

SEXUAL ABUSE OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

Analysis and Recommendations for Ohio

APRIL 2015



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NOTE FROM THE EDITOR

This report focuses on Ohio's developmental disabilities system of programs and services, including government agencies, private organizations, and public and private providers. It is true that many individuals with developmental disabilities are abused by a family member or friend in the home and some may never participate in the state's system of programs and supports for people with developmental disabilities. However, most individuals with developmental disabilities do receive services from DODD, county boards, and providers that the state oversees, and policies aimed at improving the system's responses to sexual abuse are an effective starting point. While all individuals with disabilities are more likely than the general population to experience sexual abuse, the vulnerabilities of individuals with developmental disabilities are unique. Since Ohio's developmental disabilities system has different policies and procedures, both operationally and administratively, from the system of supports for individuals with other disabilities, this report focuses only on the developmental disabilities system.

INTRODUCTION

Sexual assault against individuals with developmental disabilitiesⁱ is far more common than most Ohioans imagine. While local news stories occasionally report incidents of sexual abuseⁱⁱ or the prosecution of abusers, these stories are treated as singular events, not evidence of a systemic problem. In reality, research points to a strikingly high prevalence of sexual assaults of individuals with developmental disabilities in Ohio and nationwide. Since 2007, the Ohio Department of Developmental Disabilities (DODD) has substantiated 258 allegations of the sexual abuse of individuals with a developmental disability committed by individuals without a developmental disability and it is likely that many more abuses go unreported or unsubstantiated.

Despite the prevalence of sexual abuse against individuals with developmental disabilities, in Ohio there is inadequate research and no statewide coordinated effort across all involved groups—including state agencies, researchers, care providers, victim advocates, law enforcement, families, and individuals with disabilities—designed to specifically confront sexual abuse and develop new strategies to prevent sexual assaults on individuals with developmental disabilities. It is critical for Ohio to address the void between anecdotal stories of abuse and the statistics that indicate the wider failure to prevent and prosecute these crimes.

This report contains three sections examining sexual abuse of individuals with developmental disabilities. Part I focuses on some of the factors that contribute to sexual abuse in the developmental disabilities community and provides recommendations for ways to improve the system. Part II focuses on support services for individuals with developmental disabilities who experience sexual abuse and provides recommendations for ways to improve those services. Part III discusses the gaps in the criminal justice system’s identification and conviction of offenders. Combined, this report identifies the social and systematic factors that contribute to sexual abuse against individuals with developmental disabilities, the barriers to justice when such abuse occurs, and recommendations to systematically address these issues in Ohioⁱⁱⁱ.

ⁱ For the purposes of this report, “sexual abuse” is defined broadly, using a clinical definition of any assault or crime of a sexual nature performed with a minor or nonconsenting adult. Some of the cited source material may use somewhat different definitions of sexual abuse or sexual assault.

ⁱⁱ For the purposes of this report, “developmental disabilities” follows the definition outlined in the Developmental Disabilities Act, section 102(8) and is used to encompass impairments of general intellectual functioning or adaptive behavior that is manifested before an individual reaches age 22. This definition is not without problems; however, it is commonly used in rules and laws.

ⁱⁱⁱ This report does not include the specific issue of peer-to-peer abuse, in which an individual with developmental disabilities is abused by another individual with developmental disabilities. Peer-to-peer abuse is fraught with additional complications, since often the abuser is also a victim and may not fully understand his or her actions. Though it is not discussed explicitly, recommendations provided in this report could also help reduce instances of peer-to-peer abuse.

HOW COMMON IS SEXUAL ABUSE OF PEOPLE WITH DISABILITIES?

In 2012, Dr. Nora Baladerian and the Disability and Abuse Project surveyed individuals with any type of disability, family members of individuals with disabilities, caregivers of individuals with disabilities, and responders to abuse. This survey was the first national survey of its kind focusing on incidents of, responses to, and attitudes toward abuse and victimization of both adults and children with any disability^{iv}. An analysis of the survey results revealed that 70% of respondents with any disability reported that they had been victims of abuse, with 41.6% of respondents with any disability reporting some type of sexual abuse^v. One third (34%) of respondents with a developmental disability reported being victimized by some type of sexual abuse [1]. The Disability and Abuse Project survey indicated that, of individuals with any disability who reported abuse, over 90% experienced abuse on more than one occasion and 46% experienced abuse more frequently than they could count [1]. Likewise, a different study indicates that children with developmental disabilities and mental health diagnoses are 4.6 times more likely to be sexually abused than children with no disabilities [2].

^{iv} The Disability and Abuse Project 2012 National Survey on Abuse of People with Disabilities included participation by approximately 7,300 people, including approximately 2,501 people with all types of disability. Because the sample population was voluntary and not a random population, prevalence rates may include sample bias.

^v For the purposes of this report, the term “victim” is used to represent individuals who have experienced abuse in order to avoid confusion in the discussion of state policies, rules, and laws that use that term. The term “victim” is problematic and has been replaced with the term “survivor” by many experts and individuals. Disability Rights Ohio recognizes that individuals who experience abuse often do not identify themselves as victims and we respect and encourage the empowerment that can come from the use of other terms.

PART 1: CONTRIBUTING FACTORS

In order to build an appropriate sexual abuse risk reduction and response system in Ohio, we need a thorough understanding of the reasons why this type of abuse occurs. With an understanding of the factors that contribute to sexual abuse of individuals with disabilities, Ohio can build systems that address these factors, reduce abuse, and improve the response to abuse. Abusers are well aware of the factors detailed below and actively seek out individuals with developmental disabilities because of these vulnerabilities.

Dependency and Limitations in Service Providers

Research has shown that if a person is unable to independently perform the basic daily tasks of living (e.g. eating, putting on clothes, bathing), that person is at risk for abuse. In a 2001 study, women with disabilities said that their limited ability to perform basic daily tasks was the factor that turned ordinary situations into situations where there was potential for abuse [3]. Individuals with developmental disabilities are often restricted to specific locations and activities in their daily lives. These environmental restrictions can also limit their ability to leave abusive situations and report their allegations. The risk is potentially even greater when the individual has difficulty with communication, as potential perpetrators know that the individual will have difficulty telling someone else that abuse has occurred, reducing the likelihood that they will be able to report the incident.

A 2000 study found that individuals with disabilities often depended on their abuser for daily care or economic needs [4]. Individuals in residential facilities typically do not have a choice about who will provide services to them, nor can they be sure that providers and coworkers have had background checks and other character references to ensure that they are not likely to commit abuse. Likewise, many

Accompanying the analyses of Ohio's criminal justice system are real examples of abuse reports received by Disability Rights and Major Unusual Incidents (MUIs) from the Ohio Department of Developmental Disabilities that exemplify some of these issues. While these examples are real, all identifying information has been removed or altered to ensure confidentiality.

