

		1Q08	2Q08	3Q08	4Q08	1Q09	2Q09	3Q09	4Q09	1Q10	2Q10	3Q10	4Q10	1Q11	2Q11	3Q11	4Q11	1Q12	2Q12	3Q12	Total
Allegation of Abuse	Mistreatment	177	188	180	170	180	214	186	164	232	173	153	137	157	176	158	119	131	104	108	3,107
	Neglect	948	1,123	1,162	981	1,082	1,148	1,126	1,012	1,225	1,114	1,024	738	829	924	921	757	747	689	671	18,221
	Physical Abuse	874	989	897	941	1,005	947	879	882	979	1,002	897	850	891	1,095	971	889	921	929	885	17,733
	Psychological Abuse	763	839	765	708	858	798	737	699	875	881	760	658	629	764	734	746	710	626	605	14,143
	Seclusion	11	6	18	10	10	8	12	11	13	16	10	10	15	18	7	9	10	14	12	220
	Sexual Abuse	336	384	378	301	303	313	295	306	350	388	354	277	320	335	323	285	303	288	307	6,146
	Aversive conditioning	1	6	3	1	7	3	6	1	6	4	2	0	6	4	7	4	5	2	5	72
	Restraint	24	25	23	24	13	22	21	22	17	27	19	14	16	15	29	17	17	19	19	383
	Time-out	6	5	5	2	2	2	0	3	8	6	3	5	2	6	8	2	4	1	6	76
	Civil rights	26	24	16	16	20	18	15	10	20	8	12	11	5	9	14	9	4	4	4	247
Total		3,151	3,570	3,433	3,141	3,464	3,460	3,267	3,108	3,712	3,608	3,228	2,696	2,857	3,326	3,162	2,830	2,837	2,657	2,606	60,113
Serious Reportable	Death	217	195	208	217	233	194	188	251	224	172	170	146	162	119	109	94	88	90	85	3,162
	Injury	131	122	123	162	174	134	137	145	168	147	147	133	146	158	163	141	130	149	159	2,759
	Medication Error	4	8	14	11	7	11	13	13	10	13	15	11	9	9	4	9	7	6	8	182
	Missing Person	70	140	142	106	97	145	111	90	94	139	114	90	90	115	119	125	96	120	124	2,127
	Possible Criminal Act	306	392	403	311	370	367	330	303	366	382	321	297	328	509	421	350	343	353	404	6,854
	Restraint	10	10	9	7	7	4	8	7	6	4	10	2	1	3	2	3	1	1	0	93
	Sensitive Situation	397	437	437	404	377	442	413	357	392	427	436	363	402	513	454	473	444	476	592	8,236
Total		1,123	1,289	1,317	1,207	1,255	1,291	1,195	1,159	1,256	1,281	1,209	1,038	1,127	1,413	1,253	1,185	1,101	1,185	1,365	23,249

Michael Carey

From: "OPWDD-FOIL Requests" <FOIL.Requests@opwdd.ny.gov>

To:

Sent: Friday, December 07, 2012 10:21 AM

Attach: MCarneyFOILASRbyQtr pdf pdf pdf

Subject: FOIL Request

Mr. Carey,

As requested and in follow up to your FOIL request 12-0055, we are providing you with a quarterly report of allegations of abuse dating back to January, 2008.



