced or witnessed. Examples would include, but are not limited to: nausea, flashbacks, muscle rigidity, trembling, terror, memory gaps, etc." In addition, these techniques provide the victim a better avenue for disclosure, reducing the potential for defensive feelings and uncooperative behavior, which can limit the information/evidence provided to an Interviewer.

Memory encoding during a traumatic event is diminished and sometimes inaccurate, and due to bottom-up attention processes focused only on central details perceived as essential to survival and self-defense, many aspects of the event, including those deemed by investigators as essential facts of the crime, may not be encoded strongly or at all. But the assault's psychophysiological impact is registered with much greater accuracy and strength in the brain's circuitries of fear and stress, and remembered with far more precision. The impact of the psychophysiological experience also continues to produce potential psychophysiological evidence long after the event. Indeed, psychophysiological evidence is often the only evidence available to distinguish between consent/non-consent and levels of incapacitation. It is also extremely beneficial in demonstrating the 'three dimensional' assault experience and subsequent victim reactions and behaviors.

Victims should not be treated as witnesses to their own crime – they have an experience we have a duty to facilitate a disclosure, document and present in a three dimensional manner

# The Blueprint for Safety

## Appendix 3A Training Memo—Law Enforcement Response to Persons with Disabilities

Adapted from First Response to Victims of Crimes who Have a Disability, U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime, 2002

Two federal laws, the Americans with Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973 prohibit discrimination on the basis of a disability. These laws define a person with a disability as someone with a physical or mental impairment that substantially limits one or more major life activities, who has a record of such impairment, or is regarded as having such impairment.

Both the ADA and Section 504 require law enforcement to offer to victims of crimes with disabilities an equal opportunity to benefit from and participate in all programs and services provided by the law enforcement agency. Officers must also provide for equal communication with people with disabilities and must make reasonable modifications to policy, practice and procedure to accommodate crime victims with disabilities unless doing so would fundamentally alter the service or program.

Officers also have a responsibility to respond to suspects and arrested persons with disabilities according to the ADA and Section 504.

The following are general guidelines for responding to people with disabilities:

1. Do not describe the person by his or her impairment. Say, "person with a disability" rather than "disabled person." Similarly, saying, "the victim has schizophrenia" rather than "the victim is schizophrenic" or "the victim is mentally ill" demonstrates an understanding that the disability is something the person has, not something the person is.
2. Ask how the person wants to be characterized and how to communicate with him or her most effectively. The presence of family members or others with knowledge of the disability may be helpful in helping the officer communicate appropriately, but be mindful that family members or service providers could be the offenders.
3. Avoid expressions of pity by using phrases such as "suffering from" a disability.
4. Be aware that some disabilities might not be immediately obvious to officers. Unusual behaviors, speech patterns, inappropriate emotional responses or lack

of responsiveness to officers' questions and directives could be an indication of a disability.

5. Speak directly to the person with a disability, even if they are accompanied by another person.
6. Be aware that people who are Deaf do not necessarily regard themselves as having a disability, but rather as a cultural group with a specific identity, language (American Sign Language, or ASL) and culture. Understand that the individual who is Deaf may or may not be fluent in ASL and may or not be proficient in reading or writing English. Be prepared to use a range of techniques to ensure that the officer is able to communicate effectively, including the use of visual aids or gestures, written communication, or ASL interpreters.
7. In general, speak slowly and clearly, not necessarily loudly. Remain calm, even if the individual is agitated. Limit distractions in the room if possible.
8. Document the person's disability in your report, including their individualized communication, transportation, medication, or other accommodation needs.
9. If the person to be arrested is a caregiver of the victim or another person with a disability in the residence, ask who can be called to arrange for that person's continued care. Do not leave the scene until arrangements are made.
10. Never assume that victims of crimes with disabilities suffer less physical, emotional, or psychological trauma than other victims.

For more information about law enforcement response to persons with disabilities, see the following resources:

First Response to Victims of Crimes Who Have a Disability, U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime, 2002

<http://www.ojp.usdoj.gov/ovc/publications/infores/vicdis.htm>

Americans with Disabilities Act, Information for Law Enforcement, U.S. Department of Justice, Civil Rights Division, Disability Rights Section, 2006

<http://www.ada.gov/policeinfo.htm>

# **SAFETY PLANNING**

## What is Abuse?

**Emotional abuse** is being neglected, bullied, yelled at, teased, made fun of, called names.

**Physical abuse** is any form of abuse against your body such as being hit, kicked, not given food or water, being held against your will.

**Sexual abuse** is a person forcing, threatening, or tricking you into sexual activities. This can be looking at you, touching you, sex, or rape.

**Economic abuse** is a person using your money for something other than what you want or need; not letting you have or get to your money; stealing your things.

### Abuse is against the law!

If you are being abused, please know

- It is not your fault.
- You are believed.
- You are not alone.
- Help is available.



**If you are in immediate danger, call 911.**

Confidential and free help on being safe is available:

24 hours a day, 7 days a week

**Adult Protective Services**  
1-866-800-1409 (Voice)  
1-888-206-1327 (TTY)

**Illinois Domestic Violence Helpline**  
1-877-863-6338 (Voice)  
1-877-863-6339 (TTY)  
multilingual

**National Suicide Prevention Lifeline**  
1-800-273-8255

**National Suicide Prevention Crisis Text Line**  
Text "hello" to 741741

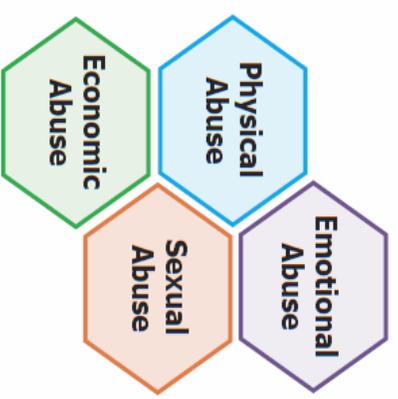
\*This project was supported by Grant No. 2013-FW-AX-K006 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women."

## Am I Safe?

**Domestic Violence and**

**People with Disabilities and**

**Deaf People**



Envision Illinois

You can say what types of behavior or abuse that you don't like, that hurt you, or you don't want in relationships. You decide when to report abuse, when to end a relationship and what kinds of supports you need if you are in an unhealthy relationship.

## Types of Abuse

### Emotional Abuse



- threatening
- yelling
- name calling
- blaming

- withholding care/ equipment
- not meeting needs



- keeping you away from others



- using children/ family members to control you



### Economic Abuse



- making you ask for your money
- giving you no money or only a small amount of money
- taking your money
- using your money for their wants and needs
- stealing your things
- stopping you from getting or keeping a job

### Physical Abuse

- hitting
- slapping
- pushing
- kicking



- punching
- choking
- hair pulling
- rough handling



- using weapons
- hurting animals



Emergencies happen. You cannot control them. There are things that you can do to help you and your family members be as safe as possible if an emergency happens.

Safety planning helps you think through possible dangers in a variety of situations. It also helps you to think about what you can do if you are in an unsafe situation.

A safety plan can be ideas that you have in your head or things you have written down on paper.



Things to think about for your safety plan in case of an emergency include:

- Important Information
- Clothing
- Medications & Medical Information
- Service Animals and Pets
- Adaptive Equipment
- Other Items



**If you are in immediate danger, call 911.**

**If you are in an unsafe situation, you can leave the area.**



**Envision Illinois**

\*This project was supported by Grant No. 2013-FW-AX-K006 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.\*

# I Can Be Safe: A Planning Guide

PLAN

PREPARE

PRACTICE

## Let's Get Ready

## Important Information



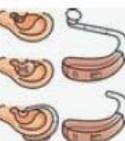
<input type="checkbox"/>	Drivers License/State ID
<input type="checkbox"/>	Cash
<input type="checkbox"/>	Debit or Credit Card
<input type="checkbox"/>	Important Phone Numbers
<input type="checkbox"/>	Birth Certificate
<input type="checkbox"/>	
<input type="checkbox"/>	

## Medications and Medical Information



<input type="checkbox"/>	Medications
<input type="checkbox"/>	List of Medications
<input type="checkbox"/>	Pharmacy contact info
<input type="checkbox"/>	Doctor(s) contact info
<input type="checkbox"/>	List of Allergies
<input type="checkbox"/>	Health Insurance Card
<input type="checkbox"/>	
<input type="checkbox"/>	

## Adaptive Equipment



<input type="checkbox"/>	Wheelchair
<input type="checkbox"/>	CPAP Machine
<input type="checkbox"/>	Walker/Cane
<input type="checkbox"/>	Hearing Aids
<input type="checkbox"/>	Eye Glasses
<input type="checkbox"/>	Communication Devices
<input type="checkbox"/>	
<input type="checkbox"/>	

## Clothing/Personal Hygiene



<input type="checkbox"/>	2-3 days worth of clothing
<input type="checkbox"/>	Underwear
<input type="checkbox"/>	Pajamas
<input type="checkbox"/>	Coats/Jackets/Sweaters
<input type="checkbox"/>	Shoes
<input type="checkbox"/>	Hygiene Supplies
<input type="checkbox"/>	
<input type="checkbox"/>	

## Service Animals and Pets



<input type="checkbox"/>	Leashes/Harnesses
<input type="checkbox"/>	Food
<input type="checkbox"/>	Bedding
<input type="checkbox"/>	Animal Medication
<input type="checkbox"/>	Veterinarian contact info
<input type="checkbox"/>	
<input type="checkbox"/>	

## Other items



<input type="checkbox"/>	Cell Phone/Charger Cords
<input type="checkbox"/>	Bus/Subway Pass
<input type="checkbox"/>	Car and House Keys
<input type="checkbox"/>	Bottled Water
<input type="checkbox"/>	Snacks
<input type="checkbox"/>	
<input type="checkbox"/>	

### What is Sexual Violence?

Sexual violence has a lot of forms and a lot of names.

Some people call it rape, sexual assault, sexual harassment or sexual abuse. It can include:

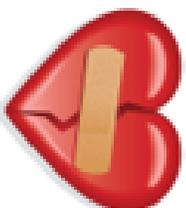
- Being forced to listen to someone talk sexually to you
- Being forced to look at or participate in sexual pictures or movies, texts or social media
- Being forced to kiss someone
- Being forced to look at or touch someone's private parts
- Being touched when you don't want to be touched, especially in a sexual way
- Being forced, tricked or manipulated to have any kind of sexual activity

Unless you say yes, it is wrong for someone to touch you in a sexual way. If this happens to you, tell someone.

### Healing is Possible

You can heal from sexual violence. Your rape crisis counselor can help you. You may also want to tell some of your friends and family so they can support you.

With support and time, healing is possible!



Insert information about local sexual assault center here.

## Sexual Violence and You

If you have experienced sexual violence, please know:

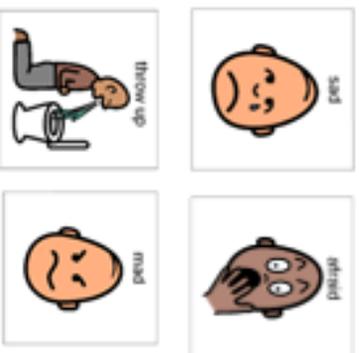
- We believe you.
- You are not alone.
- It was not your fault.
- You don't have to keep it a secret.
- You can ask for help.
- You are so brave to tell.



[www.illinoisimagines.com](http://www.illinoisimagines.com)

### How will you feel?

Every victim of sexual violence has different feelings. Some feelings you might have include:

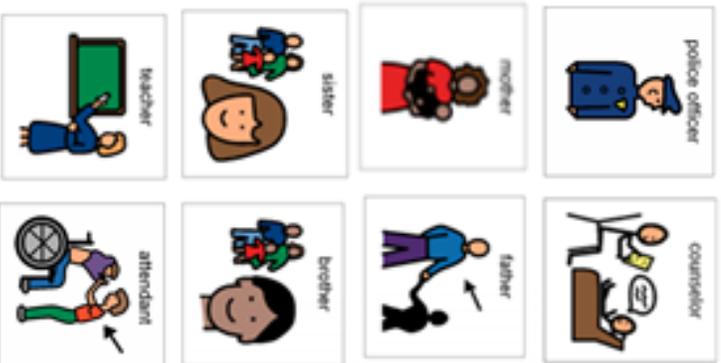


- You may also feel guilt, anxiety, depression, shock, denial, or shame.

- You may not want to eat
- You may have trouble sleeping
- You may have bad dreams
- You may be uncomfortable around others
- You may have memories of the sexual violence

### Who Can You Tell?

Tell someone you can trust. The people you can tell might include:



You can also tell a friend or someone at the rape crisis center.

### What is a Rape Crisis Center?

The rape crisis center (RCC) is a place that helps victims of sexual violence. This help is free. The workers will protect your privacy. The rape crisis center workers will report the sexual violence to Adult Protective Services if you are unable; if you are able, you can help them report if you want to.



To find the nearest RCC, you can call 800.656.4673 or you can go to [www.icasa.org](http://www.icasa.org).

The rape crisis center will give you support and information. The workers at the center will talk to you any time of the day or night. They can

- help you with counseling
- help you get medical services
- help you with the court system

# Sample Safety Planning Questions

These questions can be integrated into your organization's existing safety plan. As you probably have already experienced, you never know when someone will tell you they have a disability or describe a condition that limits their daily functioning. These questions could help open up a conversation that builds trust between the survivor and the advocate. With trust comes a wider discussion about all the practical, institutional and attitudinal barriers a survivor with a disability faces. Barriers such as service providers' disbelief of what a survivor is telling them; or lack of available accessible housing and transportation; difficulties in finding employment; or being perceived as "too difficult to serve."

Some survivors will not use the word "disability" to describe their health concerns (including mental health issues). As you listen to what the survivor says about themselves, use their words or their way of describing their concerns when asking these questions.

## Identifying and understanding barriers

- Do you have any concerns about how your disability might affect your safety?
- Do the effects of your disability change? If so, what causes the change? Can you predict when changes will happen? How does it affect your safety?
- Do you have any concerns about using (system like court/hospital, resource like food bank or bus system, or service like financial aid or housing program) in (local community)?