EXAMPLE 1

An individual with developmental disabilities and a mental health diagnosis was repeatedly sexually harassed by a supervisor at her place of community employment. Eventually, the perpetrator told the victim to go to a room where the perpetrator sexually assaulted the victim. The victim later stated that she followed the perpetrator in to the room because she thought she would get in trouble at work and lose her job if she did not. The offender was prosecuted and convicted.

Individuals with disabilities who live in the community and need assistance with basic daily tasks have to allow others into their homes. Sometimes individuals in the community do not have a choice about who will provide these services, especially if they use a provider agency who determines staff assignments. Some individuals would not be able to live in the community without these services; so even if they do not completely trust the person providing a service, they may have to depend on that person and allow him or her access to their homes and lives. Individuals with developmental disabilities often must fight hard for opportunities to live and work in the community, so they may be reluctant or unable to leave once they achieve these opportunities.

Isolation

Individuals with disabilities continue to be isolated in our society, leading to an increased risk of abuse. A study of 415 women with physical disabilities found that participants who were more socially isolated had a higher likelihood of experiencing abuse [5]. Other research has identified isolation as a factor that could intensify abuse and further restricts a person's ability to respond to the abuse [3]. Lack of employment has also been linked with experiences of abuse [6]. When individuals do not have employment and community involvement, there are fewer opportunities for victims to communicate and for others to observe signs of abuse. Individuals with disabilities in Ohio are often isolated from the larger community and have barriers to community participation, including a lack of affordable housing, minimal transportation options, and limited access to integrated and supportive employment. These factors have the potential to increase social isolation and risk of abuse.

Disability Rights Ohio is particularly concerned with the isolation of individuals with disabilities during transportation by private providers. DRO is aware of an alarming number of allegations of sexual abuse by drivers. These victims of sexual abuse are often completely isolated during the transportation services because they are alone with the driver.

EXAMPLE 2

An individual with developmental disabilities was sexually abused multiple times by a driver that took the individual from a sheltered workshop to a community job site. On one occasion when other workers were also transported, the perpetrator sexually assaulted the individual once the other workers were at a different part of the job site. The perpetrator was prosecuted and convicted.

Lack of appropriate education on rights and abuse

Lack of education and freedom to make decisions can make individuals with developmental disabilities less likely to report sexual abuse. Stigma and

stereotypes create images of individuals with developmental disabilities as childlike and asexual. These stereotypes make it seem inappropriate or unnecessary to provide education on sexuality and the right to physical integrity, even to adults with developmental disabilities. Failing to educate adults with developmental disabilities about their bodies and sexuality can perpetuate these stereotypes. As a result, many adults with developmental disabilities have not received appropriate education and may not have a full understanding of their sexual bodies or their rights to privacy and physical integrity, including what constitutes appropriate touching and consensual romantic relationships.

Society consistently reminds individuals with disabilities of their limitations and simultaneously prepares them for a life of being cared for by others. It is understandable that individuals with disabilities can begin to believe that compliance is the only appropriate action [3]. Despite policies and training to foster an understanding of individual rights among individuals with developmental disabilities, a culture of compliance persists. For some, even basic choices like what to

eat or what clothes to wear are not left to the individual. This tendency toward compliance can make individuals with developmental disabilities feel unable to disobey when an abuser tells them to do something, even if they do not feel comfortable or safe. Without a firm understanding and practice of basic rights, including the right to control their bodies, individuals with developmental disabilities who experience sexual abuse may be confused about what has happened to them and unable to explain or seek help.

Research indicates that education and training in the prevention of sexual abuse can teach individuals with developmental disabilities how to respond to abusive situations; however, much of the existing research is based on small case studies and lacks long-term outcomes [7, 8]. A 1993 study indicated that training does not decrease instances of abuse, but it does increase reports of sexual abuse [9]. If an individual with developmental disabilities has no vocabulary for a body part and no knowledge about rights to physical integrity, it is very difficult to determine that abuse has occurred. While this training may not stop abusers, it can help adults with developmental disabilities understand and report abuse.

EXAMPLE 3

An individual with developmental disabilities living in a residential facility went to visit a neighbor of the facility. After the visit, the neighbor walked the individual home and sexually assaulted her by the building. The individual told police that she did not want to have sex but did not resist because she didn't want to make the neighbor mad. The neighbor was charged but the case did not go to trial.

RECOMMENDATIONS

While the problems detailed above are significant, Disability Rights Ohio believes that the following changes could reduce sexual abuse against individuals with developmental disabilities.

Independence, Community Integration, and Education

There should be an increased effort to educate individuals with developmental disabilities, their loved ones, and their service providers on the best ways to prevent and identify sexual abuse.

- Individuals with developmental disabilities should be empowered to make basic decisions about their lives, including their bodies, their environments, and services they receive. This goes hand-in-hand with community integration efforts that are already a high priority.
- The state should address the apparent trend of sexual abuse by transportation providers by identifying the root cause of the trend and determining the best way of ensuring the safety of individuals that are isolated during transport.
- Individuals with developmental disabilities should be educated on their bodies, their basic rights, and ways to protect themselves. Adults with developmental disabilities should be educated on their sexuality and appropriate romantic relationships, so they can be confident in identifying abuse and in reporting it.
- Families and care providers should be educated about signs of abuse, how abusers operate, how to plan against abuse, and how to contact authorities about suspected abuse. Best practices for training should be established and benchmarks should be put in place to measure improvements.

Research

- More research, data gathering, and strategic planning must be done to identify the best practices for decreasing sexual abuse. A 2011 assessment of recent studies of sexual abuse and developmental disabilities indicates that, even on a national level, research is woefully inadequate and quickly becoming obsolete [8]. Ohio has an opportunity to be a trailblazer in research and policy on this issue.
- Ohio has the means to conduct the needed research. The state of Ohio and state universities should prioritize funding for research and data collection on sexual abuse in the developmental disabilities system. The Nisonger Center at The Ohio State University and the University of Cincinnati University Center for Excellence in Developmental Disabilities (UCEDD) would be well equipped to begin this research.