The Official Website of the Disabled Persons Protection Commission

Disabled Persons Protection Commission

### **Prevalence of Violence**

Violence committed against persons with disabilities is a frequently unrecognized and underreported problem that has reached epidemic proportions in the United States as reflected in the following statistics:

- 54 million Americans with disabilities (U.S. Department of Justice, Office of Crime Victim Bulletin, 1998)
- According to one study in 2000, approximately five (5) million crimes were committed against persons with developmental disabilities in comparison to 1.4 million child abuse cases and one (1) million elder abuse cases. (From Joan Petersilia, Ph.D., *When Justice Sleeps: Violence and Abuse Against the Developmentally Disabled.*)
- More than ninety percent (90%) of people (both male and female) with developmental disabilities will experience sexual abuse at some point in their lives. Forty-nine percent (49%) will experience ten or more abuse incidents. (Valenti-Hein, D. & Schwartz, L. (1995). *The Sexual Abuse Interview for Those with Developmental Disabilities.* James Stanfield Company. Santa Barbara: California)
- A study of psychiatric inpatients found that eighty-one percent (81%) had been physically or sexually assaulted. (From Jacobson & Richardson, *American Journal of Psychiatry*, 1987)
- Sixty-two percent (62%) of women with physical disabilities reported experiencing emotional, physical or sexual abuse. (From Nosek & Howland, 1998)
- Only three percent (3%) of sexual abuse cases involving people with developmental disabilities will ever be reported. (From Valenti-Hein, D. & Schwartz, L. (1995), *The Sexual Abuse Interview for Those with Developmental Disabilities.* California: James Stanfield Company.)
- Adults with developmental disabilities are at risk of being physically or sexually assaulted at rates four to ten times greater than other adults. (From Sobsey, Dick (1994). *Violence and Abuse in the Lives of People with Disabilities The End of Silent Acceptance?* Maryland: Paul H. Brookes Publishing Company.)
- Sixty-eight (68) to eighty-three (83) percent of women with developmental disabilities will be sexually assaulted in their lifetime, which represents a 50 percent higher rate than the rest of the population (Pease & Franz 1994, Warick, Jason (1997).

- The violence that women with disabilities experience includes verbal abuse, forced segregation, intimidation, abandonment and neglect, withholding of medications, transportation, equipment and personal assistance services and physical and sexual violence (Matsuda, 1996).
- Women with disabilities are raped, assaulted and abused at rates more than two times greater than women without disabilities.

### **Complementary Content**

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## Office of Investigations

The Office of Investigations is staffed by experienced and highly-trained law enforcement officers who thoroughly investigate allegations of abuse, neglect and misconduct received by the Justice Center. Their responsibilities include collecting and preserving all relevant documents and physical evidence that support such allegations. This evidence is used to pursue administrative sanctions and/or the criminal prosecution of employees who abuse people with special needs or who otherwise violate the law and/or the policies of the agencies where they work.



## Justice Center for the Protection of People with Special Needs

Andrew M. Cuomo, Governor  
Jeff Wise, Executive Director

### Memorandum

To: State Oversight Agencies and Private Providers under the  
Jurisdiction of the Justice Center

From: Jay Kiyonaga, Executive Deputy Director JK

Date: December 17, 2015

Subject: Clarification of Reporting and Investigating Deaths

Effective Date: December 17, 2015

The purpose of this memorandum is to clarify requirements for reporting deaths to the Justice Center for the Protection of People with Special Needs (Justice Center).

#### Administrative Reporting Requirement

1. All deaths of individuals receiving services from a residential facility or residential program operated, licensed or certified by the Office for People with Developmental Disabilities (OPWDD), the Office of Mental Health (OMH), the Office of Alcoholism & Substance Abuse Services (OASAS) or the Office of Children & Family Services (OCFS) must be reported to the Justice Center. In addition, known deaths of individuals who had received services from such a facility or program in the 30 day period preceding death must also be reported.
2. To report a death, providers must call the Justice Center Death Reporting Line at (855) 373- 2124 to make an initial report, and then follow up with the required death related information using the prescribed form within five business days. OPWDD and OMH programs will continue to be able to utilize IRMA or NIMRS to electronically submit the required information (rather than use the form).
3. The Justice Center will review all reports of death under its jurisdiction and may conduct its own investigation.
- ➔ 4. State and private providers should continue to review/investigate deaths in their programs, unless informed otherwise by the Justice Center.

