



Justice Center for the Protection of People with Special Needs

KATHY HOCHUL
Governor

MARIA LISI-MURRAY
Acting Executive Director

NYS Justice Center for the Protection of People with Special Needs Advisory Council Meeting Summary June 20, 2024

Advisory Council Members Present: William Gettman (Chair), Veronica Crawford, Norwig Debye-Saxinger, Jason Hershberger, M.D., Walt Joseph, Ron Lehrer, Joe Macbeth, Tom McAlvanah, Judith O'Rourke, Jeff Savoy

Advisory Council Members Not Present: Glenn Liebman, Judith O'Rourke, Harvey Rosenthal, Mary St. Mark, Euphemia Strauchn

Justice Center Staff Present: Maria Lisi-Murray, Acting Executive Director; Erin Hogan, Assistant Director of Public Information; Davin Robinson, Deputy Director of the Outreach, Prevention and Support Unit; Charlie Pensabene, Director of Intergovernmental Affairs; Vicki Clingan, Director of Surrogate Decision Making Committee and Adult Home Advocacy.

I. Justice Center Updates

New Advisory Council Members

The NYS Senate confirmed five new members for the Justice Center Advisory Council:

- Michael Agovino, parent and board member of IAHD
- Ijaz Amhad, M.D., cardiologist and parent
- Geno DeCondo, Upstate Caring Partners
- Kathleen Gaffney-Babb, Helio Health
- Winifred Schiff, InterAgency Council of Developmental Disabilities Agencies

There will be a one-hour orientation on September 10 at 12:00 noon via Webex and all members are invited to attend.

Manager's Forum

In early May, the Justice Center convened the management team in Albany. The goal of the event was to bring managers and supervisors together to share agency information and improve collaboration between teams. Attendees participated in an emotional intelligence workshop, heard updates from each unit, and listened to an in-depth presentation from the Office of Audit, Control, and Quality Management about how their work impacts the entire agency. Attendees were asked to share what they learned during unit updates with their teams.



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Harrison's Playmakers

Harrison Phillips, a former Buffalo Bill, started a camp for at-risk youth as well as those with disabilities. The Justice Center was able to sponsor the camp this year and several staff volunteered on a May Saturday in Buffalo to make the camp a success. It was a great day and great way to connect with the community.

U.S. Senate Committee on Finance Report

In mid-June, the U.S. Senate Committee on Finance released a report on a two-year investigation they conducted on abuse and neglect in youth residential treatment facilities in the U.S. The report calls for many reforms including improved oversight of these facilities. This report provides New York with an opportunity to increase awareness about the reforms made in New York to improve oversight and safeguard people receiving services from harm.

National Adult Protective Services Association (NAPSA)

The Justice Center has been invited to do a presentation at the NAPSA annual conference in Albuquerque in September. NAPSA is a national non-profit organization with members in all fifty states, D.C., and the territories. Formed in 1989, the goal of NAPSA is to provide Adult Protective Services (APS) programs a forum for sharing information, solving problems, and improving the quality of services for victims of elder and vulnerable adult mistreatment. This is a good venue to share the lessons learned and successes from the Justice Center's 10+ years of experience. It will also provide an opportunity to network with the only other state, Massachusetts, that has an agency like the Justice Center.

II. Adult Home Advocacy Program

The Justice Center oversees and administers the adult home advocacy project. This project is funded with state funds and supports legal and lay advocacy in all adult homes in New York City and Long Island. These programs provide legal services, training, and resident council support, among other services. Typically, people living in adult homes have limited access to computers, so these programs deploy staff to adult homes to ensure that residents are aware of these services and their rights.

The Justice Center convenes a meeting of the contract agencies for this program as well as officials from the NYS Department of health on a quarterly basis. The issues that have most frequently been brought up to the Department of Health include:

- Issuing a "Dear Administrator Letter" to adult home operators about their responsibilities to support and not interfere with the operation of resident councils.
- Food quality and nutrition
- Safety and quality of facilities
- Ensuring the EQUAL grant is resident driven.