## Identifying and understanding abuser's coercive tactics

- How does your abuser react to your disability in private?
- What does your abuser tell others about your disability?
- Does your abuser do things that make your disability worse?
- Does your abuser do things that take advantage of your disability?
- Does your abuser do things that take away your independence?
- Does your abuser interfere with your use of (items needed for safety)?

- Does your abuser refuse to give you your medication, keep you from taking your medication or given you too much or too little medication?
- What is your abuser's involvement with (personal assistant or other disability support service)?
- If you depend on caregivers, does your caregiver use your need for assistance to keep control over you? Will you need emergency back-up caregivers?
- Does your abuser restrict or interfere with your communications with others (including restricting use of technology and interpreters)?

**Identifying and understanding the survivor's strengths, resources and support**

- What are your ideas for dealing with (identified barrier to service)?
- Is there any equipment, medications, or other kinds of technology that help you stay safe?
- What supports do you have now (i.e., friends, disability advocates, resources and places that you feel comfortable with and get what you need)? And, what other supports would you like?

# **DYNAMICS OF VIOLENCE**

# Myth VS Fact: Older Adults

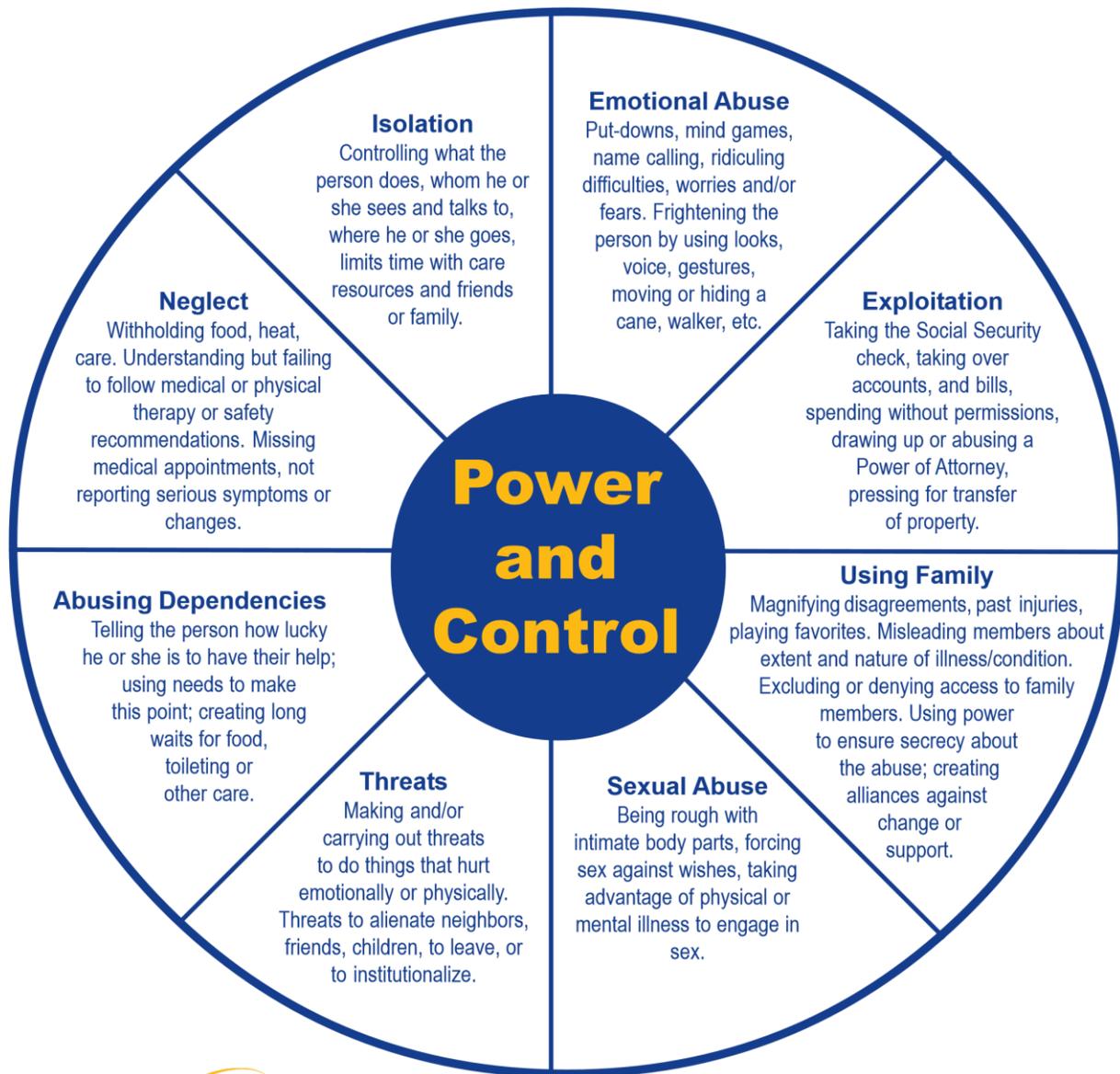
<b>Myth:</b>	<b>Fact:</b>
1. Most older people are pretty much alike	1. They are a very diverse age group.
2. They are generally alone and lonely.	2. Most older adults maintain close contact with family
3. They are sick, frail, and dependent on others.	3. Most older people live independently.
4. They are often cognitively impaired.	4. For most older adults, if there is decline in some intellectual abilities, it is not severe enough to cause problems in daily living.
5. They are depressed.	5. Community dwelling older adults have lower rates of diagnosable depression than younger adults.
6. They become more difficult and rigid with advancing years.	6. Personality remains relatively consistent throughout the lifespan.
7. They barely cope with the inevitable declines associated with aging.	7. Most older people successfully adjust to the challenges of aging.

# Myth vs Fact: People with Disabilities

<b>Myth:</b>	<b>Fact:</b>
1. People with disabilities are not credible witnesses	1. People with disabilities are credible witnesses. Some may need supports
2. Having a disability makes a person vulnerable to violence	2. People with disabilities have many risk factors for violence. Many of them are not directly related to the person's disability but to social and environmental factors.
3. I don't have enough time to interview someone with a communication disability, or we don't have the resources to pay for accommodations	3. It is required that reasonable accommodations be provided by the public entity per the Americans with Disabilities Act
4. Many people with disabilities do not understand the abuse perpetrated against them, so it is best to let it go.	4. Trauma leaves an impact on victims and even more so if the person does not have the chance to share what happened to them and to access justice.
5. We don't have time to train our people on all of this.	5. The human cost to the victim is much greater than the time it takes to train your people. It has been found that criminal justice access to people with disabilities and older adults benefits everyone.
6. Domestic and sexual violence against people with disabilities is rare; we get very few complaints.	6. People with disabilities experience violence at greater rates than people without disabilities. As the criminal justice system gets more responsive, more people with report.
7. Not many people will benefit from this work. Our resources should go elsewhere	7. 20% of us will have a disability at some point in our lifetime and these numbers are increasing. Creating safer communities benefits everyone.

# The Power and Control Wheel for Elders and People with Disabilities

Identified below are common tactics used by abusers. At the hub of the wheel is the intention of all the tactics: to establish power and control. Each spoke of the wheel describes a tactic. The rim of the wheel, which gives it strength and holds it together, is fear and physical abuse, or the threat of it. (Adapted from the Minnesota Coalition for Battered Women by the Vermont Network against Domestic Violence and Sexual Assault)



# **Grooming Behaviors Toward Victims with Disabilities and Older Adults**

## **Dynamics**

When working with older adults and people with disabilities who have been victims of crime and domestic violence, the dynamics of the victim's relationship with a suspected abuser is important to consider.

Grooming is a predatory tactic, utilized by abusers. Grooming is practiced by perpetrators, who target and manipulate vulnerable people for exploitation.

While it is a common assumption that grooming is only practiced on the very young, identical emotional and psychological processes are commonly used to abuse or exploit adults the elderly, and those with compromised mental facilities.

## **Grooming behavior includes:**

Stage 1: Targeting the victim. The offender targets a victim by sizing up the person's vulnerability, emotional neediness, isolation, lack of knowledge and lower self-confidence.

Stage 2: Gaining the victim's trust.

Stage 3: Filling a need.

Stage 4: Isolating the person.

Stage 5: Maintaining control.

## **BARRIERS FOR OLDER ADULTS AND PEOPLE WITH DISABILITIES**

- Fear of Retaliation
- Fear of Loss of Services
- Fear of Institutionalization
- Fear of being put in a nursing home or institution
- Cannot access private phone
- Isolation
- Lack of Access to Services and Supports
- Lack of Resources or Accommodations
- Communication Barriers
- Reluctance to Report family member and/or caregiver
- Dependence on abuser for daily living activities
- Culture of Compliance
- Lack of training and awareness regarding the intersection of violent crimes, older adults and people with disabilities
- Public attitudes (no one would hurt a person with disabilities or an older adult)
- Fear of not being believed
- Not knowing where or how to report

The Mighty, October 20, 2017, <https://themighty.com/2017/10/domestic-violence-and-people-with-disabilities/>

Why I'm Ending the Silence Around Domestic Violence and People With Disabilities  
By: Karin Willison



OCTOBER 20, 2017

Why I'm Ending the Silence Around Domestic Violence and People With Disabilities  
Karin Willison

I am a domestic violence survivor. You can't tell by looking at me, and you never could. I didn't have black eyes or bruises. I never went to the hospital and claimed I fell down the stairs. I am a woman with a disability, and I was abused by my former partner, another woman.

Domestic violence affects millions of women and men with disabilities. In fact, women with disabilities are twice as likely to be victims of domestic violence as non-disabled women. That means half of all women with disabilities will experience domestic violence in our lifetimes. We also tend to stay in abusive relationships longer, and have difficulty accessing the services we need to escape from an abuser. The disability community talks about topics like accessibility, employment and health care, but too often we ignore this issue that affects so many of us. My story illustrates how easily a person with a disability can become a victim of domestic violence. So for Domestic Violence Awareness Month, I'm speaking out. Because it's time we end the silence.

I have cerebral palsy, a condition caused by brain damage at birth. I have limited use of my arms and legs, and use a power wheelchair. Although I need a lot of physical help with daily tasks, I have always been a very independent person. I grew up with loving parents who encouraged me to pursue my dreams, graduated from Stanford University and have lived in my own home and worked at various writing and Internet-related jobs for my entire adult life. I am a strong woman who has fought against inaccessibility and discrimination. I would read stories about women who were abused and I couldn't understand why they would stay. I would never put up with being treated that way, I thought. That could never happen to me. I was wrong.

Abuse can look different when it happens to people with disabilities. Our abusers may hit us, but often, they don't have to. They have far more insidious tactics for coercive control and manipulation. Abusers may make their victim feel guilty for having a disability, exploiting fears many of us have about being a burden. We may stay because we believe no one else would love someone like us, that we can't do any better. My abuser broke down my self-esteem by gaslighting me and making me believe my body and my life were too difficult for others to deal with. She used this supposed difficulty as an excuse to keep me stuck at home most of the time, where I became depressed and gained weight. Then she used those changes to humiliate and body-shame me, saying things like "you're too fat to travel." I hated my body so much by then, I believed her.

Many people with disabilities depend on their abusers for physical assistance. Sometimes the abuser may encourage this as a means of gaining more control, pushing away other caregivers to isolate the victim. If the abuser provides personal care, they may berate us while "caring" for us or withhold essential care as a form of punishment. Even though my abuser only assisted me for an hour every evening, and I had paid personal care attendants for the majority of my care as well as all our housework, she would complain that helping me was "too much" for her, that it changed how she saw me and made me not seem sexy anymore. She would humiliate me and threaten to leave me stranded on the toilet if I didn't say or do what she wanted. Some nights I would pee my pants because I couldn't face the abuse and was trying to hold it all night until I had a caregiver to help me in the morning. Of course that made her even more angry. But when I suggested hiring someone to help at night, she refused to allow it, saying that would interfere with her peaceful, quiet evening. By then my self-esteem was so destroyed, I couldn't even see that wasn't her choice to make.

Abusers can use access to communication devices as a means of controlling people with disabilities. Simply placing a mobile device or AAC device on a high shelf could be enough to take away someone's access to family and friends. My abuser repeatedly threatened to break my computer or headset when I was talking to friends online, which would have cut me off from my only real source of emotional support at that time.

Financial abuse is also all too common, and can range from outright theft to manipulation. If the person with the disability has money, abusers can say things like, "I can't work because I'm caring for you, [even if it's not true] so you should buy me this car." My abuser refused to get a job or help with the online business I was running at the time, but would spend thousands of dollars I've never been able to account for. By the time I escaped from the relationship, I had gone from financial security to having to go on disability benefits and Medicaid. If the person with a disability doesn't have money, a more common scenario, they may be financially dependent on their abuser, and vulnerable to threats of losing health care, food and a place to live.

When an abuser uses subtle psychological tactics, engaging in a pattern of coercive control, abuse can be harder to recognize. I always thought domestic violence was when someone hits or sexually assaults you. If my partner had done either of those things, I would have known it was abuse and I believe I would have left the relationship

sooner — though I can't know for sure, and I don't judge anyone who stayed in those circumstances. I believe "smart" abusers often know your line in the sand and find other ways to control you that you may not even be aware of until it's too late. I didn't recognize the constant belittling as emotional abuse, or see how the life I'd worked so hard to build was being slowly destroyed. I didn't realize how much damage gaslighting could cause until I was a shadow of my former self, meek and apologizing for my very existence. But eventually, abusers can lose control. My abuser's rage started coming out when others were around; her threats to hurt me and my possessions increased. She came close to hitting me a few times, so close that I couldn't deny it was going to happen, and soon. She had been abusing me long before that, but I couldn't acknowledge it until her behavior became more obvious.