#### Abuse & Neglect Reporting Requirement

1. If there is any reason to suspect abuse or neglect related to a death, in addition to the administrative death report, this must also be separately reported to the Vulnerable Person's Central Registry (VPCR) Hotline at (855) 373-2122 in accordance with the Justice Center mandated reporting requirements. Non-residential programs must continue to report suspected abuse or neglect related to a death to the VPCR Hotline.

Further information about reporting deaths to the Justice Center, including the required reporting forms, can be found in the "Forms" tab on the Justice Center's website, [www.justicecenter.ny.gov](http://www.justicecenter.ny.gov).

Please contact David Fribourg at (518) 388-0205 with any questions regarding this guidance.

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**TO:** Megan O'Connor, OPWDD  
**FROM:** Jay Kiyonaga, Executive Deputy Director JK  
**DATE:** August 15, 2013  
**SUBJECT:** REVISED: Process for Requesting SCR Checks for Subjects/Suspects in Abuse and Neglect Cases

When cases of alleged abuse or neglect are assigned to your Agency for investigation, or further delegated by you to a private provider, the investigator must request that the Justice Center conduct a search in the Statewide Central Register (SCR) for any known subjects/suspects in the case. In order to ensure that the Justice Center responds timely to the investigator's request to search the SCR, the Justice Center has created a SCR search specific e-mail box for submitting these requests. **Please forward this memorandum to all Agency investigators of cases of alleged abuse or neglect, as well as any private providers who may also be leading such investigations.**

Please find the updated SCR Check Request Form attached, which also includes a link to the new e-mail address for submitting requests. Effective immediately, this form must be sent to the Justice Center at [subjectsearchs@justicecenter.ny.gov](mailto:subjectsearchs@justicecenter.ny.gov) to request that the Justice Center search the SCR for known subjects/suspects of allegations of abuse or neglect. Additional guidance for Investigators is included below.

#### **Purpose of the SCR Check Request Form**

The purpose of this form is to enable authorized investigators at the Department of Health (DOH), Office of Mental Health (OMH), and Office for People with Developmental Disabilities (OPWDD) to request that the Justice Center conduct a search of the Statewide Central Register (SCR) database for indicated reports of child abuse or maltreatment against any individual who is the subject/suspect of a report of abuse or neglect to the Vulnerable Persons Central Register (VPCR) pursuant to NY Social Services Law § 492(3)(c)(iv). In addition, this form is to be used by any investigators from private providers who have been delegated investigative responsibility by one of the State agencies previously identified.

#### **When to Submit an SCR Check Form**

This form must be completed for each case of alleged abuse or neglect that involves one or more known subjects/suspects as soon as the information required in the form is known or discovered. Additional requests to search the SCR should be sent to the Justice Center if new subjects/suspects are identified during the course of the investigation.



**Justice Center for the  
Protection of People  
with Special Needs**

# **Annual Report to the Governor and Legislature**

**2015**

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Table 1. Total Number of Reports made to the VPCR by Phone or Web Form

Type of Reports by State Oversight Agency	2015
<b>Abuse and Neglect</b>	<b>15,121</b>
OPWDD	9,301
OMH	2,460
OCFS	2,506
OASAS	294
DOH	99
SED	461
<b>Significant Incident</b>	<b>33,816</b>
OPWDD	14,476
OMH	8,373
OCFS	7,347
OASAS	2,413
DOH	355
SED	852
<b>Total</b>	<b>48,937</b>

## ABUSE AND NEGLECT INVESTIGATIONS AND OUTCOMES

The Justice Center has the authority to investigate allegations of abuse and neglect involving people with special needs and pursue administrative and criminal remedies when the evidence supports a finding that an employee committed abuse or neglect.

### Abuse and Neglect

Every allegation of abuse or neglect reported to the Justice Center from June 30, 2013 onward that is under the agency's jurisdiction is fully investigated. This includes both criminal and non-criminal cases.