Justice Center Jurisdiction

The only adult homes in New York state that are under the Justice Center's jurisdiction and therefore required to report incidents of abuse and neglect to the Justice Center are homes with more than 80 beds and at least 25 percent of the residents are persons with a serious mental illness and fewer than 55 percent of the beds are designated as Assisted Living Program beds. There are over 500 adult homes in



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New York but only four homes are under the Justice Center's jurisdiction. These homes are all located in the New York City area. In 2020 there were 16 homes under the Justice Center's jurisdiction.

III. Cameras in Provider Agencies

The Justice Center has found that cameras in common areas of provider agencies have been very helpful during investigations. In addition to their evidentiary benefit, video reduces investigative cycle time and helps provider agencies put staff who may have been placed on administrative leave back to work sooner if the camera reveals the incident did not occur.

Recently, OPWDD expressed concern that the use of cameras in OPWDD providers may conflict with federal Center for Medicare and Medicaid Services rules. The Justice Center asked members of the advisory council for their experience and guidance on this issue.

Advisory council members with experience in OMH, OCFS and OASAS programs were supportive of the use of cameras. They noted that before cameras were used, many expressed concerns about their use but once they were deployed, they have found that cameras provide exculpatory evidence for staff who have done nothing wrong and can act as prevention for staff who might otherwise commit acts of abuse. Some have also used video from cameras as teaching tools for staff.

There were questions about if and how law enforcement agencies get access to video and guidance from the state on this issue would be helpful.

Those with experience in OPWDD programs said that there has long been a struggle in the field to ensure privacy and safety while providing services in home-like settings. Some feel that cameras may contribute to making the setting feel more like an institution. It was noted that the federal government prohibits the use of cameras in ICFs. Members encouraged the inclusion of people receiving services in discussions about the use of cameras.

Council member discussed the need to balance safety and privacy when considering the use of cameras. This discussion will continue at the September meeting. Advisory council members were encouraged to speak with their stakeholders and get input. The intention of this discussion it to help guide the use of cameras in facilities under the Justice Center jurisdiction.

IV. Committee Reports

Legislation and Regulations Committee

The committee met on June 11, four days after the 2024 legislative session ended on June 7. The Justice Center proposed two Departmental proposals; one streamlined State Central Register (SCR) of child abuse checks of subjects in investigations and one required notice of Category 2 findings to all provider agencies, not just OPWDD provider agencies. The SCR bill was not introduced in either house. The Category 2 bill was not introduced in the Assembly and did not move through committee in the Senate.

On June 7th, Assemblymember Ron Kim from Queens was interviewed on the Capitol Pressroom to discuss his 911 Bill (A.7004 (Kim)/S.7580 (Harckham), requiring mandated reporters to call 911 and the local DA in addition to the Justice Center to report alleged abuse and neglect of persons receiving



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services. The Justice Center will meet with these members to educate sponsors on the issues with the bill and to provide broader context on Justice Center statistics that undercut the need for this bill. The Justice Center will also reach out to other interested stakeholders (DAs, municipalities, and workforce representatives) to ensure they are aware of this bill and the impact it could have on their operations.

Workforce Issues Committee

The committee met in May.

Joe Macbeth provided an update on the three-year grant NADSP received to credential staff in voluntary OPWDD agencies. The goal of this project, the E-Badge Academy, is to introduce a career pathway that will help increase job satisfaction and retention among the workforce and improve outcomes for people receiving services. OPWDD has extended the contract from October 31, 2024, to October 31, 2025.

By the beginning of May, there have been 1,500 E-Badge learners from 50 different provider agencies. As part of the grant (funded through federal ARPA funds), workers receive a one-time bonus that ranges from \$500 to \$2,250. Currently, NADSP reimburses provider agencies for these bonuses at the end of each quarter. On June 1, state operated OPWDD programs will begin offering this opportunity to their staff.

This funding is also supporting a collaboration between SUNY and OPWDD that allows SUNY students to take a micro-credentialing course and earn up to \$750 for course completion. Students enrolled in this program do not have to pay for the course because federal ARPA funds pay for it. This program will continue through 2029 and will be available on 22 campuses and will hopefully provide a pipeline for additional DSPs.

An agency in Long Island that is licensed by OPWDD and OMH recently signed a contract with NADSP to include the workers in the program licensed by OMH to receive E-Badges. While the E-Badge is based on federal CMS core competencies, the federal AARPA funds can only be used for OPWDD services that are funded by Medicaid, so this OMH provider will use their own money to pay bonuses for their staff.