My friends, the ones she didn't want me talking to on the computer, saved my life. They helped me realize the way I was being treated wasn't right. One was a domestic violence survivor herself. She sometimes overheard my partner's comments and behavior when we chatted on Skype, and told me her first ex-husband had said many of the same things. Another friend encouraged me to start going out again, to ask my assistants to take me more places, which they were happy to do. Then I got a glimpse of freedom. My abuser had to spend several weeks out-of-state helping a relative recover from a sudden illness. The day she left, I felt as if an enormous weight was lifted from my shoulders. I started remembering who I used to be, who I still was deep inside. Then I did the wildest and most wonderful thing I've ever done. With almost no planning in advance, I took a cross-country road trip from California to New York City, meeting my online friends who'd been so supportive. And along the way, I found myself again. I realized I had to break free. But it wouldn't be easy.

When people with disabilities try to escape from an abusive situation, we face challenges others would not. Although I've primarily been discussing intimate partner violence, an abuser may also be a parent, sibling, other relative, personal care attendant or staff member at a nursing facility. Many people with disabilities are physically and/or financially dependent on their abusers, and need support in multiple areas to extricate themselves. When a victim reports abuse, it may get swept under the rug or dismissed as the actions of a "frustrated" or overwhelmed caregiver. Some victims may struggle to describe abuse due to communication difficulties or intellectual disabilities.

Even if the victim is taken seriously, getting to safety is often difficult. Many domestic violence organizations do not have wheelchair accessible shelters, and accessible permanent housing, especially affordable housing, is scarce in virtually every city in the United States. Some women may stay in a relationship because they fear their spouse will try to get custody of children by claiming they can't care for them due to their disability. I have friends who were denied primary custody based on a disability, even when there was a documented history of domestic violence by the other parent.

I was fortunate that my house and bank accounts were only in my name, but I still had to fight to keep what was left. Domestic violence victims with disabilities can struggle to

prevail in court proceedings against abusers, because attorneys and judges often don't understand that abuse can look different for people like us. During the divorce, my abuser refused to leave and tried to drag things out as long as possible so she could continue to sponge off me. I was terrified every moment I was alone in the house with her. Even though I detailed all of her abusive actions, my attorney did not have a good understanding of what constitutes abuse of a person with a disability, so she didn't believe my abuser could be forced to leave immediately. It took the abuser stealing my credit card and making \$1200 in unauthorized charges for both attorneys — mine and hers — to see what an exploitative person she was. A few horrible days later, it was all over. I had my life back.

That was six years ago. Since then I've worked hard to heal and rebuild my self-esteem. I still struggle with blaming myself for "letting the abuse go on" for as long as it did. Much as I want to forget all the terrible memories, I have found value in remembering. I think of how trapped I felt, but wonder why didn't I break free? The answer is there, both haunting me and bringing a kind of peace. I stayed because I'd been bullied into believing I was worthless. I stayed because someone slowly and systematically took away my power. I stayed because I live in a society where people with disabilities are often seen as less desirable and encouraged to "settle" for whoever will have us. I stayed because people with disabilities are often expected to be unconditionally grateful to those who help us, even if that help comes with a heavy dose of coercive control. I internalized those harmful messages even though I was a successful, determined woman who believed I could be and do anything, and my life up to that point had proved it was true. I was a victim of domestic violence, and it wasn't my fault. And if it happened to me, it can happen to anyone.

If you have a disability and are currently experiencing domestic violence, or if you're a survivor, please know you're not alone. And although it may seem like a distant memory right now, you can find freedom and joy again. Today I have a nice house, a job I like and friends I love who love me in return. I enjoy shopping and restaurants and theater, and I have a beautiful service dog by my side wherever I go. As for being too fat to travel? I'm now a travel blogger, chronicling my road trips around the USA to show others that they shouldn't believe anyone's toxic lies or let a disability stop them from living life to the fullest. I am open to finding a woman to spend my life with, but I will never again compromise who I am for someone else or tolerate abuse. I have emerged from the nightmare of abuse as a stronger person, with an unshakable belief that I deserve respect as a human being and I have something to give to the world. I am a domestic violence survivor, and I'm not ashamed to speak out. It's time to end the silence.

If you or a loved one is affected by domestic violence or emotional abuse and need help, call The National Domestic Violence Hotline at 1-800-799-7233.

# **COMMAND STAFF**

## **The Role of Command Staff**

The role of frontline supervisors, chiefs and other command staff is to actively support access to the criminal justice system for older adults and people with disabilities. To fully include these communities, it is important to create a culture of inclusion and respect. This means modeling respectful language and actions and expecting the use of respectful language and actions by the entire law enforcement community. It also means supporting officers and detectives to actively pursue justice for victims who are older adults or have disabilities.

This protocol includes a variety of techniques and tools to support justice for these communities. Additional tools have been created for command staff including:

### **Outreach and Engagement Plan**

This is a plan to engage people with disabilities and older adults in an effort to create mutually respectful dialogue. These activities will not only assist law enforcement to increase their comfort and confidence in working with people with disabilities and older adults but, also help people with disabilities and older adults to increase their comfort level around members of law enforcement.

### **Accessibility Review Tool: Law Enforcement**

This tool was designed as an informal assessment tool for law enforcement departments to review areas of accessibility and identify needed improvements.

### **Sample Action Plan**

This form was developed by the international association of chiefs of police and can be used by your department to establish goals and actions related to accessibility.

### **Sample General Order**

This is a model general order for serving people with disabilities that can be helpful in developing a general order for your department.

### **Sample Memorandum of Cooperation**

It is important for law enforcement agencies to partner with community or state organizations serving people with disabilities and older adults therefore a sample MOU is included.

### **Promising Practices**

The Fairfield Illinois Police Department has initiated a program to assist in the identification, location, and recovery of individuals who may be at significant risk of wandering away from their homes, specifics are included.

## **Outreach and Engagement Plan**

### **Connections**

Make connections with agencies or groups serving older adults and people with disabilities in your community. These agencies may include:

- Senior Services Agencies
- Older Adult Communities
- Centers for Independent Living
- Agencies Serving Adults with Intellectual and Developmental Disabilities
- National Alliance for the Mentally Ill Support Groups
- Autism Support Groups
- Parent Advocacy Groups
- Self-Advocacy Groups
- Special Olympics
- Senior Living Centers
- Memory Units at Rehabilitation Centers

### **Ways to Connect**

There are numerous ways to connect with older adults and people with disabilities in your community. Actions your department can take include:

- Set up a meet and greet with entities serving older adults and people with disabilities.
- Serve on Human Rights Committee, every agency that works with people with disabilities has a committee that reviews any restrictions that may impinge someone's human rights.
- Serve on the Board of Directors of an agency that serves older adults or people with disabilities.
- Support community senior committees.

- Meet with autism support groups.
- Have a parent or person with a disability speak at roll call.
- Present at Senior Centers about Personal Safety, Safety in the Home etc.
- Work with Psycho-Social Rehabilitation Programs to learn from and educate participants on the best way to interact with law enforcement.
- When working in the schools, make sure you are also working with students with disabilities. They may be in separate classrooms or buildings.
- Participate in diversity group events in the community, such as disability expos, etc.
- Connect with your local housing authority about meeting older adults or people with disabilities in supportive housing.

Once you have established relationships with community agencies consider a Memorandum of Understanding to further promote community partnerships.



## ILLINOIS FAMILY VIOLENCE COORDINATING COUNCILS

### Accessibility Review Tool: Law Enforcement

This review was created to assist law enforcement departments to evaluate their accessibility to people with disabilities in a collaborative, trauma-informed manner. People with disabilities include individuals with mental illnesses, intellectual and/or developmental disabilities, vision/hearing loss, chemical sensitivities and physical disabilities. The review process can assist in identifying steps to increase access to law enforcement and reduce unintended consequences of law enforcement interventions. Once the review is completed, the department can prioritize action steps they want to take to improve response to people with disabilities. Law enforcement response to violence against people with disabilities is critical to assuring that victims with disabilities have equal access to the criminal justice system in a compassionate, proactive, individualized manner.

The review can be self-administered, peer-administered or administered with support from a neutral third-party. For self-administration, a police chief or sheriff might complete the form or work with a small internal group to complete the form as a team. For peer-review, a law enforcement department could ask for a neighboring department to come in and complete the review. Two departments might complete this for each other in partnership. In order to have a neutral third-party complete the administration, the department would have to find a trusted person or agency in the community to assist, such as; a Center for Independent Living. ([www.incil.org](http://www.incil.org))

The review was created by the Illinois Family Violence Coordinating Council's Responding to Victims with Disabilities Committee. The review includes the following categories: Accessibility/Accommodations First Response, Investigations, Environment/Culture, Training, General Orders, Collaboration, and Trauma-Informed.

The experience of a victim with a disability is shaped by many factors and it begins long before the victim comes in contact with law enforcement. Context matters. Just like the officer takes into account the context of the scene, the experience of a victim with a disability is influenced by things beyond the immediate interaction with an individual law enforcement officer. The Department culture, general orders, staffing levels, volume of calls, comfort and confidence level of responding officers, etc. have some bearing on the interaction between the officer and the victim with a disability. The review process encourages examination of both environmental and individual factors impacting immediate response, investigation and follow up.

## Accessibility/Accommodations

Some people with disabilities will need an accommodation to fully participate in the investigative process. Many accommodations are related to communications, such as: American Sign Language (ASL) Interpreters; individualized communication devices; pictures to communicate by pointing; plain language by the law enforcement officer/investigator; answering only •yes' and •no' questions; extended response time to answer questions; writing words instead of speaking words; etc. It is important to find out if a person needs an accommodation to communicate so the person has access to the criminal justice process. This is not only the right thing to do, it is the law.

It is also important that people have physical access and attitudinal access to the criminal justice process. The questions below will assist a department in assuring access to victims with disabilities.

AREA	Yes	No	Unknown	Opportunities
Has the department had a self-evaluation or other review of physical accessibility to determine compliance with the standards set by the Americans with Disabilities Act? If so, did the review include: parking, restrooms, entry/exit, doors, elevators, hallway?	date			
Does the department have a transition plan or other current plan of correction based on these findings?	date			
Does the department have standard forms available in alternative formats? Braille? Large print? Disc?				
Does the department have a list of qualified American Sign Language (ASL) interpreters available 24/7 and contact information?				
Does the department have working agreements with qualified ASL interpreters in the area?				
Does the department understand their legal obligation to provide accommodations to victims with disabilities?				

## First Response

The first response to a person with disabilities can set the tone for the entire investigation. It is important for law enforcement first responders to be aware of general tips and techniques in responding to victims with disabilities.

There are occasions in which the first response may include transporting the victim to a hospital, clinic, or a safe place. In many communities, transportation is a huge barrier for people with disabilities. If someone uses a wheelchair, public transportation may only be available certain day and hours; and typically, this transportation requires a 24-48 hour notice.

AREA	Yes	No	Unknown	Opportunities
Do first responders understand the procedure to follow in situations when evidence may be present on adaptive equipment, such as a wheelchair, communication device, etc., which is necessary for the person to communicate and/or maintain independence?				
Do first responders know how to ask someone if they need any accommodations?				
Do first responders know how to communicate with someone who has an intellectual or developmental disability?				
Do first responders know some basic tips on communicating with someone with a mental illness?				
Do first responders know some basic tips on how to communicate with someone who is blind or who has low vision?				
Do first responders know some basic tips on how to communicate with someone who is Deaf/hard of hearing, including how to work with interpreters?				

## First Response Continued

AREA	Yes	No	Unknown	Opportunities
Do first responders know basic etiquette to use when interacting with someone who uses a mobility device such as a wheelchair?				
Are first responders aware that sirens and lights may cause some people with disabilities to have serious difficulties (e.g., seizures, spasticity, escalated anxiety, etc.)?				
Do first responders know what community resources are available to transport someone with a disability?				

## Investigation

Investigating domestic violence and sexual assaults against people with disabilities is an important element in making offenders accountable. There are many considerations at the intersection of violent crimes, investigations, and victims with disabilities which make these cases very complex. These investigations tend to take more time and skill but can lead to successful outcomes for the victim, investigators, prosecutors and the community.

AREA	Yes	No	Unknown	Opportunities
Are investigators aware of the Illinois Model Protocols for Law Enforcement for working with victims with disabilities?				

## Investigation Continued

AREA	Yes	No	Unknown	Opportunities
<p>Before meeting the person and to extent possible, does the investigator:</p> <p>Determine if the person has a disability and how that disability might impact the investigative process?</p> <p>Determine if the victim uses any adaptive equipment, such as hearing aid, wheelchair, communication device, etc.?</p> <p>Determine if the victim has any attention difficulties?</p> <p>Determine how the victim best communicates their wants and needs?</p> <p>Determine what makes it easier for the victim to understand what others communicate?</p> <p>Assure the setting for the interview is accessible to the victim?</p> <p>Assure that others who may have influence on the victim are not able to see or hear the interview?</p>				
<p>Do investigators create a safe and non-judgmental environment that encourages honesty and sharing?</p>				
<p>Do investigators allow the person to share what happened before asking a lot of questions?</p>				

## Investigation Continued

AREA	Yes	No	Unknown	Opportunities
Do investigators establish the course of conduct in cases of domestic and/or sexual violence, which includes Pre-Assault Behavior, Violent Incident(s), and Post-Assault Behavior?				
Do investigators understand how to collect evidence related to an individual's capacity to give consent for sexual activity when indicated during the investigative process?				
When domestic violence or sexual assault occurs within a group home, residential setting, day program or institution, do investigators know the evidence collection tips in the protocol?				
Do investigators document the type and extent of the victim's disability to help in determining the appropriate charge level as well as possible accommodations or supports necessary for equal access to the criminal justice system?				

## Environment/Culture

People with disabilities have a history of oppression, segregation and discrimination. Although people with disabilities experience violent crimes on a regular basis, many are afraid to report to law enforcement because they fear they will not be taken seriously or that accommodations will not be made so they can participate. The environment or culture of the department can make victims with disabilities feel welcome and respected. Officer response is impacted by environmental factors such as call volume, staffing levels, availability of resources as well as individual factors like previous experience with people with disabilities, personal attitudes and comfort and confidence level. The interaction between law enforcement and a victim with a disability happens within a context.

## Environment/Culture Continued

AREA	Yes	No	Unknown	Opportunities
Is respectful language used by personnel in referring to people with disabilities (for example, do not use words such as retarded, autistic kid, crazy, etc.)?				
Are violent cases against people with disabilities fully investigated whether or not the officer thinks the victim can testify?				
Are officers motivated to pursue justice for victims with disabilities?				
Are officers allowed to spend extra time with a victim with a disability?				

