

SUPPORTING CRIME VICTIMS BETTER. CAN DO WE CAN

WITH DISABILITIES

BY OLEGARIO D. CANTOS VII

All children and adults who are victimized by crime have the right to receive services and supports to help them confront and resolve the many complexities surrounding the trauma of crime. When serving the significant population of victims of crime with disabilities, however, the deeper issue to address is how can first responders, victim/witness programs, domestic violence shelters, and others better ensure that these victims are not overlooked or otherwise forgotten?

Census figures indicate that there are more than 50 million Americans with disabilities in the United States today (excluding the 2 million who reside in institutional settings)¹; members of the disability community constitute roughly 1 in 5 individuals in this country. It is critical that these individuals gain the same degree of access as is afforded to those without disabilities.

Often, when thinking of a person with a disability, images that come to mind may include individuals using canes, crutches, wheelchairs, walkers, or other mobility

devices. However, the spectrum of disability is actually far broader. In reality, various disabilities may also be invisible or otherwise not readily apparent. The general types of disabilities include those of a developmental, psychiatric, sensory, or physical nature.² But, whatever the disability, it is important for those in the crime victims' rights and services field to ponder and then confront several basic and practical questions:

- From both a physical and programmatic standpoint, how welcoming is a victim assistance program or facility to those with different types of disabilities? If a crime victim with a disability were to seek services or if the program in any way entails interacting with a person with a disability, to what extent will management and staff be ready?
- What may be done to instill within the staff culture a deep and abiding commitment to serving people with disabilities—some of the nation's most vulnerable individuals?
- To what extent have program leaders created a network of organizational contacts upon whom to call with specific questions on how best to serve people with specific types of disabilities?

- Has staff received comprehensive training on how best to support this population?

Scope of the Problem

The Bureau of Justice Statistics (BJS), in response to the mandates of the Crime Victims with Disabilities Awareness Act,³ is working to develop the capability to measure crime against people with disabilities. The Act requires enhancement of the National Crime Victimization Survey to collect these data.⁴ This information supplements anecdotal evidence of victimization as well as other studies already conducted in the field.⁵

What we do know:

- Among children in the United States, nine to 15 percent have a disability and approximately 175,000 to 300,000 children with disabilities experience maltreatment each year.⁶
- Children with disabilities are 4 to 10 times more likely to be abused than children without disabilities.⁷
- Women with physical disabilities in rural settings tend to experience violence and abuse over a longer duration and have fewer options for leaving an abusive relationship than victims with disabilities in urban settings.⁸
- Family members perpetrate more than half of the abuse against people with disabilities; other perpetrators include care providers such as paid or unpaid caregivers, doctors, and nurses.⁹
- Approximately 67 percent of perpetrators who abused individuals with

severe cognitive disabilities accessed them through their work in disability services.¹⁰

Legal Protections

For-profit, nonprofit, and governmental entities within the victims' rights field are subject to federal civil rights laws which protect members of the disability community from discrimination. Although traditional notions of discrimination pertain to intentional acts that bar equal access, discrimination in a disability rights context also frequently entails instances in which policies, programs, services, or activities deny full and equal participation by members of the disability community, even if

temporary housing to crime victims are subject to the Fair Housing Act (as amended in 1988), which also contains anti-discrimination provisions on the basis of disability.¹⁴

The Victim Experience

Both children and adults with disabilities must be supported at every stage of the criminal justice process. Such support begins with providing people with disabilities and their families with information about various ways crime may be prevented. This includes a working knowledge of personal safety techniques and an understanding of what constitutes a crime and what does not.

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such results were not intended.

The Americans with Disabilities Act of 1990¹¹ prohibits discrimination within the areas of employment, state and local government programs and services, places of public accommodation, transportation, and telecommunications.¹² In addition, Section 504 of the Rehabilitation Act of 1973 prohibits discrimination against people with disabilities by any entity receiving federal funds.¹³ Also, programs providing

It also includes sufficient systemic deterrence to minimize crime by instilling in potential perpetrators the feeling that, if they do criminally violate the rights of others, they will indeed be held accountable. In practice, however, if individuals are victimized despite preventive measures, such incidents are rarely reported to proper authorities.¹⁵

Under-reporting by crime victims with disabilities may be due to fear of retaliation.



tion, fear of loss of care (in cases where the perpetrator is actually a service provider), shame (especially if the perpetrator is a family member, spouse or significant other, friend, or someone else known to the victim), or a perception either by loved ones or the person with a disability himself or herself that nothing will be done to address the situation anyway. Victims also may have feelings of powerlessness stemming from the misperception that the incident or series of incidents are somehow their fault.