PART 2: SUPPORT SERVICES

Like all survivors of abuse, individuals with developmental disabilities typically experience sexual abuse as trauma that has an impact far beyond the abuse itself. Victims of sexual abuse can begin to recover from the trauma of their experiences more successfully if abuse is identified quickly and if services are available to help them process their emotions and trauma [10, 11]. Whether sexual abuse is either suspected or known, it is critical that victims have access to supports and services that provide the opportunity for recovery [12]. An important first step in supporting victims of sexual abuse is believing and responding to their reports. Even this first step can be a problem for individuals with developmental disabilities, who often face a credibility bias when they report abuse [13, 14]. Victim support services, such as medical assessments and recovery therapy, must also be available and geared to accommodate individuals with developmental disabilities and their particular needs [12, 15]. Beyond immediate response and services for victims of sexual abuse, a system of Trauma-Informed Care (TIC) can assist individuals who have experienced sexual abuse to deal with the long-term emotional repercussions of that trauma [11].

Credibility Bias against Individuals with Developmental Disabilities

Individuals with developmental disabilities who report abuse should receive specific therapy for abuse, catered to the specific needs of the individual, regardless of whether the abuse can be proven. Sometimes victims of sexual abuse will tell someone about abuse they have experienced, but they may not be seen as credible because of their disability. In a study that surveyed women with disabilities who were victims of abuse, 33% of the women sought help, but only half of those who sought help had a positive experience, in which service providers accommodated their disability and action was taken by police to resolve the abuse [6]. These negative experiences can begin with negative attitudes, myths, and stereotypes about victims with disabilities that lead to a perception that these individuals lack credibility [16]. As with other survivors of sexual abuse, it is critical to validate individuals with developmental disabilities if they come forward to report abuse. It is important for the crime victim to hear that they are believed.

EXAMPLE 4

A woman with developmental disabilities reported that she had been fondled by staff at her day program. A medical exam was performed, and no injury or trauma was found. The report was determined to be unfounded. The individual had a documented history of sexual abuse, so the victim was counseled not to confuse the past with the present. No sexual abuse recovery therapy was recommended.

The belief, by officials and others, that individuals with developmental disabilities are not credible can lead to an insufficient response to sexual abuse, particularly insufficient response services and unequal treatment because responders don't trust victims' accounts and may not take a report seriously.

Individuals with developmental disabilities can be thought to lack credibility because their verbal abilities, mental acuity, and concept of time may be different than that of a victim who does not have a disability. If a victim has difficulty communicating that abuse has occurred, detailing the circumstances of the abuse, or if the victim's report contains inconsistencies or misunderstandings, these problems can make it more difficult to get an appropriate and adequate response and services. For example, if an individual who has a history of sexual abuse makes a new report of sexual abuse but has difficulty reporting the exact time of the new abuse, it may be incorrectly assumed that the individual is confused and referring to the past instance of abuse. If a victim does not have the appropriate vocabulary to describe an abuse, it can be perceived as a misunderstanding about what took place. For example, if a victim who receives help with personal hygiene alleges inappropriate sexual touching, the allegation may be dismissed as a misunderstanding of the necessary touching associated with that type of personal care. Because perceived credibility can stand in the way of successful reporting by the victim, it is crucial that providers, family, and friends be aware of all signs of sexual abuse and that all individuals receive support services, even if the abuse cannot be proven.

Victim Identification and Education for Friends, Family, and Community Members

Involvement in the community, including participating in community activities and employment, can reduce the risk of individuals with developmental disabilities being a target for sexual assault by decreasing isolation and increasing the likelihood that abuse will be reported. Isolation of individuals with developmental disabilities can increase vulnerability to abuse. Research shows that, in spite of greater likelihood of experiencing sexual abuse, children with disabilities are less likely to receive care at hospitals following abuse because caregivers do not seem to recognize the abuse as quickly in children with disabilities [17]. Providing access to a variety of services, programs, and community activities can be an opportunity for professionals and community members to recognize indicators and report abuse of individuals with disabilities. Access to a variety of programs and services in the community can also improve self-confidence and quality of life that can make individuals less likely targets for sexual predators.

Friends, family members, employers, and coworkers in the community can be trained to identify signs of sexual abuse that may be taking place, but they may not have easy access to such training. The state system should collaborate with local organizations in the developmental disabilities community to establish and promote training programs for friends, family, and members of

the community to help them identify sexual abuse and provide appropriate support if they suspect abuse. When individuals with developmental disabilities exhibit possible behavioral and physical signs of abuse, caregivers and medical professionals should rule out abuse as well as other medical possibilities [26]. Greater integration into the community may also result in more relationships that foster trust and support necessary for victims to make reports of sexual abuse and reduce the stigma that makes individuals with developmental disabilities more vulnerable.

Victim Services

APPROPRIATE PHYSICAL EXAMS AND SUPPORT

Once abuse is identified or a victim comes forward, victims with developmental disabilities may not immediately receive the support services to help in their recovery. One service that is very important for victims of sexual abuse, but is neither uniformly nor adequately performed for individuals with developmental disabilities, is the Sexual Assault Forensic Examination (SAFE), sometimes referred to as the “rape kit.” These medical examinations are critical to understanding the victim’s physical state after sexual abuse. They are also critical for substantiation and, later,

prosecution of allegations of sexual abuse. Because of the possible use of these examinations as legal evidence, it is vital that these exams are performed by a medically trained third party, and it is preferred that they are performed by Sexual Assault Nurse Examiners (SANEs), who receive special training in conducting SAFE examinations. At the very least, these exams should be performed by a party with no stake in whether or not the allegation of sexual abuse is substantiated. In a Disability Rights Ohio (DRO) review of Department of Developmental Disabilities reports investigating allegations of sexual abuse, several reports did not include notes that a physical examination by third-party medical professionals had been performedⁱ.

EXAMPLE 5

A woman with developmental disabilities who used a wheelchair reported that someone had penetrated her vagina with an object. A full medical exam was not conducted because the medical facility that treated the woman lacked a proper pelvic exam table. The victim’s alleged previous false claims and difficulty grasping time contributed to the report being deemed unfounded. No sexual abuse recovery therapy was recommended.

ⁱ It is not clear from the records that DRO examined whether SAFE examinations were offered but refused by the alleged victim. DRO supports the rights of individuals to refuse SAFE examinations and other victim services; however, we believe they should be offered and available for every allegation of sexual abuse.

In some reports, the only examination was an observation of the victim's body. In others, the examination was performed by employees of a provider that could have benefited if the allegation was unsubstantiated, creating a conflict of interest. A SAFE examination should be done within 96 hours of an alleged incident. However, DRO identified instances in which SAFE examinations conducted by a SANE nurse were performed well outside of this timeframe. This is a significant deviance from the recommended collection protocol, and it could make the results less reliable and less useful for prosecution. In some cases, SAFE examinations were not conducted at all because the medical facilities were not able to accommodate the individual's disability.