## Training

In order to successfully respond to victims of domestic violence and sexual assault who have disabilities, training is needed to assure that law enforcement personnel have the knowledge, skills and tools needed. Ongoing, continuing education is needed. Training is one method to improve officer confidence and comfort level in responding to crimes against people with disabilities. It is encouraged that all officers receive training not just special liaisons.

AREA	Yes	No	Unknown	Opportunities
Has everyone been trained on the Illinois Model Protocols for Law Enforcement for working with victims with disabilities?	Date			

## Training Continued

AREA	Yes	No	Unknown	Opportunities
<p>Have personnel been trained on:</p> <ul style="list-style-type: none"> <li>Myths and facts about people with disabilities?</li> <li>Attitudes about people with disabilities?</li> <li>Different kinds of disabilities?</li> <li>Communicating with people with autism, intellectual and/or developmental disabilities and other disabilities? Language and sensitivity?</li> <li>Technology and communicating with Deaf people? (Video relay, apps)</li> <li>Pictorial communication?</li> <li>Indicators of violence in the lives of people with disabilities?</li> <li>Offender tactics and characteristics?</li> <li>Interview techniques?</li> <li>Investigative Strategies?</li> </ul>				
<p>Have personnel been trained on:</p> <ul style="list-style-type: none"> <li>Evidence collection?</li> <li>Trauma-informed investigations?</li> </ul>				
<p>Have people with disabilities assisted with training of personnel?</p>				
<p>Have personnel been trained on the ADA, examples of accommodations used in the courtroom from case law, and related state laws on mandated reporting and joint investigations?</p>				

## General Orders

General Orders are the foundation of any law enforcement department. Many law enforcement departments are just now beginning to include general orders regarding victims with disabilities. Doing so, not only sets the stage for effective response and investigation, it also allows for sustainability of efforts in this area.

It is crucial that general orders establish that reports of domestic violence and sexual assault of people with disabilities be fully investigated regardless of the type of disability the victim has or the relationships between the victim and the suspect(s).

AREA	Yes	No	Unknown	Opportunities
Is there a general order regarding needed accommodations for victims with disabilities? If yes, does the order include utilizing the accommodation preferred by the victim?				
Is there a general order regarding mandated reporting to Adult Protective Services and/or IHDS Office of the Inspector General as well as joint investigations with mandatory reporting entities?				
Is there a general order that provides guidance on working with adult victims who have guardians?				
Is there a general order that law enforcement shall participate in coordinated efforts with other appropriate agencies to improve the response to victims with disabilities (i.e., disability agencies, Centers for Independent Living, victim services etc.?)				
Is There a general order requiring officers / investigators to receive training in working with victims with different kinds of disabilities? ASL Interpreters?				

## General Orders Continued

AREA	Yes	No	Unknown	Opportunities
Do all general orders state when they will be reviewed, updated and when officers/investigators will be re-trained throughout the course of their work?				

## Collaboration

Collaborating with community partners is a critical aspect of positive criminal justice outcomes. Collaborating with disability service agencies and self-advocacy groups in the community can provide resources, support, and tools for both law enforcement and victims with disabilities. There may be existing collaborative teams to connect with. In any situation, it is valuable to know about and have contacts within each disability agency in your community.

AREA	Yes	No	Unknown	Opportunities
<p>Does the department collaborate with disability organizations and/or self-advocacy groups in the community? If yes, do collaborative efforts include:</p> <p>Centers for Independent Living (CIL)?</p> <p>Community Mental Health Centers?</p> <p>Depressions and Bipolar Support Alliance (DBSA)?</p> <p>Developmental Disability agencies?</p> <p>National Alliance on Mental Illness (NAMI)?</p> <p>Rehabilitation services?</p> <p>Court Disability Coordinator (CDC) in the local courthouse?</p> <p>Illinois Assistive Technology Program Device Loan Program?</p>				

## Collaboration Continued

AREA	Yes	No	Unknown	Opportunities
Has the department utilized the CIL to conduct a self-evaluation or accessibility review?				
Does the department have a working agreement (formal or informal) with the Center for Independent Living?				
Does the department have a relationship with community disability organizations?				
Does the department utilize disability agencies or self-advocacy groups to assist with:  Training?  Review of General Orders?				

## Trauma-informed

Trauma impacts victims of violent crimes in varying ways and understanding this is very helpful to the investigative process. When law enforcement officers are sensitive to the impact of trauma on victims, victims are more likely to participate fully in the process. Trauma-informed investigations result in fewer false reports and better outcomes for everyone, with increased likelihood of offender accountability. Domestic violence and sexual assault takes away a victim's sense of control and their connection to themselves, others, and the world around them. An officer's response can help them feel safe, regain a sense of control over their own lives and re-connect with themselves and others. Law enforcement's role is central to recovery as well as access to justice.

AREA	Yes	No	Unknown	Opportunities
Are officers/investigators aware of the impact of trauma on people with disabilities?				

## Trauma-Informed Continued

AREA	Yes	No	Unknown	Opportunities
Do officers / investigators understand that memory is impacted by traumatic and that victims can participate in the investigation better after they receive, in general, 2 days' rest, food and support?				
Do officers / investigators understand that memory is impacted by traumatic and that victims can participate in the investigation better after they receive, in general, 2 days' rest, food and support?				
Are officers aware of the impact of trauma on victims' sense of safety, power and connection? If yes, do they utilize strategies that promote the victim regaining a sense of safety, power and connection?				
Do officers understand the importance of allowing a person to share their experience as a part of the healing process from trauma before asking a lot of questions?				
Do officers understand the context of the crime for the victim, i.e. culture of compliance, past history of relationships?				

This review tool is designed to support your efforts to improve the experience of crime victims with disabilities throughout their involvement with law enforcement from the initial call to the crime scene to follow-up investigation and court appearances. Enhancing the response to violence against people with disabilities is an ongoing process which is best accomplished through a collaborative effort between law enforcement, community disability service agencies, and people with disabilities.

**Comments from Review:**

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**Action Steps Recommended:**

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\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

For more information about the Americans with Disabilities Act (ADA) [www.ada.gov](http://www.ada.gov)

This project was supported by Grant No. 2014-WE-AX-0025 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

# Action Plan

Name:

Agency:

<b>Topic: Violence Against People with Disabilities</b>		
<b>Goal:</b> To improve responsiveness of Department when dealing with violent crimes against people with disabilities.		
<b>Action Steps</b>	<b>Responsible Parties</b>	<b>Time Frame</b>
1. Conduct a trauma/disability responsiveness review to assess Department's current level of response. Review should include policies and procedures, physical, communication and attitudinal accessibility, staff awareness & comfort level and linkage with community providers.	→	
2. Design plan to address barriers identified in responsiveness review.	→	
3. Implement necessary action(s).	→	
4. Establish/renew linkages with disability service agencies and victim services (domestic violence & rape crisis centers).	→	
5. Conduct officer training on responding to violence against people with disabilities.		
<b>Outside Partners</b>	<b>Tools Needed</b>	
1. Disability service providers (community mental health centers, developmental disabilities agencies, Centers for Independent Living)	Responsiveness review tool, Model policies & procedures.	
	<b>Target Date for Completion:</b>	

<b>Topic: Violence Against People with Disabilities</b>		
<b>Goal:</b> To obtain/create materials in alternate formats of materials for people who need them.		
<b>Action Steps</b>	<b>Responsible Parties</b>	<b>Time Frame</b>
1. Determine regularly used documents that may be given to crime victims.	→	
2. Design plan to create identified documents in alternate formats, including plain language, large print, Braille, electronic, pictures, etc.	→	
3. Contact local Center for Independent Living to discuss support in obtaining alternate formats including standards, process and cost.	→	
4. Obtain alternate formats and train officers on the use.	→	
<b>Outside Partners</b>	<b>Tools Needed</b>	
1. Centers for Independent Living		
2. Institute on Human- Centered Design		
3.		
4.		
5.		
6.	<b>Target Date for Completion:</b>	

<b>Topic: Violence Against People with Disabilities</b>		
<b>Goal:</b> To increase the Department employees comfort and confidence level with people with disabilities.		
<b>Action Steps</b>	<b>Responsible Parties</b>	<b>Time Frame</b>
1. Identify employees who need/want to increase their comfort and confidence with people with disabilities.	→	
2. Identify local opportunities for identified employees to interact with people with various kinds of disabilities including developmental disabilities, mental illnesses, physical disabilities and Deaf persons.	→	
3. Schedule employee talks/meetings with people with disabilities (e.g., Self-Advocacy groups, Psychosocial Rehab program at the local mental health center; Day program at the developmental disability agency; class at the Center for Independent Living; Special Olympics, etc.)	→	
4. Employees can share what they learned at Department meetings.	→	
<b>Outside Partners</b>	<b>Tools Needed</b>	
1. Centers for Independent Living		
2. Mental Health Centers or Behavioral Health Centers		
3. Developmental Disability Organization		
4. Deaf and Hard of Hearing Commission		
5. Self-Advocacy groups		
6.	<b>Target Date for Completion:</b>	

<b>Topic:</b>		
<b>Goal:</b>		
<b>Action Steps</b>	<b>Responsible Parties</b>	<b>Time Frame</b>
1.	→	
→		
2.	→	
→		
3.	→	
→		
4.	→	
→		
<b>Outside Partners</b>	<b>Tools Needed</b>	
1.		
2.		
3.		
4.		
5.		
6.	<b>Target Date for Completion:</b>	

# **Sample General Order Victims with Disabilities**

## **Purpose:**

To establish \_\_\_\_\_ Police Department policy and procedures for responding to calls involving victims with disabilities.

## **Policy:**

It is the policy to treat crimes against people with disabilities as a priority and to respond both professionally and compassionately to victims with disabilities. In addition, it is mandated that:

- A. Reports of crimes against people with disabilities be fully investigated regardless of the victim's disability and regardless of the relationship between the victim and the suspect(s).
- B. Reports of domestic violence and sexual assault of people with disabilities be fully investigated whether or not the officer thinks the victim can or will testify.
- C. Officers treat all persons with disabilities with dignity and respect - including the person's right to self-determination. Self-determination is a person's right to make his or her own decisions, including the right to privacy and to refuse well-intended interventions.
- D. Immediate, effective assistance and protection to victims with disabilities be provided and appropriate action against offenders is taken. Further, the implementation of these solutions should not result in increased risk to the victim and should not exacerbate the situation.
- E. Officers shall seek to determine needed accommodations/resources for victims with disabilities to ensure the victim has equal access to the investigative process.
- F. Officers, in an effort to improve their response to victims with disabilities, participate in coordinated efforts with other appropriate agencies, including criminal justice, prosecutors, victim services, disability service organizations, and abuse/neglect investigative entities.
- G. Document the type and extent of the victim's disability to help in determining the appropriate charge level as well as possible accommodations/supports necessary for equal access to the criminal justice system. It is best practice to

use the accommodation preferred by the victim when possible.

- H. Officers shall expeditiously provide reports to partner agencies when an incident is confirmed as abuse, neglect, or financial exploitation (including non-criminal acts) to the appropriate state reporting entity for people with disabilities (i.e., Adult Protective Services, IDHS Office of the Inspector General or Illinois Department of Public Health).
- I. In addition to law enforcement agencies for sexual assault and sexual abuse cases, the law enforcement agency is encouraged to consult with older adults, people with disabilities and related advocates and professionals in addition to those listed in section 10.21 of the Illinois Police Training Act and Sections 2605-53 and 2605-9A of the Department of State Police Law of the Civil Administrative Code of Illinois.

## **CRIMINAL PROCEDURE**

### **(725 ILCS 203/) Sexual Assault Incident Procedure Act.**

(725 ILCS 203/1)

Sec. 1. Short title. This Act may be cited as the Sexual Assault Incident Procedure Act.

(Source: P.A. 99-801, eff. 1-1-17.)

### **Criminal Statutes/People with Disabilities**

**ACT 5. CRIMINAL CODE OF 2012**

**ARTICLE 9. HOMICIDE**

**5/9-1 First Degree Murder**

Section 5/9-1(b)(17) sets forth that it is an aggravating factor if “the murdered individual was a person with a disability and the defendant knew or should have known that the murdered individual was disabled person with a disability.” “Person with a disability” is defined in subsection (b)(17) to mean a person who suffers from a permanent physical or mental impairment resulting from disease, injury, or a functional disorder, or a congenital condition that renders the person incapable of adequately providing for his or her own health or person care. Prior to the repeal of the death penalty in Illinois, this factor in aggravation could result in the imposition of a sentence of death.

## **ARTICLE 10.    KIDNAPPING AND RELATED OFFENSES 5/10-1**

### **Kidnapping**

Section 10-1(b) provides that “a person with a severe or profound intellectual disability” is confined against his or her will for purposes of this statute if such confinement is without the consent of such person’s parent or legal guardian.

### **5/10-2    Aggravated Kidnapping**

Section 10-2(a)(2) elevates a kidnapping offense from a Class 2 Felony under Section 10-1 to a Class X Felony if a person commits the offense of kidnapping and “takes as his or her victim ... a person with a severe or profound intellectual disability.”

## **ARTICLE 11.    SEX OFFENSES**

### **5/11-1.20 Criminal Sexual Assault**

Section 11-1.20(a)(2) provides that a person commits the offense of Criminal Sexual Assault if that person “commits an act of sexual penetration and ... knows that the victim is unable to understand the nature of the act or is unable to give knowing consent.”

### **5/11-14.1 Solicitation of a Sexual Act**

The offense of Solicitation of a Sexual Act is committed when a person offers another person who is not his or her spouse any money, property, token, object, article or anything of value for that person or any other person who is not his or her spouse to perform any act of sexual penetration or any touching or fondling of the sex organs of one person by another person for the purpose of sexual arousal or gratification. The sentence is elevated from a Class A misdemeanor to a class 4 felony when the sexual act is solicited from a person who is under the age of 18 or who is a person with a severe or profound intellectual disability.