Some domestic violence victims with physical disabilities may also feel helpless due to the physical and program inaccessibility of domestic violence shelters which should meaningfully serve all victims of domestic violence but do not. Further, for

domestic violence victims with developmental disabilities (such as mental retardation), shelters are generally unfamiliar with and often unreceptive to their particular needs and concerns. Shelter workers need training and experience to provide this population with the same level of care as victims without disabilities.

An added dilemma is that even when frontline staff of service provider organizations or governmental agencies suspect an individual with a disability may be the victim of a crime, they may not report it. Often, even if people understand their obligation to report suspected cases of abuse or neglect, nothing is done because of the mistaken belief that one must know for certain if a crime did, in fact, occur. In such cases, victims with disabilities begin

to fall even further through the cracks. Moreover, within an in-home dependent-care environment or community care facility, if abuse by an employee is suspected, agencies may redress the problem by firing the suspected perpetrator (freeing him or her to go somewhere else to commit the same crime in a different setting) while refraining from reporting the employee to law enforcement.

In other cases, when people with disabilities seek victim-related resources from social

service providers and other organizations they trust, these groups often have limited knowledge of the different resources available to people with disabilities who are victims of crime. Many service providers merely direct them to the local district attorney's office where personnel are not always knowledgeable about where to direct people with disabilities seeking help.

The Criminal Justice Response

Once a crime is reported, law enforcement first responders must know how best to interview victims, particularly if a disability impairs verbal communication enough to hinder the investigative process. Here, if first responders either misperceive the words or actions of a per-

son with a disability or if the alleged victim is not believed, the report is summarily filed away, generally not to be pursued. As a result, victims with disabilities may be short-changed by the system.

Even if law enforcement decides to investigate the validity of criminal charges, another hurdle awaits. A prosecutor who does not understand the nature of an individual's disabilities may not perceive the victim as a credible witness. This can lead to a decision not to file charges or to drop a case.

Finally, even in the most ideal of circumstances, if a perpetrator is successfully convicted and sentenced for his or her crimes, victims with disabilities often do not know about victim/witness programs within a disability context. For instance, they should be advised of the effect of victim/witness restitution funds on personal eligibility for continued government benefits such as Social Security, Supplemental Security Income, or other government aid. Victims and their families may feel deterred from seeking assistance to which they are entitled, not knowing the system that has been put into place to protect their right to receive such help without affecting government benefits' eligibility determinations.

Where We Go from Here

When striving to meet the needs of people with disabilities victimized by crime, there is no such thing as a "one size fits all" solution. Indeed, different disabilities require alternative approaches. Yet, as daunting as these cases may first appear to some victim service providers, any feelings of trepidation should abate once advocates realize the vast array of

ADDITIONAL RESOURCES

Americans with Disabilities Act Homepage
U.S. Department of Justice, Civil Rights Division
www.ada.gov

Disability, Abuse and Personal Rights Project
www.disability-abuse.com

Victims of Crime with Disabilities
Resource Guide
Wyoming Institute on Disabilities
<http://wind.uwyo.edu/resourceguide>

Safe Place
www.austin-safeplace.org

resources that are already available to assist them in expanding accessibility as they strive to serve every segment of the community, especially the most vulnerable among us.

Over the past year, the Civil Rights Division of the U.S. Department of Justice (USDJ), as part of its successful "Project Civic Access" initiative which works with local governments to help bring them into compliance with Title II of the Americans with Disabilities Act, has emphasized the accessibility of programs, services, and facilities for victims of domestic violence. Lessons learned from ongoing program implementation are appropriately incorporated into the technical assistance docu-

ments posted regularly on the Department's ADA Web site at www.ada.gov, which now receives more than 38 million hits per year and is one of the Justice Department's most heavily-visited pages.

The Civil Rights Division continues to expand efforts to protect the civil rights of crime victims with disabilities and their families, working in conjunction with other components within the USDJ, including the Office for Victims of Crime and the Office for Violence Against Women. The Division will also continue to collaborate in partnership with the National Center for

Victims of Crime whose significant work in the victim/witness field will lend itself well to new innovations as they come on-line and are expanded nationwide.

Together, we *can* do much better for crime victims with disabilities.