Crisis counseling and victim therapy

Crisis counseling and longer-term therapy are also critical services for victims of sexual abuse. Individuals with developmental disabilities who experience sexual abuse are less likely to receive victim services and other supports than individuals without disabilities [9]. In fact, according to one survey, approximately 52% of individuals with any type of disability that experienced sexual abuse did not receive any sort of therapy [13]. Ohio has a limited number of rape crisis centers: 25 serving 32 counties, with more being added each year. Ohio also has approximately 25 child advocacy centers, some of which include individuals with developmental disabilities in their services. However, most of these facilities are not trained in appropriate techniques for victims with developmental disabilities, and child-focused services are not appropriate for adults with disabilities. In a 2000 study of independent living centers, staff reported that there was a barrier to referral for help because there was no place for victims of abuse to go that would accommodate needs like physical accommodations or interpreters [4]. In addition to training for victim services providers, outreach in the disability community is necessary because studies show that individuals with disabilities often do not know about available victim services resources in the community [18, 19]. It is critical that sexual abuse victims participate in therapy intended to help their recovery, because the trauma of sexual abuse demands specialized therapy, different from other forms of abuse [10, 12]. Indeed, all suspected victims should have an opportunity to receive therapy. Even if an instance of abuse is not substantiated, the report could be based on prior, unreported abuse that is still causing trauma.

Victim services providers are not always trained on how to work with individuals with developmental disabilities. Crisis counselors and victim service providers are typically trained to perceive when a victim may be becoming overwhelmed and will end a session early or employ techniques to make a victim feel safe during the recovery process. Depending on an individual's developmental disability, the conventional training may not be sufficient to identify when an individual with a developmental disability is experiencing high stress or to make the victim feel safer and more comfortable. Moreover, a victim services worker unfamiliar with individuals with developmental disabilities may not feel

comfortable communicating with a victim and may resist providing treatment for fear of doing something wrong. Different types of developmental disabilities can require different techniques. Individuals with cerebral palsy may not need the same techniques as individuals with an intellectual disability, or with autism, though all are classified as developmental disabilities. Education on appropriate techniques for providing therapy to individuals with different kinds of developmental disabilities could be provided or required through continuing education courses for social workers and other victim services providers.

The Ohio Attorney General's office requires its 183 sites statewide that receive funds to serve victims of sexual assault to serve all victims, including victims with developmental disabilities. However, many of these programs are not currently equipped to provide adequate services to victims with developmental disabilities. The Attorney General's office has applied for grants to develop additional services and training on crisis services for individuals with any type of disability, including developmental disabilities. Though the Attorney General's office has not received these grants, they continue to make efforts to improve services.

Trauma-Informed Care

While victim services are a crucial way of supporting victims' recovery when the abuse is known, many instances of sexual abuse are never discovered or reported. It is important that individuals with developmental disabilities who have experienced the trauma associated with sexual abuse have a chance to recover. A practice of Trauma-Informed Care (TIC) can provide such an opportunity for recovery and limit the likelihood of re-traumatizing survivors of sexual abuse. TIC is a method of working with individuals that assumes the individual has experienced trauma and that inappropriate behaviors may be the manifestation of coping mechanisms to deal with the trauma. Trauma-Informed practitioners try to understand the relationship between trauma, mood, and behavior for each individual, based on that individual's experiences. The objective is to respect the individual's dignity and integrity, avoiding re-traumatization. It is important to note that TIC is useful for all types of abuse and can help with many kinds of behavioral changes, not just those resulting from sexual abuse. However, for victims of undiscovered or unreported sexual abuse, a system of Trauma-Informed Care applied to all individuals with developmental disabilities can mean the difference between recovery and re-traumatization and long-term effects [11]ⁱⁱ.

In addition to basic victim services, providers in the developmental disabilities system should be trained in Trauma-Informed Care. While the Ohio Department of Developmental Disabilities (DODD) participates in a statewide TIC initiative with the Ohio Department of Mental Health and Addiction Services (OhioMHAS), DODD should incorporate TIC principles into its requirements for providers.

ⁱⁱ For more information on Trauma-Informed Care, see the National Center for Trauma-Informed Care (NCTIC) at nasmhpd.org/TA/nctic.aspx

RECOMMENDATIONS

While the gaps in victim services detailed above are difficult to address, Disability Rights Ohio believes that some basic changes could help to improve support for individuals with developmental disabilities who experience sexual abuse. These changes could help more victims with developmental disabilities deal with the trauma they have experienced, recover from their abuse, and reduce the risk of future abuse.

Independence, Community Integration, and Education

- The right of all individuals with disabilities to live and participate in the community should be protected. Community involvement, such as community activities and employment, can reduce the vulnerability of individuals with developmental disabilities by decreasing isolation and increasing the likelihood of identification when abuse occurs.
- Best practices for risk reduction training should be established and, wherever possible, benchmarks should be put in place to measure improvements in the identification of sexual abuse.
- Education sessions or trainings on the identification and risk reduction of sexual abuse should be offered to family, friends, and community members (such as community employers and coworkers). The state should collaborate with organizations in the developmental disabilities system to create and promote a free and accessible training for community members.
- Connections should be made to train victim services professionals to respond to individuals with disabilities so that all are working to meet their needs.
- Even when an instance of abuse cannot be substantiated, counseling and therapy for possible victims should be available and encouraged. Too often, victims of abuse experience delays in recovery because abuse has gone unreported or unproven.
- SAFE examinations, performed by impartial, trained third-party medical professionals (preferably Sexual Assault Nurse Examiners), should be available and accessible to individuals with disabilities in all cases in which sexual abuse is suspected.
- Individuals with developmental disabilities should be offered the same variety of victim services that all other victims receive, and these services should be accessible to each individual.

Training for Victim Services Providers

- The developmental disabilities system should continue working to eliminate the stereotypes and stigma that lead to credibility bias when victims with developmental disabilities report abuse. This should include education

about the diversity of individuals with developmental disabilities, the prevalence of sexual abuse, and tips for communicating with individuals who have different types of developmental disabilities. A specific and detailed training program should be available to all victim services providers, including how to counsel individuals with various disabilities.

Creating a System of Trauma-Informed Care

- Direct care workers should be trained in Trauma-Informed Care (TIC), and all employees of the system should be aware of the principles and tenets of TIC.
- The Ohio Department of Developmental Disabilities should follow in the footsteps of the Ohio Department of Mental Health and Addiction Services and clarify the agency's focus on TIC in its administrative rules, official training, and programming.