### **5/11-1.30 Aggravated Criminal Sexual Assault**

The offense of Criminal Sexual Assault is elevated from a Class 1 Felony under Section 11-1.20 to a Class X Felony if, under Section 11-1.30(a)(6) “the victim is a person with a physical disability” **or** under Section 11-1.30(c) “a person commits an act of sexual penetration with a victim who is a person with a severe or profound intellectual disability.”

### **5/11-1.50 Criminal Sexual Abuse**

Section 11-1.50(a)(2) provides that a person commits the offense of Criminal Sexual Abuse if that person “commits an act of sexual conduct and knows that the victim is unable to understand the nature of the act or is unable to give knowing consent.”

### **5/11-1.60 Aggravated Criminal Sexual Abuse**

The offense of Criminal Sexual Abuse is elevated from a Class A Misdemeanor or Class 4 Felony under Section 11-1.50 to a Class 2 Felony if, under Section 11-1.60(a)(4) “the victim is a person with a physical disability” **or** under Section 11-1.60(e) “a person commits an act of sexual conduct with a victim who is a person with a severe or profound intellectual disability.”

### **5/11-9.5 Sexual Misconduct with a Person with a Disability**

A person commits the offense of Sexual Misconduct with a Person with a Disability when he or she is an “employee” and knowingly engages in sexual conduct or sexual penetration with a person with a disability who is under the care and custody of the Department of Human Services at a State-operated facility. “Employee” is defined to include any person employed by the Illinois Department of Human Services, any person employed by a community agency providing services at the direction of the owner or operator of the agency on or off site, or any person who is a contractual employee or contractual agent of the Department of Human Services or the community agency including payroll personnel, contractors, subcontractors, and volunteers. The offense may also be committed when a person who is an employee of a community agency funded by the Department of Human Services knowingly engages in sexual conduct or sexual penetration with a person with a disability who is in a residential program operated or supervised by a community agency. A person who convicted of committing such an offense will be guilty of a Class 3 Felony.

### **5/11-11 Sexual Relations within Families**

The offense of Sexual Relations within Families is committed when a person commits an act of sexual penetration with another person who he or she knows is related to him or her. Prohibited relations include siblings, parents, stepparents, aunts, uncles, grandparents, and great grandparents. The offense is a Class 3 felony.

### **5/11-14.4 Promoting Juvenile Prostitution**

Provides that it is a Class 1 Felony where a person knowingly “advances prostitution as defined in Section 11-0.1, where the minor engaged in prostitution, or any person engaged in prostitution in the place, is under 18 years of age or is a person with a severe or profound intellectual disability at the time of the offense” (Subsection (a)(1)) or knowingly “profits from prostitution by any means where the prostituted person is under 18 years of age or is a person with a severe or profound intellectual disability at the time of the offense” (Subsection (a)(2)). If the child or a person with a severe or profound intellectual disability is confined against his/her will by force or by threat of force or by administering any alcoholic intoxicant or other drug, Subsection (a)(4) elevates this offense to a Class X Felony with an extended sentencing range of 6-60 years in the Department of Corrections.

### **5/11-18.1 Patronizing a Minor Engaged in Juvenile Prostitution**

Despite the name of this offense, the provisions of this statute apply equally if the person commits the acts described with a person with a severe or profound intellectual disability as if the acts had been committed with a person under the age of 18.

### **ARTICLE 12. BODILY HARM 5/12-2    **Aggravated Assault****

The offense of Assault is elevated from a Class C Misdemeanor under Section 12-1 to a Class A Misdemeanor under Section 12-2(b)(1) if the offender knows the victim is a person with a physical disability or is person 60 years of age or older.

### **5/12-3.05 Aggravated Battery**

The offense of Battery is elevated from a Class A Misdemeanor under Section 12-3 to a Class 3 Felony under Section 12-3.05(b)(2) if the defendant knowingly causes “bodily harm or disability or disfigurement” to any person with a severe or profound intellectual disability. In cases of “great bodily harm or permanent disability or disfigurement” to such victims, the offense is further elevated by Section 12-3.05(b)(1) to a Class X Felony, with yet further sentencing enhancements if a firearm is used in the commission of the offense.

The offense of Battery is elevated from a Class A Misdemeanor under Section 12-3 to a Class 3 Felony under Section 12-3.05(d)(2) if the individual knows the victim is pregnant or has a physical disability.

### **5/12-4.4a    Abuse or Criminal Neglect of a Long Term Care Facility Resident; Criminal Abuse or Neglect of an Elderly Person or Person With a Disability**

Provides that it is a Class 3 Felony for certain specified types of caregivers (see statute for definitions) to knowingly endanger the life or health of a resident of a long-term care facility, elderly person, or person with a disability, or to perform acts causing such person’s pre-existing mental or physical condition to deteriorate, or to fail to perform acts necessary to maintain or preserve the life or health of such person, or abandons such person.

With regard specifically to elderly persons or persons with disabilities, one who knowingly “physically abuses, harasses, intimidates, or interferes with the personal liberty of the person” (Subsection (b)(1)(D)) or “exposes the person to willful deprivation” (Subsection (b)(1)(e)) also commits this offense.

If commission of this offense results in the death of the victim, the offense is elevated to a Class 2 Felony, for which a prison sentence of not less than three years nor more than 14 years must be imposed (Subsections (d)(1) and (d)(2)).

### **5/12-7.1 Hate Crime**

This statute elevates a number of specified misdemeanor offenses to Class 4 Felony offenses (or Class 2 Felony for second and subsequent offenses) if the offense is committed “by reason of the actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, *physical or mental disability*, or national origin of another individual...” (emphasis added).

### **5/12-7.2 Educational Intimidation**

Provides that it is a Class C Misdemeanor for one to interfere with the right of any child who is or is believed to be afflicted with a “chronic infectious disease” to attend or participate in schools by various specified means.

### **5/12c-10 Child Abandonment**

Section 12c-10(b)(3) provides that, for purposes of determining “whether the child was left without regard for the mental or physical health, safety, or welfare of that child,” one factor to be considered is the “special needs of the child, including whether the child is a person with a physical or mental disability, or otherwise in need of ongoing prescribed medical treatment such as periodic doses of insulin or other medications.”

## **ARTICLE 16. THEFT AND RELATED OFFENSES 5/16-30**

### **Aggravated Identity Theft**

Subsection 16-30(b)(1) provides that a person who commits the offense of Identity Theft against a person 60 years of age or older or a person with a disability commits Aggravated Identity Theft. The precise classification of this offense varies based on the amount of financial loss to the victim and the prior record of the offender, but Aggravated Identity Theft is generally one class of offense higher than an Identity Theft with otherwise similar factual circumstances.

## **ARTICLE 17. DECEPTION AND FRAUD 5/17-56 Financial Exploitation of an Elderly Person or a Person with a Disability**

The offense of Financial Exploitation of an Elderly Person or a Person with a Disability is committed when a person who “stands in a position of trust or confidence” with an elderly person or person with a disability and by deception or intimidation obtains control over his or her property or illegally uses the assets or resources of an elderly person or a person with a disability. The offense is a felony, but the precise classification of the offense varies based on the amount of financial loss to the victim, and, in the case of an elderly person, on the actual age of the victim.

## **ARTICLE 18. ROBBERY**

### **5/18-1 Robbery**

The offense of Robbery is elevated from a Class 2 Felony offense under this Section to a Class 1 Felony offense if the victim is 60 years of age or over or is a person with a physical disability.

### **5/18-4 Aggravated Vehicular Hijacking**

The offense of Vehicular Hijacking is elevated from a Class 1 Felony under Section 18-3 to a Class X Felony under Section 18-4(a)(1) if the person from whose physical presence the motor vehicle is taken is a person with a physical disability or a person 60 years of age or over. Such an act will constitute Aggravated Vehicular Hijacking.

## **Mandated/Required Reporting/Adults with Disabilities**

### **Where to Report Abuse of People with Disabilities**

There are three primary agencies with responsibility to receive and investigate allegations of abuse, neglect and exploitation, depending on **where the person resides and/or receives services**.

1. For individuals with mental illness and/or developmental disabilities who reside in state-funded community settings or facilities, the Illinois Department of Human Services Office of the Inspector General (OIG) is designated to receive reports and investigate abuse, neglect and exploitation. Examples of community services would include Psychosocial Rehabilitation Services, Developmental Training Program or CILA services. In general, if a person receives services from a behavioral health, mental health or developmental disability organizations, reports go to **OIG at 1-800- 368-1463**.
2. For individuals with disabilities who reside in domestic settings (e.g., with family members, their own apartments/homes), the **Illinois Department on Aging (IDOA)** is the reporting and investigative entity. Effective July 1, 2013, the hotline number to call is **1-866-800-1409 and the TTY is 1-888-206-1327**.
3. For individuals who reside in long term care facilities (e.g., Intermediate Care Facilities, nursing homes, or who are receiving treatment in the hospital), the Illinois Department of Public Health (IDPH) is the reporting and investigative entity. IDPH receives reports **at 1-800-252-4343**.

## **Responsibility to Report—Law Enforcement to State Disability Investigators**

Even if the investigating officer does not believe the evidence rises to the level of a crime, a report must still be made to the designated state disability investigative organization. The level of evidence required of the state disability investigative organization to substantiate abuse is generally less than that of a crime.

Law enforcement is mandated to report all allegations of abuse, neglect, or financial exploitation of individuals with disabilities to the designated agency with statutory responsibility to receive and investigate such allegations. This does not relieve law enforcement's responsibility to investigate the complaint to determine if criminal violations have occurred.

## **Responsibility to Report—State Disability Investigators to Law Enforcement**

Office of the Inspector General is to report criminal acts within 24 hours after determining that there may be credible evidence indicating that a criminal act may have been committed or that special expertise may be required in an investigation. The Inspector General shall notify the Department of State Police or other appropriate law enforcement authority, or ensure that such notification is made. The Department of State Police shall investigate any report from a State-operated facility indicating a possible murder, sexual assault, or other felony by an employee. All investigations conducted by the Inspector General shall be conducted in a manner designed to ensure the preservation of evidence for possible use in a criminal prosecution.

For individuals living in the community, not in a licensed setting, the Adult Protective Services provider agency's case worker will consult with the program supervisor, inform the individual that a criminal act may have been committed and immediately report the evidence of crime(s) to law enforcement. The APS provider agency will provide the law enforcement agency with case records in the investigation, upon request, with the exception of the reporter's identity. When an APS provider agency has reason to believe that the death of an individual may be the result of abuse or neglect, the agency must promptly report the matter to both law enforcement and the coroner or medical examiner.

The Illinois Department of Public Health is to report criminal acts within 24 hours after determining that there may be credible evidence indicating that a criminal act may have been committed or that special expertise may be required in an investigation. The

Department of Public Health shall notify the Department of State Police or other appropriate law enforcement authority, or ensure that such notification is made. The Department of State Police shall investigate any report from a State-operated facility indicating a possible murder, sexual assault, or other felony by an employee. All investigations conducted by the Department of Public Health shall be conducted in a manner designed to ensure the preservation of evidence for possible use in a criminal prosecution.

### **Training:**

(g) All law enforcement agencies shall ensure that all officers responding to or investigating a complaint of sexual assault or sexual abuse have successfully completed training under Section 10.21 of the Illinois Police Training Act and Section 2605-98 of the Department of State Police Law of the Civil Administrative Code of Illinois.

(Source: P.A. 99-801, eff. 1-1-17; 100-201, eff. 8-18-17.) In order to increase law enforcement capabilities when working with older adults and people with disabilities it is further recommended that all law enforcement personnel should receive ongoing training regarding the implementation of the protocol for victims with disabilities.

Training will include:

- laws impacting the response to victims with disabilities
- myths and facts about people with disabilities
- attitudes about people with disabilities
- language and sensitivity
- the Americans with Disabilities Act and using accommodations
- indicators of violence in the lives of people with disabilities
- offender characteristics
- risk factors
- interviewing techniques; i.e., victim interviewing vs. offender interviewing

- investigative strategies
- evidence collection
- violence against people with disabilities who depend on Personal Assistants/Individual Providers
- and joint investigation procedures with state investigative entities (i.e., APS, DHS – OIG and IDPH)
- Trauma training

Like any profession, continuing education is critical for the development of expertise. Law enforcement, tenured and recruits will participate in ongoing education opportunities. Persons with disabilities will be utilized as trainers when possible.

## **Response Procedures**

### **Pre-Investigation**

The officer will:

1. Know the prosecution standards set by the State's Attorney's office for accepting criminal cases against persons with disabilities.
2. Maintain on-going collaborative commitment to working with all agencies responding to crimes against persons with disabilities.
3. Understand the role of police work in responding to crimes against persons with disabilities.
4. Understand the role of sexual assault, domestic violence, and disability service agencies in supporting victims with disabilities.

In order to have a successful interview, the officer must establish rapport and respectful communication with the victim. A key element of this is approaching the individual with the framework of presumed competence. Presumed competence means the officer would presume the victim is able to participate in an interview and the criminal justice process. When possible, the officer will want to gather some initial information before interviewing the person:

1. Determine if the victim has any kind of disability. (e.g., did the person attend Special Education classes in school? Does the person participate in services with a disability organization?).
2. Find out how this disability *may* affect the interview process; each person is unique so further information will be gathered when you meet the person.
3. Determine if the victim uses any adaptive equipment, such as a hearing aid, crutches or a wheelchair?
4. Determine if the victim has any attention difficulties.
5. Determine how the victim best communicates their wants and needs.
6. Determine what makes it easiest for the victim to understand what others communicate.
7. Assure the setting for the interview is accessible to the victim.
8. Arrange for a victim advocate to be present to support the victim, if possible.

While reviewing information from the report may assist in preparing or making arrangements for the investigative interview, asking the victim with a disability about how you can best work together is essential. The person with the disability is the expert on their situation.

### **Working with Adult Victims who have a Guardian**

Some adults with disabilities have a legal guardian to help them make decisions. There are many types of guardians and the court order outlines the authority and responsibility of each guardian. Some guardians have limited authority and may only make decisions on specified situations. It is important to remember that people who have guardians can still be competent to testify in court and can participate in the criminal justice process. It is best to presume that each person has the ability to remember and communicate what has happened to them.