The program is being evaluated and it is hoped that a permanent source of funding can be found for this credentialing. More information can be found on the NADSP website at: <https://ebadge.nadsp.org/>.

There was a 1.5% COLA for provider agencies that supports all staff and provider costs (including health insurance premiums) and the legislature added a 1.4% COLA for direct care staff only and can't be used for salary increases to leadership staff at provider agencies.

Abuse Prevention Committee

This committee met in June and received an overview of trends related to cases of substantiated cases of abuse or neglect from 2020 to 2023.

Highlights of the presentation include:



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- Of the seven code groups/categories of offenses that the Justice Center uses for substantiated cases of abuse and neglect (Neglect, Physical Abuse, Deliberate Inappropriate Restraint, Obstruction, Psychological Abuse, Sexual Abuse, and Other), Neglect occurs the most often, with 80% of substantiated cases in 2023 being Neglect cases.
- Of those Neglect cases in 2023, 35% were due to improper supervision, and 38% were rated as 'other'.
- The Justice Center categorizes the severity of offenses using four categories, with category one being the most egregious. In 2023, the most common category was Category 3, which means that the abuse and/or neglect was not egregious or serious. This is consistent with previous years.
- OPWDD had the highest number of substantiated offenses, but also the highest number of reported incidents.

Currently, the Justice is working to better categorize what is meant by "improper supervision" as the category is very broad. To do this, thousands of investigative summary reports have been reviewed, focusing on identified offenses, incident narratives, context of events, and conclusions and recommendations. Once agreed-upon sub-sub types are established, enhanced guidance may be developed on how and when to use all offense codes.

The committee offered the following feedback

- Determining the "why" of the trends in substantiated cases would be beneficial.
- Another trend that would be beneficial to track would be how long subjects in cases have worked at the agency and whether more/less of incidents involve new or veteran staff.
- Data should be shared with state oversight agencies.

The Justice Center convenes state oversight agencies quarterly to develop and coordinate prevention initiatives across agencies. The group completed the "Resources Repository" on August 9, 2023. Currently, the group is creating a case scenario manual. The manual will include case scenarios on various topics and will include examples from each of the State Oversight Agencies. The committee was asked for any additional topics that would be beneficial to include in the manual.

The committee offered the following feedback:

- Include in manual a recommendation to incorporate training using the scenarios into onboard training of new staff.
- Topic idea – "Unmet Needs" – lack of specifics in the plans of care for people receiving services who require special accommodations to be successful and safe. For example, needing headphones on due to sensory issues.

Investigator and Law Enforcement Training

The Justice Center will be hosting an in-person training for all Justice Center staff at the Albany Hilton on October 22 and 23, 2024. On October 22, there will be an impact panel of people who have received services and families to talk about their experience and advice to JC Center staff about the impact of investigations into abuse and neglect. A few members of the Advisory Council have agreed to



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participate. Members of this committee are welcome to attend any or all sessions offered at this training.

On June 13, the Justice Center held a webinar on the best practices for evidence preservation. This training provided guidance to provider agencies about what to do to preserve evidence in potentially criminal cases, with an emphasis on cases concerning an allegation of sexual abuse. The emphasis of the training was to contact law enforcement right away and guidance was provided about what to do to secure evidence if local law enforcement can't respond right away.

SNAP stands for "Secure the scene, Notify law enforcement, Assess Victim Needs, Protect the evidence". Over 600 people signed up for this webinar and everyone who signed up received the resources the Justice Center has developed for SNAP. The training was well-received and will be offered again in the future.

The Justice Center is once again offering disability awareness training to law enforcement agencies in New York State. In addition to the 6-hour training curriculum that follows the New York State Division of Criminal Justice Services (DCJS) Basic Course for Police Officers guidelines, that has been discussed in previous meetings, the Justice Center is working on 2-hour training for refresher training and is also considering developing some short (15 minute or so) videos that would be available for local law enforcement to use at training.

This training is intended to assist law enforcement officers in identifying persons with disabilities and interacting with them in respectful and effective manner. Members of the committee thought that the development of short videos on a variety of topics would be the most effective and easiest for local law enforcement to use and encouraged the Justice Center to pursue this option.

**Next Meeting
September 25, 2024
In-person or Via Webex**