PART 3: GAPS IN THE CRIMINAL JUSTICE SYSTEM

The criminal justice system, from the first responders that handle initial reports of sexual abuse to the prosecutors that oversee the prosecution of abusers, has many gaps that lead to increased vulnerability for individuals with developmental disabilities and to the failure to convict abusers. Employees and caregivers who work with individuals with developmental disabilities do not always understand when and how to properly report suspected abuse, despite receiving training on mandated reporting. Ohio has insufficient training available for forensic interviewers and law enforcement officers to identify and accommodate the unique needs of all individuals with developmental disabilities during investigations of sexual abuse. Likewise, prosecutors may rely on stereotypes or misunderstandings about individuals with developmental disabilities when making decisions about whether to prosecute a sexual abuse case. Ohio's system of abuser registries and background checks can also present problems. In denying justice to the victims of sexual abuse and allowing abusers continued access to victims, these gaps perpetuate the problem of sexual abuse of individuals with developmental disabilities.

Reporting of Suspected Abuse

Because sexual abuse may not have any visible physical signs and is often committed by individuals the victim trusts, it is crucial for people who work, care, and socialize with individuals with developmental disabilities to know about the emotional and behavioral signs of sexual abuse and to report suspected abuse as soon as possible [12]. Signs of sexual abuse often manifest as changes in behavior. Employees or acquaintances who do not know and interact with victims often may not be able to identify a behavioral sign of abuse, even if they have had training, simply because they do not know the victim well enough to identify behavioral changes [20]. In Ohio, all direct care workers and other employees of the developmental disabilities system are mandated to report any instance of suspected abuse, including sexual abuse, but employee reporting requirements are not the same for all positions in all state agencies, and instances of possible abuse are not always reported correctly or in a timely manner.

The inconsistencies in reporting may be due, in part, to differences in mandated reporting requirements among different state agencies and the facilities they oversee. The state's web of reporting requirements makes it very difficult for employees who have worked in multiple jobs or multiple systems to understand their legal reporting requirements and for facilities and authorities to ensure that every suspected abuse is reported. According to representatives at the Ohio Department of Developmental Disabilities (DODD), the state has an unofficial system of accepting all abuse reports, regardless of whether they are reported to the correct person or agency. This type of

policy - often called a “no wrong door” policy - is the best way to ensure that all reports are investigated, regardless of how they are reported. For example, a direct care worker employed at a developmental disability facility is required to report suspected abuse of an individual with both a developmental disability and a mental health disability (often referred to as dual diagnosis) to law enforcement and DODD if a patient resides at a facility licensed by DODD. However, if the individual resides at a state mental health licensed facility, the incident report should go to the Ohio Department of Mental Health and Addiction Services (OhioMHAS), and not DODD. Under the “no wrong door” policy, the report should be taken by any agency, and the state employee taking the report should ensure that it gets to the appropriate DODD staff. However, since Ohio’s policy is currently unofficial, employees may not know how to ensure that reports find their way to the proper investigators. An official state policy in code or rule and corresponding protocols would reduce the possibility that reports could be mishandled.

The high turn-over rates of direct care employees in Ohio can also contribute to failures to report. According to a 2013 study, direct care workers in Ohio’s developmental disabilities system had the lowest hourly rates (\$8.00 per hour on average) and some of the poorest benefits compared with Ohio’s nursing home, home health, and mental health systems [21]. Likely as a result, Ohio’s developmental disabilities system has a direct care worker turnover rate of 34%, meaning that 34% percent of direct care employees leave a position within the first year [21]. The Department of Developmental Disabilities requires that employees receive training on mandated reporting within 90 days of hiring, but employees employed for less than three months might not receive the required training, or may not take training seriously because of the poor pay and benefits. Such employees may not have a complete understanding of exactly what their reporting requirements are when they witness signs of sexual abuse.

Reports can also be delayed or lost when employees report suspected abuse through their employer. Ohio law requires that employees of the developmental disabilities system make reports of suspected abuse to either a law enforcement agency, the local county board of developmental disabilities, or DODD. However, some direct care workers only report to their supervisors or the facility in which they work, anticipating that the supervisor or facility will make the report to the appropriate agency. Facilities receiving reports act as a middleman that can either delay or disrupt a report. If both the reporting employee and the supervising facility delay nearly 24 hours in making their report of a suspected sexual abuse, significant physical evidence of abuse could be lost in those 48 hours. Moreover, if the supervisors or facilities have an interest in suppressing the report, they may avoid contacting law enforcement or local county boards at all. Streamlining the state’s reporting requirements and minimizing the “middleman” effect by clarifying that direct care workers must report to both supervisors and law enforcement or county boards would help address some of these issues.

Forensic Interviewers, Police, and Prosecutors

FORENSIC INTERVIEWS

Forensic interviewing is an effective way of collecting initial evidence once suspected sexual abuse is reported. Forensic interviewing is a specialized type of investigative interviewing that is intended to get detailed information about possible abuse that a person may have experienced or witnessed. These interviews can be used in criminal investigations and to assess the safety, medical, and psychological needs of a victim or witness of crime. Forensic interviews are commonly conducted for children, and some forensic interviewers are also trained to interview individuals with developmental disabilities. A sexual abuse victim's eyewitness testimony can be very important evidence to substantiate and prosecute an abuse allegation, and an improper or inadequate interview can affect the quality of evidence.

In Ohio, training for forensic interviewers is focused on working with children. Individuals with developmental disabilities, especially adults, may need different methods than the method used with children to elicit the necessary details during an interview. Since forensic interviews are common for children who may have experienced or witnessed a crime, there are many forensic interviewers trained to interview children in Ohio. These interviewers typically operate through Ohio's approximately 25 Child Advocacy Centers (CACs). Occasionally, when a forensic interview for an adult with developmental disabilities is needed, a forensic interviewer trained to work with children will conduct the interview. Individuals with developmental disabilities have different responses and cognitive abilities than children, and adults with developmental disabilities may be aware and resentful that they are being treated like children in such an interview [20]. In this situation, the victim may not be comfortable and trusting of the interview process, potentially limiting the quality of the interview.

The delay or absence of an immediate, appropriate investigation can be due to the fact that Ohio's system does not currently have adequate support for interviewing and collecting eyewitness evidence from individuals with developmental disabilities. For the best results, interviews of individuals with developmental disabilities in investigations of allegations of sexual abuse should be performed by someone trained as a forensic interviewer. While some forensic interviewers may take continuing education seminars to begin to develop the skills to interview individuals with developmental disabilities, such training is typically limited to a single course of only a few hours and may not cover the vast scope and myriad complexities of the disability community, particularly populations with developmental disabilities. As a result, in some areas in Ohio - especially rural and underserved areas - specifically trained forensic interviewers are not available. The Ohio Bureau of Criminal Investigation (BCI) has employees with specific training to conduct forensic interviews who can be available to underserved and rural areas, but only local police can request that resource from BCI.