Some people with disabilities have been trained to be compliant with those in authority. Even as adult, some people live and work in very controlling environments. In these situations, people with disabilities are highly influenced by others and try very hard to please them. Recognizing when the victim is heavily influenced by a family member, caregiver, or other person is very important in investigating and prosecuting crimes. It is advisable to observe the victim closely when in the presence of others; looking for

indicators that the victim is under the influence of someone else and may not be speaking for themselves. Here are some tips to reduce the effects of undue influence:

1. Interact directly with the victim.
2. Interview the victim alone or with an advocate.
3. If the guardian is a suspect or a protector of the suspect, do not engage with the victim with the guardian present.
4. Work with APS, OIG or IDPH to access support services and plan a collaborative investigation.
5. Communicate with the victim that you want them to be safe and that you are there to help.
6. Establish rapport with the victim and take your time.
7. Provide any accommodations needed so the victim can fully participate.

### **Officer's Responsibility at the Scene:**

The responding officer will:

1. Safely and quickly respond to the complaint.
2. Assure necessary accommodations needed by the individual to participate in the investigative process.
3. Ensure the safety of the victim; if assistance is needed, notify the appropriate medical, law enforcement, or social service personnel. In cases of suspected abuse, neglect, or financial exploitation, submit a report to the entity authorized to investigate for persons with disabilities.
4. If the person has been mistreated by a Personal Assistant (PA) or Individual Provider (IP) , assist the person in getting the key to their home from the PA/IP
5. Create a safe and non-judgmental environment that encourages honesty and sharing. Allow the victim to share what happened to them before asking for a lot of details.
6. The preliminary victim interview only needs to establish the following: Establish that the elements of a crime are met; evaluate the need for a forensic examination; Identify the

crime scene and any related evidence, witnesses, and the suspect(s); and establish the identity of the suspect, and contact information, if known. No law enforcement officer will require a victim of sexual assault or sexual abuse to submit to an interview (725 ILCS 203/20).

7. Conduct a thorough preliminary investigation including: victim, suspects, and witness identification; identify and preserve the crime scene; inform the victim what will be expected of them in the investigation, i.e., hospital, evidence collection, in depth interview, etc.
8. In cases of trauma, conduct an in-depth interview with the victim after he/she has completed 2 sleep cycles, eaten and gotten some initial support. This is especially important in sexual assault cases which may impact the memory significantly until the victim has had 2 sleep cycles.
9. Comprehensively explain to victims and witnesses their rights under the Rights of Crime Victims and Witnesses Act and the Crime Victims Compensation Act. It is helpful to have copies of a Victims' Rights Card in large print and Braille for victims who have low vision or blindness.
10. Reduce the number of investigators that have contact with the victim. It may take a while to establish trust and open communication.
11. Complete the necessary reports, the secure evidence, and ensure departmental notifications are made. Further, ensure information is provided to the officer/investigator who may be assigned to the case. No law enforcement agency may refuse to complete a report (725 ILCS 203/15).

## **Evidence Collection**

A good investigation is key to a successful prosecution and gathering evidence can prove a crime was committed with or without a participating victim. The following steps shall be taken:

1. Always interview the victim without the presence of family, staff and people with undue influence. Document the interview in detail.
2. Locate and interview ALL potential witnesses. Assess and preserve the crime scene as in any other investigation.
3. Identify all possible evidence, depending on the nature of the crime, and conduct a thorough evidence search. Secure 911 tape when applicable and any facility

log sheets. Photograph and/or videotape crime scene, when indicated. A Crime Scene Investigator (CSI) may be requested.

4. Complete the necessary reports, including documents to transfer evidence, and transfer information for the follow-up investigation, if applicable.
5. In situations where there may be physical evidence on the victim's mobility device or communication equipment, the device/equipment will need to be processed and returned to the victim quickly. It is imperative to have a discussion with the victim to determine if the device/equipment can be easily exchanged or if the victim needs to leave with the device/equipment. If the device/equipment is standard issue, it may be possible to obtain a replacement for the person by contacting the community Center for Independent Living or a medical supply company. Some devices/equipment are needed for daily survival and should never be confiscated. It may be necessary to contact the State Police Crime Scene Technicians if more resources are needed to collect the evidence from a victim's device/equipment.
6. In domestic and sexual violence investigations, it is essential to establish/explore course of conduct which includes Pre-Assault behavior, Violent Incident and Post Assault behavior. Documentation of pre-assault behavior might include the isolation of the victim, manipulation, threatening or grooming behavior or forced compliance. Documentation surrounding the violent incident includes description of behaviors and/or statements which indicate no consent, i.e. victim cried, closed eyes, tightly held legs together, laid still throughout the assault; in other words, documentation describing how the victim said "no." Post-assault behavior includes indicators which may present immediately following the assault as well as those occurring days, weeks or months later. Reports from the victim, family members and friends demonstrating changes in the victim's behavior, such as, can't sleep, weight gain/loss, not attending work or school, putting locks on the door, afraid to answer telephone or door or moving is critical evidence that prosecutors can use in establishing lack of consent. Think about these changes in behavior, do they speak to consensual sex or a non-abusive relationship?
7. Law enforcement should inform victims of the testing of physical evidence and the results of such testing. (725 ILCS 203/5(6))

**In sexual assault investigations it is important that officers be aware of the following:**

- In Illinois, individuals with Guardians have the right to consent to the sexual assault forensic examination. If the physician determines the individual does not have 'decisional capacity' to consent, the investigating law enforcement officer **may** be asked to provide consent. (See [§70/5\(b\)](#) of the Sexual Assault Survivors Emergency Treatment Act (SASETA), 410 ILCS 70/1, *et seq.*) Of course, an exam would never occur if the individual expressed they did not want the exam, or resisted or refused the procedure.
- Some victims with disabilities require a different position for the sexual assault forensic exam to be completed. The victim knows their body best and can usually direct the nurse about what position adjustments and assistance are necessary.
- Victims of sexual assault may have impaired memory immediately following the sexual assault. Research indicates that the person can provide more detailed and complete information after two sleep cycles and some other self-care.

**If the victim lives in a group home, institution, or participates in a day program, here are some evidence collection tips:**

- It is typically not recommended that a staff member sit in on a victim interview - the staff member may be someone the victim is not comfortable speaking openly in front of, the staff person may interject their own opinions and ideas influencing the victim, or the staff member could defend the suspect (or possibly be the suspect).
- Explain to the staff that the victim must be interviewed alone to ensure an interview that will hold up in court.
- Ask the facility about any sign-in and sign-out procedures/logs for the persons receiving services.
- Ask about any 'staff logs' or 'communication logs' that might be in use.
- Review progress notes about the victim for supporting documents referencing the incident and secure relevant documents.
- Many group homes, institutions, hospitals and residential settings have procedures to document that all individuals have been accounted for at specified time frames (often called 'rounds'). Ask for documentation of these activities.
- Some sites have video camera surveillance so video footage may be available. If so, secure tapes immediately.

- Some residential programs have a procedure to conduct and document a body search when someone has been away from the facility. Verify if this is a procedure that is in place and request these documents.
- Most organizations document known injuries to an individual. An Injury Report Form typically describes what happened and includes a front and back picture of a body to mark the location of any physical complaints/injuries. Obtain these documents.
- It may be helpful to see work schedules and/or time sheets for employees to determine suspect and witness locations.
- Some agencies have visitor logs which can have valuable information.
- It can be helpful to interview other individuals served by the organization/facility that the alleged offender had access to in an attempt to identify other possible victims or MO (modus operandi).
- If the offender is a staff member, ask about training standards, records, and certifications.
- Follow-up with individual staff members later to clarify their previous statement and to ascertain if they recalled anything further. If a staff member states they do not believe the victim and that the victim is a liar, proceed with the investigation anyway. Why? People with a reputation for telling lies are at increased risk to be victimized and/or the staff member may be part of a cover-up; concerned about liability, be the perpetrator, etc.

## **Follow-Up**

### **Continuing Investigation**

1. Respect and protect the confidentiality and the wishes of the victim regarding the notification and participation of others throughout the investigation.
2. Keep the victim informed about the investigation, arrest status, etc.
3. Consult with the responding officer and any evidence collectors.
4. Determine the elements of the crime to prove due to individual having a disability.

5. Conduct in-depth interviews with the victim, offender, and witnesses. Insure effective contact information is received for follow-up interaction with victim, offender, and witnesses, as needed.
6. Insure that all evidence has been identified, collected, properly stored, and processed from the crime scene, the victim, the offender, and other sources.
7. Insure the victim has been referred to chosen disability organization or social service provider or support services, as needed.
8. Conduct a joint investigation with the Adult Protective Services organization which has jurisdiction over the case.
9. Complete and forward the necessary reports to the State's Attorney's office or appropriate prosecutor.

It is important to follow-up with crime victims in order to:

1. Check in to see if the victim feels safe,
2. Inform the victim of the status of the investigation,
3. Check in to see if there has been any attempted or real retaliation, and
4. Check in to see how accommodations are working/if new ones are needed.

### **Victim Services:**

Law enforcement agencies should have written networking agreements with local service providers. Local services may include, but not be limited to:

1. Hospital emergency rooms
2. Disability service providers
3. Center for Independent living
4. Local sexual assault centers
5. Local domestic violence services
6. Local American Sign Language Interpreters

It is advisable to work with the local Center for Independent Living to proactively obtain accessible materials such as Braille, large print documents, and a list of American Sign Language Interpreters.

Law enforcement agencies should provide written and verbal referrals to the victim for local services. Law enforcement agencies should work with local service providers to develop written information for police to distribute to victims with disabilities.

**This order shall be reviewed at least every 2 years and updated as needed.**

This project was supported by Grant No. 2014-WE-AX-0025 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

**Sample  
Memorandum of Cooperation  
Law Enforcement**

This Memorandum of Cooperation (hereafter "Memorandum") is made effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between \_\_\_\_\_, the Provider Agency for the Adult Protective Services program, responsible for \_\_\_\_\_ County (hereafter the "Provider Agency"), and the Law Enforcement Agency (hereafter the "First Responder").

1. The statutory basis for this Memorandum is Paragraph 2.5 of Section 8 of the Adult Protective Services Act (320 ILCS 20/8(2.5)), which authorizes the Provider Agency to furnish to the First Responder a list of all eligible adults who may be at imminent risk of harm as a result of abuse, neglect, financial exploitation, or self-neglect.
2. Memorandum shall serve as the written agreement required by this statutory authorization.
3. The Provider Agency shall provide to the First Responder a list of the names of eligible adults, who, in the judgment of the Provider Agency, are at imminent risk of harm as a result of abuse, neglect, financial exploitation, or self-neglect. The Provider Agency shall update this list on a periodic basis.
4. The Provider Agency shall inform the First Responder when the status of an eligible adult, whose name was previously submitted to the First Responder, has changed to the extent that such eligible adult is no longer at imminent risk, or the First Responder can no longer respond in the event of the death of the older or disabled adult.
5. This change in status may be due to the death of the eligible adult; his or her removal from the county; the death, imprisonment, or removal from the area of the abuser; or other changes in circumstances which significantly lessen the risk to the older adult.

6. The Provider Agency shall transmit the list to the First Responder in a manner which protects the confidentiality of the list- The Provider Agency and the First Responder agree that any verbal, electronic or documented means of transmission under this Memorandum shall ensure such confidentiality of the identity of the older or disabled adult.
7. The First Responder shall establish written procedures to receive the list in a manner which maintains confidentiality, including the designation by the First Responder of a specific staff in the office as the recipient of the lists and information submitted by the Provider Agency. The First Responder shall notify the Provider Agency in writing of the name of these specified staff.
8. The First Responder shall maintain the lists of names transmitted by the Provider Agency in the strictest confidentiality, with access to such lists allowed only as authorized below. The First Responder will establish procedures and safeguards within its office to maintain such confidentiality. The First Responder shall inform the Provider Agency in writing of those procedures. Such procedures shall include securing the physical location and or means of which any lists are kept.
9. The First Responder shall maintain, update and add names and corrections to the list.
10. The First Responder may compare their reports and names of high risk older and disabled adults to the names on the list. This comparison shall be for the purpose of determining if the name of the person matches a name on the list of persons provided by the Provider Agency. In so doing, the First Responder would continue to maintain the highest possible degree of confidentiality.
11. These written procedures and policies on maintaining the security and accessing the lists shall be attached to, and incorporated into, this Memorandum.
12. In the event that the First Responder becomes aware of any person named on the list, the First Responder will immediately notify the Provider Agency.

13. The First Responder may request from the Provider Agency, and the First Responder may request from the Provider Agency, and the Provider Agency will provide to the First Responder, pursuant to Paragraph 2 of Section of the Adult Protective Services Act, any records of abuse, neglect, financial exploitation or self-neglect related to an eligible adult. The Provider Agency will redact the identity of the reporter from such submissions pursuant to Section 4 of the Adult Protective Services Act (320 LCS 20/4).

This Memorandum of Cooperation takes effect on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_. This Memorandum of Cooperation shall continue in force until either party to the Memorandum notifies the other party in writing of its withdrawal from the Memorandum. This Agreement may be signed in multiple counterparts, each of which shall be deemed an original for all purposes.

IN THE WITNESS WHEREOF, each party to this Memorandum has caused it to be executed on the date(s) indicated below.

\_\_\_\_\_  
"First Responder"

\_\_\_\_\_  
"Provider Agency"

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Press Release**  
**Fairfield Police Department**  
**1/18/06**  
**Walk Away Risk Entries**

This week the Fairfield Police Department has initiated a program to assist in the identification, location, and recovery of individuals who may be at significant risk of wandering away from their homes.

The program is designed for seniors and children with special needs or some form of dementia, such as Alzheimer's disease, which requires the close supervision of a responsible adult.

Starting this week, anyone with a family member that they believe may be at risk can come to the Fairfield Police Department and ask that their loved one be entered in the Police Departments database as a "Walk Away Risk". The Police will then take detailed information about that person, including who should be contacted in the event they are found wandering, and will maintain this information in the Fairfield Police Department's computer system. Family members are asked to bring a recent photograph along so it can be entered along with their file.