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A SPOTLIGHT ON "OLLIE" CANTOS

Blind since birth, Olegario "Ollie" D. Cantos VII is the highest-placed public servant with a disability in the federal government. In August 2004, Mr. Cantos came to the U.S. Department of Justice to serve as special assistant to the assistant attorney general in the Civil Rights Division. He was later promoted to special counsel to the assistant attorney general, where he fostered closer ties between the Department and disability rights leaders, facilitated greater compliance by businesses with federal disability rights laws, and established and strengthened new cross-agency partnerships

to promote full participation by people with disabilities in every facet of life. He spearheaded efforts to incorporate physical and programmatic inspections of local government-funded domestic violence shelters and to educate crime victims with disabilities about their rights and responsibilities.

Mr. Cantos also served as general counsel and director of programs for the American Association of People with Disabilities, the largest cross-disability national membership organization in the country. Before that he served as attorney and director of outreach for the Disability Rights Legal Center in Los Angeles. It was during this early period that he began to work on crime victimization issues.

In April 2006, Mr. Cantos's exemplary leadership and skill was recognized at the highest level when he was asked by the White House to become associate director on disabilities for the White House Policy Council, where he now serves as the point person on disability-related policy coordination.

A 1997 graduate of Loyola Law School, Mr. Cantos is a prolific writer on disability issues and has received numerous awards including the Founder's Award from Asian Rehabilitation Services (its highest honor), California Big Brother of the Year, the Excellence in Diversity Award from the Federal Asian/Pacific American Council, and the Paul G. Hearne National Leadership Award from the American Association of People with Disabilities. *Lead America*, a national youth leadership development organization, established a scholarship program in his name.

A three-time finisher of the Los Angeles Marathon, Mr. Cantos also enjoys rollerblading, horseback riding, and science fiction. Often noted for his energy and positive outlook, Mr. Cantos derives his inspiration from God, his family, books on personal development, and various mentors he has had throughout his life. According to Dr. Jonathan Young, formerly with the White House Office of Public Liaison, "Ollie Cantos has an abiding passion for making the world a better place. He has a capacity for channeling his extraordinary level of energy to produce not just great results in his own work, but also to inspire those around him to do more and do better. His enthusiasm is infectious!"

1 See www.accessiblesociety.org/topics/demographics-identity/census2000.htm.

2 Diane King Akers, "Balancing the Power: Creating a Crisis Center Accessible to People with Disabilities" (Austin, TX: Safe Place, 2005), 44.

3 Public L. 105-301.

4 Since 2000, BJS has initiated several activities to lay the foundation for developing such estimates. Consistent with the experience of other federal agencies, there are a number of issues that must be addressed in order to design methodologies to meet the mandates of the legislation, including developing a reliable set of questions to identify people with developmental and other disabilities, and developing procedures to accommodate, as necessary, interviews with such people. BJS and the Census Bureau, which conducts interviewing for the National Crime Victim Survey (NCVS), consulted and worked with staff from a number of federal

agencies to develop survey questions to identify people with disabilities. In July 2000, BJS added to the NCVS Crime Incident Report a test of supplemental items designed to obtain information from victims of crime on any health conditions, impairments, or disabilities affecting their everyday life. In fall 2001, BJS, together with the Census Bureau, fielded a test among known persons with development disabilities in California to test further questions related to disability and to determine what types of interview techniques work best with different types of populations with disabilities.

5 Joye Whatley, "Violence against Women with Disabilities: Policy Implications of What We Don't Know," *Impact* 13, No. 3, (Fall 1998), Institute on Community Integration, College of Education and Human Development, University of Minnesota, <http://ici.umn.edu/products/impact/133/over3.html>.

6 W. B. Cross, E. Kay, and A.C. Rafnowsky, "A Report on the Maltreatment of Children with Disabilities;" (Washington DC: Department of Health and

Human Services, National Center on Child Abuse and Neglect, 1993).

7 J. Garbarin et al., "Special Children, Special Risk: Maltreatment of Children with Disabilities;" (New York: Aldine De Gruyter Publishing, 1987), www.questia.com/PM.qst?a-o&d=10670618.

8 M. Nosek, D. Rintala, and M. Young, "National Study of Women with Physical Disabilities;" (Houston, TX: Baylor College of Medicine, Center for Research on Women with Disabilities, 1997), <http://rtc.ruralinstitute.umn.edu/RuDis?DisWomenFact.htm>.

9 D. Sobsey and T. Doe, "Patterns of Sexual Abuse and Assault," *Journal of Sexuality and Disability* 9, No. 3 (1991): 243-59.

10 Ibid.

11 Pub.L. No. 101-336.

12 42 U.S.C. §12101 et. seq.

13 29 U.S.C. §794

14 42 U.S.C. §§3601 et. seq.

15 Whatley, "Violence against Women with Disabilities;" 1998.