LAW ENFORCEMENT, PROSECUTORS, WITNESS CREDIBILITY, AND CONVICTIONS

Beyond the initial forensic interview, the investigation of a sexual assault of an individual with developmental disabilities and the prosecution of abusers are in the hands of Ohio's law enforcement and local prosecutors. In spite of recent efforts to improve the situation, Ohio's law enforcement and prosecutors are not required to have significant training on working with individuals with developmental disabilities, and as a result, some have an unfair bias against individuals with developmental disabilities. Testimony of individuals with developmental disabilities can be considered unreliable by peace officers and prosecutors. If evidence is considered insufficient, prosecutors are unlikely to file criminal charges against sexual abusers of individuals with developmental disabilities.

LAW ENFORCEMENT TRAINING

In Ohio, peace officers receive minimal basic training on working with individuals with developmental disabilities, and there are no requirements for additional training on how to interact with victims or witnesses with developmental disabilities. Even law enforcement officers' training on conducting sexual assault investigations does not always include specific coursework on conducting investigations in cases with individuals with developmental disabilities. The lack of trained peace officers can be a barrier to justice because untrained law enforcement and other officials may not believe that individuals with development disabilities are capable of assisting with a sexual abuse investigation, even if their disability does not affect their ability to understand or detail the crime. Victims with developmental disabilities may not be trusted by law enforcement to provide an accurate account of the abuse they experienced because common but inaccurate stigmas and stereotypes can create a credibility bias against individuals with developmental disabilities. If officers have a better understanding of individuals with developmental disabilities, they are more likely to recognize credible victims and witnesses with developmental disabilities and take the necessary investigative steps to solve sexual abuse cases.

Ohio's basic police academy training does not include any disability-specific course work that focuses on interactions and investigations for individuals

EXAMPLE 6

An individual with developmental disabilities reported sexual assault by a neighbor to the police. During the course of the investigation, local police denied the victim accommodations needed due to the victim's disability, made discriminatory comments about the victim's capacity, and insinuated that the victim should have fought back against the assault. No charges were filed against the alleged abuser.

with developmental disabilities. In 2014, Ohio offered two courses focused specifically on working with individuals with disabilities as continuing education courses through the online electronic Ohio Police Officer Training Academy (eOPOTA). These courses, “Law Enforcement Officer Response to People with Autism,” which included content on other developmental disabilities as well as autism, and “De-escalating Mental Health Crises,” could be very beneficial to all peace officers by helping them understand accommodations and appropriate responses to individuals with disabilities. Courses like these could also help dispel stereotypes and stigmas about individuals with disabilities. In 2014, peace officers were required to take one hour of a continuing professional training course in the critical subject area of “Crimes against Families.” The two courses on disabilities described above were included in the 12 possible course offerings eligible to fulfill the requirement.

The Department of Developmental Disabilities conducts additional training on investigating abuse of individuals with developmental disabilities, but this training is optional and is provided primarily to officers specializing in victim services. While such training is laudable, it likely does not reach all of the first responders, investigators, and small police districts that may be relied upon to investigate cases of sexual abuse of individuals with developmental disabilities. The limited availability of training for peace officers and pervasive stigma against individuals with developmental disabilities can contribute to the myths and stereotypes of individuals with developmental disabilities.

PROSECUTOR TRAINING

Even when adequate interviews and evidence are collected by police officers, most cases of sexual abuse of individuals with developmental disabilities still do not result in the conviction of abusers. This could be, in part, because local prosecutors may have a lack of knowledge of individuals with developmental disabilities and a credibility bias against them. Like peace officers, Ohio’s prosecutors and judges do not have a required basic training course specifically covering individuals with disabilities, including developmental disabilities. The absence of training can lead to a misunderstanding about the ability of an individual with developmental disabilities to comprehend and explain the circumstances of their abuse. Requiring or incentivizing continuing education courses could decrease unjust credibility bias and, in so doing, may increase prosecutors’ comfort level and willingness to prosecute cases on behalf of victims with developmental disabilities.

EXAMPLE 7

An eyewitness observed the rape of a nonverbal victim with developmental disabilities by a direct care worker. After an investigation by police finding that the alleged abuser had a history of sexual offenses and in spite of statements from the eyewitness, the case did not go to trial because the local prosecutor did not believe the collected evidence would be sufficient, particularly with a nonverbal victim.

Local prosecutors decide whether to pursue charges against an abuser based on the amount and quality of evidence and the credibility of witnesses and victims. A prosecutor may question the reliability of testimony by a victim or witness with developmental disabilities, even when the person's disability does not impact their understanding of the crime. Prosecutors may be less likely to take on cases with victims with developmental disabilities because Ohio's criminal justice system incentivizes prosecutorial victories. In some local prosecutor offices, a case that may be more of a risk because the victim or witness may face stigma and an unjust credibility bias could be dropped in favor of a case that will boost statistics. Prosecutors who fail to pursue criminal cases because of the victim's disability may be in violation of the Americans with Disabilities Act (ADA) and its non-discrimination provisions.

ABUSER REGISTRIES AND BACKGROUND CHECKS

A critical step in preventing sexual abuse is to ensure that known abusers are not able to work in positions that would give them access to individuals with developmental disabilities. As such, it is critical that offender registries are as accurate and complete as possible and that thorough background checks are performed for every employee prior to employment. Because abuser registries can include individuals who are found to have substantiated allegations of abuse even if the abuser was not convicted in court, these registries can alert employers to applicants who should not have access to vulnerable populations.

While Ohio's developmental disabilities system has an abuser registry, Ohio's mental health system does not, even for abusers with substantiated allegations of abuse. As a result, the state's ability to track abusers is fragmented, and abusers may fall through the cracks. An abuser employed at an Ohio mental health facility could abuse, be caught and fired for that abuse, and then move on to employment at an Ohio developmental disabilities facility or nursing facility without being flagged as an offender, as long as that abuser was not convicted in court. In a criminal justice system where many abusers do not even have charges filed against them, this is a serious concern. A streamlined, statewide registry of abusers from all state systems, including the adult protective services system and the mental health system, would help to eliminate this problem.

In addition to the gaps in abuser registries, basic criminal background checks are not applied as well as they should be in Ohio. The state has background check requirements for employees in the developmental disabilities system, but DRO has seen evidence that these checks may be ignored by unscrupulous providers. Background checks typically take up to 30 days to be returned from the Ohio Bureau of Criminal Investigation (BCI), so some employers hiring for high-turnover positions may ignore or delay background check requirements to avoid the cost of checking an employee who may leave employment by the time the background check results have arrived.