The first hour of a search for a walk away is always the most critical. By acquiring this information ahead of time, the Fairfield Police Department hopes to save valuable time in the future when they respond to a report that someone has wandered away.

## Walk Away Risk Entries

The Fairfield Police Department will now begin entering persons who are believed by their family to be Walk Away Risks, those who may wander away from home and not be able to take care of themselves.

When someone comes into the PD wishing to enter a Walk Away Risk, Officers are to take the following steps:

1. Make either a Field Report or Incident reports on the request.
2. Complete contact information on the reporting person, the person who is a walk away risk, and any other contacts the reporting person wishes to enter who may be useful if we ever have to look for the person.
3. Pay special attention to the physical description of the person at risk and include scars, marks, & tattoos.
4. On the person reported as a Walk Away Risk be sure and enter their contact type as "WALK AWAY RISK" and if at all possible scan a recent photo of them into their contact sheet as a mug shot.
5. If the Walk Away Risk has access to a vehicle include Vehicle Contact Information.
6. On the narrative be sure and document any other useful information such as:
  - a. History of previous walk always, where they went, etc.
  - b. Medical or psychiatric conditions such as Alzheimer's, autism, etc.
  - c. Special concerns such as fear of the Police, etc.

**Fairfield Police Department**  
 108 NW 7<sup>th</sup> Street, Fairfield, IL 62837  
**Walk Away Registration**

Name of Walk Away									
<b>Last</b>		<b>First</b>		<b>Middle</b>		<b>Prefers to be Called</b>			
<b>Date of Birth</b>		<b>Maiden Name</b>		<b>Home Phone</b>		<b>Other Phone</b>			
Address									
<b>Street or Rural Route</b>				<b>City/State/Zip</b>					
Description									
<b>Sex</b>	<b>Race</b>	<b>Height</b>	<b>Weight</b>	<b>Eyes</b>		<b>Hair</b>			
<b>Scars or Marks</b>									
<b>Special Information</b>									
Vehicle									
<b>Color</b>		<b>Year</b>		<b>Make</b>		<b>Model</b>		<b>License #</b>	
Name of Reporting Person									
<b>Last</b>		<b>First</b>		<b>Middle</b>		<b>Relationship</b>			
<b>Date of Birth</b>		<b>Home Phone</b>		<b>Other Phone</b>					
Address									
<b>Street or Rural Route</b>				<b>City/State/Zip</b>					
Name of Other Contact Person									
<b>Last</b>		<b>First</b>		<b>Middle</b>		<b>Relationship</b>			
<b>Date of Birth</b>		<b>Home Phone</b>		<b>Other Phone</b>					
Address									
<b>Street or Rural Route</b>				<b>City/State/Zip</b>					

Be sure to include a recent photo. List additional contact persons and special information on back. Return to Fairfield Police Dept. 108 NW 7th St. Fairfield, IL

The Police Chief Magazine, November 2014, LXXXI, #11

### Effective Law Enforcement Response to People with Disabilities

By: Barry Portman, Lieutenant, Princeton, Illinois, Police Department, Shirley Pacey, Director, Blue Tower Training, and Teresa Tudor, Public Service Administrator, Illinois Department of Human Services  
Shirley Pacey, Director, Blue Tower Training

## **Effective Law Enforcement Response to People with Disabilities**

Barry Portman, Lieutenant, Princeton, Illinois, Police Department; Shirley Pacey, Director, Blue Tower Training; and Teresa Tudor, Public Service Administrator, Illinois Department of Human Services

The likelihood that law enforcement personnel will encounter a victim with a disability is extremely high. According to the U.S. Bureau of Justice Statistics (BJS), people with disabilities experience violent crimes two times more often than people without disabilities.<sup>1</sup> The rate of violence for males with disabilities was 42 per 1,000 in 2011, compared to 22 per 1,000 for males without disabilities, while the rate of violence for females with disabilities was 53 per 1,000 in 2011, compared to 17 per 1,000 for females without disabilities.<sup>2</sup> In addition to responding to reports of violent crimes, law enforcement may encounter people with disabilities in neighborhoods and as community members who need assistance; as witnesses to a crime; or as suspects or perpetrators of a crime. Although this article focuses on the effective interactions between law enforcement and people with disabilities, many of the strategies are equally applicable to law enforcement and victims of all interpersonal crimes.

### **Attitudinal Barriers**

The first barrier in accessing justice for people with disabilities is attitudinal. Many individuals hold beliefs about people with disabilities that make an effective criminal justice response difficult. Attitudinal barriers can exist within family members and disability professionals, as well as in the general public. For example, some people hold the mistaken belief that no one would ever sexually assault someone with a disability. This pervasive myth makes it difficult for law enforcement and other criminal justice partners to investigate and prosecute these cases. Perpetrators of sexual assault take advantage of this societal belief and target people with disabilities, knowing that their chances of getting away with this crime are good due to the perceived lack of victim credibility.

Situations may occur where law enforcement encounters attitudinal barriers from the family of the victim or staff members working with the victim. These individuals may tell a police officer that their son or daughter with a disability is nonverbal and, therefore, will not be able to speak about the incident that occurred. While it may be possible that the person does not speak, all people communicate in some way. It is important to meet with the victim and take time and steps to determine how they communicate. Family members may also be protective of loved ones and make decisions for them when the individual is capable and legally entitled to make his or her own decisions. Officers' inexperience, discomfort, or lack of confidence in working with people with disabilities may inadvertently lead to deference to the family member despite the victim's capability.

Another common misperception is that people with disabilities are not credible, which is a dangerous assumption. If law enforcement is responding to a report of a crime against a person with an intellectual disability and decide after meeting the person that the victim is not a credible witness, the officer may choose to limit the investigation and may not contact the needed support, therefore, causing possible further harm. The truth is that many people with disabilities are credible witnesses. Even in situations when a person may not be able to testify in court, there can be an evidence-based investigation. Reports of crimes against people with disabilities need to be fully investigated; crimes against persons with disabilities should be investigated in the same way as any other crime against a person. The supportive attitude and messages from law enforcement leaders regarding victims with disabilities is crucial in setting a tone throughout the department and securing justice for these victims.

### **Action Items**

- Assess possible attitudinal barriers that might be present in the department.
- Arrange extra time to interview and build a relationship with a victim with a disability.
- Identify local opportunities for identified employees to interact with people with various kinds of disabilities, including those with developmental disabilities, mental illnesses, and physical disabilities (including persons who are deaf or blind).

### **Perpetrators of Violence Against People with Disabilities**

Crimes against people with disabilities are most often committed by people they know and trust.<sup>3</sup> Offenders may be family members, caregivers, disability professionals, transportation providers, employers, or neighbors. It is helpful to understand some of the common behaviors and tactics offenders use against people with disabilities. Some offenders specifically target people with disabilities due to the perceived lack of credibility and other societal stereotypes and myths that can be used to their advantage.

Offenders may withhold access to the phone, medications, or mobility devices; use victims' disabilities against them (e.g., "No one else would want to lift you in and out of bed" or "No one will believe you because you are mentally ill"); speak for the person; treat the victim like a child; depend on the victim's income; take advantage of the victim's lack of sexual knowledge or education; appear charming and stress how much they do for the victim; and keep law enforcement from speaking directly with the victim. These techniques are used by offenders to isolate individuals and gain power and control over a person with a disability. A thorough, comprehensive investigation will reveal these tactics and techniques. This information can be used to establish the offender's course of conduct and behavior (pre-assault, violent incident(s), and post-assault) and be documented in a report.

It is important that law enforcement understand that some individuals with disabilities have been trained to be acquiescent and compliant. Because of possible past abuse and encounters with people who hold societal misperceptions, individuals with disabilities may have a long history of "getting in trouble" if they do not do what a person in authority tells them to do. For people with intellectual and developmental disabilities, this compliance can extend throughout their lives. A culture of compliance can promote a culture of crime and result in multiple incidences of victimization with multiple perpetrators. Victims with disabilities may not report the violence or may not perceive the experience as criminal, as they have been taught that staff or others in authority can say or do what they want. Individuals with disabilities often experience relationships as someone having power over them.

It is important for law enforcement to recognize when someone appears to be overly concerned about saying or doing the "right" thing. If the victim looks at a support person before answering questions posed by law enforcement during an interaction or interview, this may be an indicator of compliance and dependence. Law enforcement may consider interviewing the adult victim without anyone present or have the victim decide if and who they want present for support. Other strategies that can be helpful include talking directly to the person and assuring the person they are taken seriously; telling them they have a right to be safe; taking time to establish rapport; providing choices to the victim, such as when and where to have the interview; assuring the person they are not in trouble; asking what can be done to make them comfortable; and letting them tell their story in their own words and at their own pace. It is helpful to let the individual know that it is normal for victims to have difficulty remembering all the details, and they can meet with you again if more information is recalled. Victims with disabilities, like other victims, may experience clearer memories of the incident after completing a couple of sleep cycles. Scheduling a follow-up interview may yield more valuable results.

## **Action Items**

- Ensure that officer reports include documentation of abuse that address control tactics beyond physical violence and capture pre- and post-assault behavior.
- Conduct officer training on responding to violence against people with disabilities.

## **Communicating with Victims with Disabilities**

Communication is central to the work of law enforcement. Before conducting an interview with a person with a disability, it is important to consider two major aspects of language: (1) what the person understands, and (2) how the person expresses him- or herself. To increase the likelihood of being understood, facilitate effective dialogue, and create a supportive atmosphere for victims, law enforcement should use simple words; avoid jargon, sarcasm, words with multiple meanings, clichés, and long sentences; tone of voice; be at eye level with the person; avoid rapid firing of questions; and allow time for the person to process questions and respond. Before conducting an interview, it is imperative that law enforcement determine if any accommodations are needed, such as an American Sign Language interpreter, communication book or pictures, communication device, computer, or other available communication tools.

If, at any point during the interview, there is a miscommunication or the investigating officer is unable to understand what the victim is referring to or said, it is OK to ask the victim to repeat the word or information. A useful strategy is for the investigator to repeat back the words or information that are understood, even if it is only one or two words. Law enforcement needs to work closely and patiently with the victim to ensure that all details are captured correctly. When needed, law enforcement should ask the victim to write or spell a word, or draw the information, words, or the situation being described. It is important to let the victim know that the investigation will proceed at his or her pace in order to accurately record the information presented; this is essential for a successful prosecution. In some situations, it may be necessary for law enforcement to ask the victim if there is someone who can help facilitate communication and dialogue; this should be a person trusted and selected by the victim when possible.

## **Action Items**

- Arrange for regularly used, standard documents to be put into alternate formats, including plain language, large print, braille, electronic, and pictures.
- Establish working agreements with the local center for independent living.

## **The Top Ten Things People with Disabilities Want Law Enforcement to Know**

The concepts below are taken from the authors' personal and professional experiences with people with disabilities.

1. **Individuals with disabilities rely on law enforcement.** People with disabilities experience violence more often than people without disabilities. These crimes are rarely reported by families, educators, disability agencies, or even by the people who are being hurt. These individuals are learning about their rights, and they may reach out to law enforcement. They need law enforcement's help.
2. **They want you to know the truth.** There are many myths about people with disabilities. Some people think that because people with disabilities are different, they are not equal. This allows perpetrators to take advantage of them and get away with it. Some people think people with disabilities have less value, do not feel pain, and cannot learn. Those are lies. These individuals have feelings like everyone else. They are the keepers of their truths. They are more like those without disabilities than they are different.
3. **People with disabilities are not their labels.** Officers needn't worry about learning everything there is to learn about people with disabilities before they work with these individuals; a label does not tell people who they are. Each person, including those who share the same label, is different; just like every person with diabetes or another medical concern is different. While a label might help officers understand something about each individual with disabilities, each individual is a person first. Don't be afraid to ask them questions about themselves. Only the individuals are the experts on themselves.
4. **Everyone communicates.** Individuals with disabilities may not communicate the same way that others do, which may lead law enforcement to believe that they can't understand questions, conversation, or the situation. Some individuals communicate with devices, some use pictures, and some can communicate with gestures and pointing. Take the time to get to know how each individual communicates. Give individuals time so they can help to the best of their abilities.

5. **Ask the individual to repeat what was said.** Individuals who are difficult to understand are aware of it. They would rather law enforcement ask them to repeat something than pretend the information was understood. The label “nonverbal” means only that an individual cannot use their voice; they can still communicate. Do not be tricked by these labels; this will embolden the perpetrator.
6. **Some people with disabilities need accommodations to participate.** Some individuals need additional support to be able to participate in the criminal justice process. For example, some people need an American Sign Language interpreter, some need braille documents, some may need pictures to show what happened, and others may need words to be spoken in plain language. Ask what is needed so they can participate.
7. **Many individuals with disabilities are credible witnesses.** When a quick judgment is made and individuals with disabilities are not included in court cases, the offender wins. People with all kinds of disabilities have testified in court, many with accommodations. In other situations, a case can be based on corroborating evidence. Law enforcement needs to move the case forward as they would with any other victim.
8. **Offenders target people with disabilities.** It is hard for the public to understand why someone would hurt a person with a disability, but it happens all the time. In the disability service system, perpetrators can hurt and take advantage of individuals with disabilities, and it is not always considered a crime. If it is a crime against a person without a disability, it is a crime against a person with a disability. Offenders target these individuals with the hope that the victim will not be believed and that the case will never go to court, and when that hope is fulfilled, they keep preying on people with disabilities.
9. **Law enforcement can help stop crimes against people with disabilities.** Each time an offender learns that the police take these cases seriously, it slows them down. Some offenders will be stopped and sent to prison. People with disabilities need law enforcement to make that happen. Partnerships should be established with the local/state Child and Adult Protective Services. Law enforcement should reach out to and collaborate with people with disabilities and be committed to helping these individuals get justice.
10. **Believe.** Believe people with disabilities when they report what happened. Take the time to partner with these individuals, include them in department policy, program, and training development, and ensure all members receive accurate information.