The Justice Center directly investigates the most serious allegations of abuse and neglect, as well as nearly all alleged incidents of abuse and neglect that occur in state-operated settings.<sup>2</sup>

After the Justice Center receives a report, the

appropriate state oversight agency is immediately notified to ensure that protective measures are implemented to safeguard the service recipient(s). If an incident is criminal in nature, the Justice Center notifies the local law enforcement agency and District Attorney's office and either works with the local law enforcement agency and prosecutors on a joint investigation, or the Justice Center's sworn criminal investigators handle the investigation.

## RESULTS OF INVESTIGATIONS

### Administrative Sanctions

The Justice Center reviews the findings of all investigations of abuse or neglect, including those conducted by a state oversight or provider agency, and makes a finding that such allegations are either substantiated or unsubstantiated. Abuse and neglect allegations may involve one or more subjects and each subject may have multiple allegations that may involve more than one victim. If an allegation of abuse or neglect is substantiated, the subject of the finding has the right to appeal the determination.

Substantiated reports of abuse and neglect are categorized into four categories based on severity. (Please see: Appendix C for additional information on the categories of substantiated findings of abuse and neglect).

The Justice Center is currently in the process of upgrading its data management capabilities which will enable the agency to provide additional context to the data which will make outcomes more transparent. These enhancements will allow the Justice Center to report data by facility or program, residential or non-residential setting, and state operated programs versus voluntary provider agencies.

<sup>2</sup> For Intermediate Care Facilities (ICF), the Justice Center handles the most serious allegations of abuse or neglect.

Table 5. Percentage Substantiated Allegations by Offense for Cases Closed in 2015

Total Substantiated Allegations by Offense Type	2015
Neglect	58%
Obstruction	8%
Other	18%
Physical Abuse	13%
Psychological Abuse	2%
Sexual Abuse	1%

Note: Other includes other reportable incidents (e.g., deliberate inappropriate use of restraints, unlawful use of controlled substances, aversive conditioning).

### Staff Exclusion List

All subjects of a substantiated report of category one offenses, which include serious or repeated acts of abuse or neglect, are placed on the Justice Center's Staff Exclusion List (SEL). At the close of 2015, **191 individuals had been placed on the SEL.**<sup>4</sup> This number reflects the total number of individuals who have been barred from working in settings under the Justice Center's jurisdiction since the agency became operational on June 30, 2013. Offenses which have resulted in placement have included: hitting, choking, punching, sexual contact, falsifying records and failure to report serious allegations of abuse or neglect.

### Disciplinary Action

The Justice Center represents the State in all administrative proceedings relating to the discipline of state employees found to have committed abuse or neglect. **In 2015, 184 state employees were separated from state service as a result of disciplinary charges brought against them.** In addition, the Justice Center reviewed and approved 657 Notices of Discipline in 2015 which could result in an oral or written reprimand, suspension or termination.

Table 6. Arrests and Criminal Prosecutions Activity

Prosecution Records	2015	Arrests and Criminal Prosecutions
<b>Arrests</b>	<b>89</b>	Allegations that rise to the level of a criminal offense are prosecuted by the Justice Center's Special Prosecutor/Inspector General or the county District Attorney. The Justice Center collaborates with local law enforcement agencies and District Attorneys across the State to bring charges against individuals accused of abuse or neglect involving criminal conduct. If an investigation results in an arrest, either by Justice Center criminal investigators or by other law enforcement agencies, Justice Center prosecutors are empowered to handle all aspects of criminal prosecutions from arraignment to trial or plea bargain. Justice Center prosecutors also provide assistance as
Justice Center	17	
Other Law Enforcement	72	
<b>Prosecutions</b>	<b>89</b>	
Justice Center	16	
Local District Attorney	73	

<sup>4</sup> 98 individuals were placed on the SEL, 93 individuals face permanent placement on the SEL pending the outcome of an appeal.