In early 2014, DODD convened a Health and Safety Systems Panel that analyzed the issue of providers failing to obtain required background checks. The panel

found that too many providers were not consistently conducting background checks or conducting them too late, and the state's policy of allowing employees to work unsupervised for up to 60 days before a background check is received was too lenient. To address these issues, the panel recommended that the state simplify and streamline the background check process as much as possible, revise state laws and rules to impose a fine for providers that fail to obtain timely background checks for employees, and reduce the time allowed for an employee to work unsupervised before a background check is returned. [22]

RECOMMENDATIONS

The goal of preventing sexual abuse of individuals with developmental disabilities and bringing abusers to justice is daunting, even in a perfect system. Ohio's imperfect criminal justice system allows far too many abusers to continue to prey on individuals with developmental disabilities. DRO believes that the following suggestions will help close the gaps in Ohio's criminal justice system, providing a safer environment for all individuals with developmental disabilities.

Reporting Requirements

- Ohio should reform and streamline its reporting requirements across state agencies to avoid confusion, and continue to encourage quick action when abuse is suspected.
- There should be an official “no wrong door” policy created in the Ohio Revised Code or Ohio Administrative Code for reported abuses. Such a rule would clarify that any employee or agency receiving a report must ensure that reports are filed with the appropriate agency, even if the initial contact agency is not the legally appropriate one to receive the report. This would not absolve mandated reporters from reporting requirements but would ensure that all reports are immediately addressed.
- Ohio's developmental disabilities system should continue to improve pay and conditions for direct care workers in order to improve care, incentivize employee longevity, and increase compliance with mandatory reporting.

Forensic Interviewers

- Forensic interviewers should have the opportunity to receive training specifically on interviewing individuals with diverse disabilities, and especially developmental disabilities.
- The state should ensure that a sufficient number of forensic interviewers are available to meet demand for immediate forensic interviews of individuals with developmental disabilities, especially in underserved and rural areas.

Training and Education for Law Enforcement and Prosecutors

- - Ohio peace officers should receive more mandatory basic training to work with individuals with disabilities, including individuals with developmental disabilities. To overcome credibility bias and correct other myths and stereotypes, training should include education to combatting stigma of individuals with developmental disabilities. Training should also

include specific techniques for investigating cases involving people with developmental disabilities, since it is critical for officers to understand the correct ways to address all individuals, evoke a sense of trust, and gather appropriate investigative evidence, especially in cases of sexual abuse.

- Local prosecutors should be required periodically to attend continuing legal education courses (CLEs) related to working with individuals with disabilities. Ohio's prosecutors should be very careful not to discriminate against individuals with disabilities when choosing whether to prosecute "risky" cases on behalf of individuals with developmental disabilities.

Improve Abuser Registries and Background Checks

- Ohio should have a streamlined, more transparent statewide abuser registry system, capturing all state systems, including mental health. As much information as possible should be made public, including service provider records.
- As recommended by the Health and Safety Systems Panel, the state should simplify and streamline the background check process as much as possible for providers, and the state should fine providers that fail to obtain timely background checks. The state should also reduce the amount of time that an employee without a criminal background check can legally work unsupervised.

REFERENCES AND WORKS CITED

- [1] N. J. Baladerian, T. F. Coleman and J. Stream, "Abuse of People with Disabilities; Victims and Their Families Speak Out," Disability and Abuse Project, 2014.
- [2] L. Jones, M. A. Bellis, S. Wood, K. Hughes, E. McCoy, L. Eckley, G. Bates, C. Mikton, T. Shakespeare and A. O cer, "Prevalence and risk of violence against children with disabilities: a systematic review and meta-analysis of observational studies," *The Lancet*, vol. 380, p. 899-907, 2012.
- [3] S. F. Gilson, E. DePoy and E. P. Cramer, "Redefining Abuse of Women with Disabilities: A Paradox of Limitation and Expansion," *AFFILIA*, vol. 16, no. 2, pp. 220-235, 2001.
- [4] N. P. Swedlund and M. A. Nosek, "An Exploratory Study on the Work of Independent Living Centers to Address Abuse of Women with Disabilities," *Journal of Rehabilitation*, vol. 66, no. 4, pp. 57-64, 2000.
- [5] M. A. Nosek, R. B. Hughes, H. B. Taylor and P. Taylor, "Disability, Psychosocial, and Demographic Characteristics of Abused Women with Physical Disabilities," *Violence Against Women*, pp. 838-850, 2006.
- [6] S. Milberger, N. Israel, B. LeRoy and A. Martin, "Violence Against Women with Physical Disabilities," *Violence and Victims*, vol. 18, no. 5, pp. 581-591, 2003.
- [7] R. G. Egomo-Helm, R. G. Miltlenberger, P. Knudson, N. Finstrom, C. Jostad and B. Jonson, "An evaluation of in situ training to teach sexual abuse prevention skills to women with mental retardation," *Behavioral Interventions*, vol. 22, pp. 99-119, 2007.
- [8] E. Lund, "Community-Based Services and Interventions for Adults with Disabilities," *Trauma, Violence, & Abuse*, vol. 12, no. 4, pp. 171-182, 2011.
- [9] M. M. Stromsness, "Sexually Abused Women with Mental Retardation: Hidden Victims, Absent Resources," *Women & Therapy*, vol. 66, no. 4, pp. 139-152, 1993.
- [10] J. Herman, *Trauma and Recovery: The Aftermath of Violence - from Domestic Abuse to Political Terror*, New York, NY: Basic Books, 1997.
- [11] K. Harvey, *Trauma-Informed Behavioral Interventions: What Works and What Doesn't*, American Association on Intellectual and Developmental Disabilities, 2012.
- [12] N. J. Baladerian, "Survivor: For People with Developmental Disabilities Who Have Been Sexually Assaulted, Book III: For Family Members, Advocates and Care-Providers," Nora Baladerian, Los Angeles, CA, 1985.
- [13] N. J. Baladerian, T. F. Coleman and J. Stream, "Abuse of People with Disabilities; Victims and Their Families Speak Out," Disability and Abuse Project, 2012.
- [14] The Arc Webinar, *Assisting Crime Victims with Disabilities* (featuring Dr. Rosemary Hughes and Sgt. Michael Sullivan), April 2014.