## Relationships

Strong relationships are at the center of an effective response to violence against individuals with disabilities. There are many organizations available to assist law enforcement enhance the effectiveness of department response to individuals with disabilities. Each U.S. state has a center for independent living that can assist in assessing the accessibility of law enforcement agencies and connect members with available local resources. Disability service providers, such as community mental health centers, vocational rehabilitation programs, and housing and employment services for people with developmental disabilities can provide training. Advocacy groups and programs can provide an opportunity to build relationships with people with disabilities. Victims of violence are best served when the whole community comes together to support healing and promote access to justice.

## Action Items

- Establish or renew linkages with local disability service agencies and develop plans for cross-training, resource sharing, and referral procedures development.
- Schedule a time to meet with the local Adult Protective Services Investigative Unit.

## Establishing Policies

Law enforcement leaders can enhance the response of department members by developing policies and protocols that clearly emphasize the expectations for addressing violence against people with disabilities and effective interactions. As a part of a U.S. Department of Justice (DOJ), Office of Violence Against Women (OVW) grant, the Illinois Family Violence Coordinating Council, along with several other state allies, undertook an integrated protocol initiative to develop a series of model protocols for law enforcement and prosecutors that highlighted effective responses to domestic violence, elder abuse, and violence against people with disabilities. All three authors of this article were involved in the protocol development and the training of trainers across the state of Illinois. *The Protocol for Law Enforcement: Responding to Victims with Disabilities Who Experience Sexual Assault and Domestic Violence* includes a policy statement and information that provides guidance and sets the tone for working with these specific victims.

The protocol reads as follows:

It is a mandated policy for law enforcement entities to treat violent crimes against people with disabilities as a high priority and to respond both professionally and compassionately to victims with disabilities. In addition, it is mandated for law enforcement entities to ensure that:

Reports of domestic violence and sexual assault of people with disabilities be fully investigated regardless of the type of disability the victim has and regardless of the relationship between the victim and the suspect(s).

- A. Reports of domestic violence and sexual assault of people with disabilities be fully investigated whether or not the officer thinks the victim can or will testify.
- B. Officers treat all persons with disabilities with dignity and respect—including the person’s right to self-determination. Self-determination is a person’s right to make his or her own decisions, including the right to privacy and to refuse well-intended interventions.
- C. Immediate, effective assistance and protection to victims with disabilities be provided and appropriate action against offenders is taken. Further, the implementation of these solutions should not result in increased risk to the victim and should not exacerbate the situation.
- D. Officers shall seek to determine needed accommodations/resources for victims with disabilities to ensure the victim has equal access to the investigative process.
- E. Officers, in an effort to improve their response to victims with disabilities, participate in coordinated efforts with other appropriate agencies, including criminal justice, prosecutors, victim services, disability service organizations, and abuse/neglect investigative entities.
- F. Document the type and extent of the victim’s disability to help in determining the appropriate charge level as well as possible accommodations/supports necessary for equal access to the criminal justice system.
- G. Officers shall expeditiously provide reports to partner agencies when an incident is confirmed as abuse, neglect, or financial exploitation (including non-criminal acts) to the appropriate state reporting entity for people with disabilities.

The policy and subsequent protocol information include sections on interagency cooperation, training and documentation, and responsibilities of communications personnel, first responders, and follow-up investigators. It is recommended that departments establish written policies and procedures that encourage a uniform and comprehensive approach for effective responses to people with disabilities who experience violent crimes.

## **Action Items**

- Develop policies regarding responding to violence against people with disabilities and integrate them into existing policies.
- Conduct a disability responsiveness review to assess a department's current level of response. Review should include policies and procedures, physical, communication and attitudinal accessibility, staff awareness and comfort level, and linkage with community providers.

## **After the Arrest**

It is essential to identify and determine the role of the suspect in the victim's life. Oftentimes, the perpetrator may be a family member, caregiver, disability professional, transportation provider, employer, or neighbor. If the victim's caregiver is arrested, it is critical for law enforcement to collaborate and communicate with local service providers to ensure the daily needs of the victim are met. Working with the victim's disability service provider (if applicable), a center for independent living, or a similar agency can be helpful in securing needed assistance for the victim.

Securing safety, accessing justice, and beginning the process of healing can be overwhelming for a victim with disabilities. Law enforcement leaders can implement protocols to establish appropriate responses to these individuals. A significant positive impact can be made on a victim's life from the moment the dispatcher takes the call and the first responder arrives, through the follow-up interviews, if the proper, comprehensive policies are in place. Keeping the victim with a disability informed each step of the way, promotes a sense of safety and control, which are essential to healing. In the words of victims, "Thank you for your time and skills and efforts to find evidence and get the offenders locked up. We are counting on you."<sup>5</sup>

## RESOURCES

These resources can enhance the knowledge and skills of officers in responding effectively to victims with disabilities.

- Model Protocol for Law Enforcement: Responding to Victims with Disabilities Who Experience Sexual Assault and Domestic Violence: <http://www.ilfvcc.org/>
- End Violence Against Women International Online Training Institute's "Successfully Investigating Sexual Assault Against Victims with Disabilities": <http://www.evawintl.org/>
- Victims with Disabilities: The Forensic Interview, Office for Victims of Crime (OVC), revised 2011: [www.ovc.gov/publications/infores/pdf/VictimsGuideBook.pdf](http://www.ovc.gov/publications/infores/pdf/VictimsGuideBook.pdf)
- Victims with Disabilities: Collaborative, Multidisciplinary First Response, 2009: [www.ovc.gov/publications/infores/pdf/VwD\\_FirstResponse.pdf](http://www.ovc.gov/publications/infores/pdf/VwD_FirstResponse.pdf)
- Law Enforcement Awareness Network: <http://www.leanonus.org/>
- Americans with Disabilities Act: <http://www.ada.gov/>
- "Picture Guide to the Exam after Sexual Assault": <http://www.icasa.org/>

### Notes:

1 Erika Harrell, Crime Against Persons with Disabilities, 2009–2011 – Statistical Tables, U.S. Department of Justice, Bureau of Justice Statistics, December 2012, NCJ 240299, 4, tables 3 and 4, [www.bjs.gov/content/pub/pdf/capd0911st.pdf](http://www.bjs.gov/content/pub/pdf/capd0911st.pdf) (accessed October 7, 2014).

2 Ibid., 5.

3 Dick Sobsey, Violence and Abuse in the Lives of People with Disabilities: The End of Silent Acceptance? (Baltimore, MD: Paul H. Brookes Publishing Co., 1994).

4 Model Protocol for Law Enforcement and Prosecution: Responding to Victims with Disabilities Who Experience Sexual Assault and Domestic Violence (Springfield, IL: Illinois Family Violence Coordinating Council, 2011), 16, <http://www.ilfvcc.org/mapdp> (accessed October 7, 2014).

5 Mary Suggs (self-advocate and trainer), interview, 2014.

Please cite as:

Barry Portman, Shirley Paceley, and Teresa Tudor, "Effective Law Enforcement Response to People with Disabilities," *The Police Chief* 81 (October 2014): 48–52.

*From The Police Chief, vol. LXXXI, no. 11, November 2014. Copyright held by the International Association of Chiefs of Police, 515 North Washington Street, Alexandria, VA 22314 USA.*

The official publication of the International Association of Chiefs of Police.

The online version of the Police Chief Magazine is possible through a grant from the IACP Foundation. To learn more about the IACP Foundation, [click here](#).

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# NATIONAL, STATE, AND LOCAL COMMUNITY RESOURCES

### **Adult Protective Services**

Adult Protective Services Agencies designated by the Illinois Department on Aging to investigate reports of alleged mistreatment of older persons and persons with disabilities age 18-59, and, where substantiated, to work with the person to resolve the situation. Anyone suspecting abuse, neglect, or financial exploitation of a person 60 years of age or older or an adult with disabilities age 18-59 should call the Department's Senior Helpline 1-866-800-1409 (9/13). A trained caseworker will respond within a specified period of time.

**Illinois Department on Aging's Toll Free Number: 1-866-800-1409 (Voice or TDD)  
1-888-206-1327**

### **Court Disability Coordinators (CDCs)**

CDCs have been appointed by the Chief Judges in every Judicial Circuit in Illinois. In most cases, each courthouse has its own CDC. CDCs are trained regarding appropriate terminology, etiquette, and practices for ensuring people with disabilities can access court programs and services. They are also familiar with the legal requirements governing physical and programmatic access to the judicial system for people with disabilities.

The Disability Rights Bureau may be reached at the following telephone and TTY numbers:

Chicago:  
(312) 814-5684 (Voice)  
(800) 964-3013 (TTY)

Springfield:  
(217) 524-2660 (Voice)  
(877) 844-5461 (TTY)

### **Centers for Independent Living**

Illinois Network of Centers for Independent Living (INCIL), is the statewide association representing the 23 Centers for Independent Living (CILs) in Illinois. Centers for Independent Living provide valuable resources for people with disabilities and can provide critical information to law enforcement regarding needed accommodations. For the Illinois Network of Centers for Independent Living go to: [www.incil.org](http://www.incil.org)

### **Illinois Coalition Against Sexual Assault (ICASA)**

The Illinois Coalition Against Sexual Assault (ICASA) is a not-for-profit corporation of 29 community-based sexual assault crisis centers working together to end sexual violence. Each center provides 24-hour crisis intervention services, counseling and advocacy for victims of sexual assault and their significant others. Each center presents prevention education programs in Illinois schools and communities. <http://www.icasa.org>

### **Illinois Coalition Against Domestic Violence (ICADV)**

The Illinois Coalition Against Domestic Violence (ICADV) is a not for profit, membership organization that works to eliminate domestic violence by promoting the eradication of domestic violence throughout Illinois; ensuring the safety of survivors, their access to services, and their freedom of choice; holding abusers accountable for the violence they perpetrate; and encouraging the development of victim-sensitive laws, policies and procedures across all systems that impact survivors. <http://www.ilcadv.org>

### **Illinois Department of Human Services**

DHS Office Locator Map is a web-based application that assists in locating Department of Human Service's resource offices and service providers. The application may be accessed 24 hours per day, seven days per week. The DHS locator is searchable by office type and location.

The locator is on the main screen of the DHS website, so it appears at the bottom of the screen when you reach the DHS website. <http://www.dhs.state.il.us/page.aspx?>

### **Illinois Imagines**

Illinois Imagines is a statewide project which addresses sexual violence against persons with disabilities through a federal grant. The Illinois Department of Human Services and the Illinois Coalition Against Sexual Assault are two of the primary entities and there are 32 collaborative teams across the state. Each community with a Rape Crisis Center has a collaborative team which can be consulted for assistance.

For more information go to: [www.illinoisimagines.org](http://www.illinoisimagines.org)

### **Speech-To-Speech Relay Service**

Speech-to-Speech (STS) is one form of Telecommunications Relay Service (TRS). TRS is a service that allows persons with hearing and speech disabilities to access the telephone system to place and receive telephone calls. Speech to Speech enables persons with a speech disability to make telephone calls using their own voice (or an assistive voice device). Speech to Speech uses specially trained operators to relay the conversation back and forth between the person with the speech disability and the other party to the call. These operators are specially trained in understanding a variety of speech disorders, which enables them to repeat what the caller says in a manner that makes the caller's words clear and understandable to the called party.

### **Using STS**

A special phone is not needed for Speech to Speech. You simply call the relay center by dialing 711, and indicate you wish to make a Speech to Speech call. You are then connected to a Speech to Speech operator who will repeat your spoken words, making the spoken words clear to the other party. Persons with speech disabilities may also receive Speech to Speech calls. The calling party calls the relay center by dialing 711 and asks the operator to call the person with a speech disability.

## Web-Based Resources

Administration on Developmental Disabilities	<a href="http://www.illinois.gov/hfs">www.illinois.gov/hfs</a>
Arc of Illinois, Disability Advocacy and Resources	<a href="http://www.thearcofil.org/">www.thearcofil.org/</a>
ARC US National Center for Criminal Justice and Disabilities	<a href="http://www.thearc.org">www.thearc.org</a>
American Bar Association Commission on Mental and Physical Disability Law	<a href="http://www.americanbar.org/">www.americanbar.org/</a>
Americans with Disabilities Act	<a href="http://www.ada.gov">www.ada.gov</a>
Autism Society of America	<a href="http://www.autism-society.org">www.autism-society.org</a>
Deaf Hope	<a href="http://www.deaf-hope.org">www.deaf-hope.org</a>
Vera Institute of Justice	<a href="http://www.vera.org">www.vera.org</a>
Epilepsy Foundation	<a href="http://www.epilepsyfoundation.org">www.epilepsyfoundation.org</a>
Hub for Social Service Organizations	<a href="http://www.guidestar.org">www.guidestar.org</a>
Law Enforcement Awareness Network	<a href="http://www.Leanonus.info">www.Leanonus.info</a>
Learning Disabilities Resource	<a href="http://www.LDonline.org">www.LDonline.org</a>
National Adult Protective Services Association	<a href="http://www.napsa-now.org">www.napsa-now.org</a>
National Alliance for the Mentally Ill	<a href="http://www.NAMI.org">www.NAMI.org</a>
National Association of the Deaf	<a href="http://www.nad.org">www.nad.org</a>
National Centers for Independent Living	<a href="http://www.NCIL.org">www.NCIL.org</a>
National Federation of the Blind	<a href="http://www.nfb.org">www.nfb.org</a>
National Organization on Disability	<a href="http://www.nod.org">www.nod.org</a>
Registry of Interpreters for the Deaf	<a href="http://www.rid.org">www.rid.org</a>
Self-Advocates Becoming Empowered National Self Advocacy Organization for People with Intellectual Disabilities	<a href="http://www.sabeusa.org/">www.sabeusa.org/</a>

## **Informational YouTube Videos**

Deaf Sensitivity Training Video for Police Officers – DEAF, Inc.

<https://youtu.be/l9aNpMRHH2c>

Encountering People with Autism: A First Responders' Training - Allegheney County  
Police Chiefs Association <https://youtu.be/xtDRIYsIWXA>

Understand autism, the person and what to do – The National Autistic Society

[https://youtu.be/Lr4\\_dOorquQ](https://youtu.be/Lr4_dOorquQ)



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