- [15] N. Baladerian, "Abuse of Children and Adults with Disabilities: A Risk Reduction and Intervention Guidebook for Parents and Other Advocates," Disability, Abuse & Personal Rights Project, Los Angeles, CA, 1999.
- [16] N. Baladerian, A Risk Reduction Workbook for Parents and Service Providers: Policies and Practices to Reduce the Risk of Abuse, Including Sexual Violence, Against People with Intellectual and Developmental Disabilities, Disability and Abuse Project, Los Angeles, CA: Spectrum Institute, 2013.
- [17] M. H. Kvam, "Is Sexual Abuse of Children with Disabilities Disclosed? A Retrospective Analysis of Child Disability and the Likelihood of Sexual Abuse Among Those Attending Norwegian Hospitals," *Child Abuse & Neglect*, vol. 24, no. 8, pp. 1073-1084, 2000.
- [18] M. Saxton, M. A. Curry, L. E. Powers, S. Maley, K. Eckels and J. Gross, "'Bring My Scooter So I Can Leave You': A Study of Disabled Women Handling Abuse by Personal Assistance Providers," *Violence Against Women*, vol. 7, no. 4, pp. 393-417, 2001.
- [19] D. Sobsey and T. Doe, "Patterns of Sexual Abuse and Assault," *Sexuality and Disability*, vol. 9, no. 3, pp. 243-259, 1991.
- [20] N. J. Baladerian, *Interviewing Skills to Use with Abuse Victims who Have Developmental Disabilities*, Los Angeles, CA: Disability, Abuse & Personal Rights Project, 2004.
- [21] Ohio Direct Service Worker Initiative - Cleveland State University, Benjamin Rose Institute on Aging, and Ohio Wesleyan University, "Examining Direct Service Worker Turnover in Ohio," 2013.
- [22] Department of Developmental Disabilities Health and Safety Systems Panel, *Recommendations to Director John Martin*, May 27, 2014.
- [23] S. F. Gilson, E. DePoy and E. P. Cramer, "Redefining Abuse of Women with Disabilities: A Paradox of Limitation and Expansion," *AFFILIA*, vol. 16, no. 2, pp. 220-235, 2001.
- [24] S. Milberger, N. Israel, B. LeRoy and A. Martin, "Violence Against Women with Physical Disabilities," *Violence and Victims*, vol. 18, no. 5, pp. 581-591, 2003.
- [25] B. McCormack, D. Kavanagh, S. Caffrey and A. Power, "Investigating sexual abuse: findings of a 15-year longitudinal study," *Journal of Research in Intellectual Disabilities*, p. (18) 217-227, 2005.
- [26] Disability and Abuse Project, "Rule Out Abuse Campaign," [Online]. Available: disabilityandabuse.org/rule-out-abuse-physicians.pdf. [Accessed 29 April 2015].

ACKNOWLEDGEMENTS

Thanks are due to the following organizations that supported this report with their expertise and time:

The Disability Abuse Project

The Ohio Attorney General's Office

The Ohio Department of Developmental Disabilities

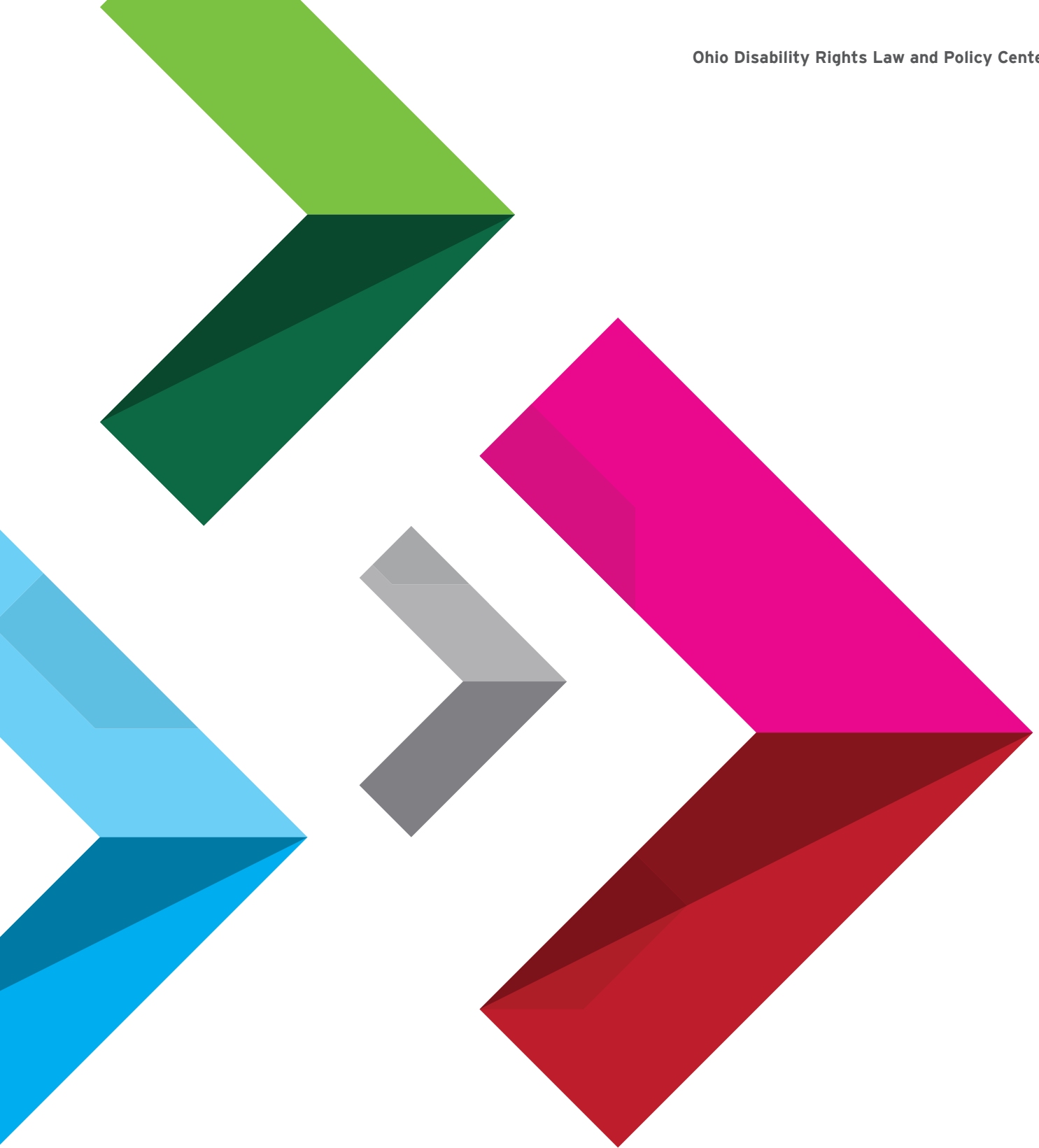
The Fairfield County Board of Developmental Disabilities

ARC of Ohio

People First of Ohio

The Ohio State University Nisonger Center

The University of Cincinnati Center for Excellence in Developmental Disabilities (UC UCEDD)



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