

Center for Disability Rights, Inc.

CDR Policy Position: Violence Against Disabled People

Trigger Warning: This paper discusses various forms of institutional & interpersonal violence.

Every year on March 1st as part of the Disability Day of Mourning, the Disability Community publically reads the names of the hundreds of disabled people who have been murdered by family members or paid or informal personal attendants. Sadly, the Disability Day of Mourning recognizes only a small part of the violence faced by members of our community every day. The Center for Disability Rights has identified three areas that need more attention: violence in the isolating environment of nursing facilities, violence committed by law enforcement, and existing barriers to shelters and other means of escaping violence.

Nursing facilities and violence against disabled people

Nursing facilities are sites of violence against disabled people. Federal government reports have found that a third of nursing facilities have been cited for abuse. Research by the U.S. Department of Health and Human Services shows that more than a quarter of abuse cases in nursing facilities go unreported¹. Violence, such as abuse and neglect, undoubtedly have an effect on wellbeing, and may contribute to the high mortality rates in nursing facilities, which can be as high as 50% - 60% in the first year of placement². Disabled people living in nursing facilities experience a range of physical, sexual, psychological, and systemic violence including:

- aggression
- rough handling
- yelling in anger
- threats
- sexual assault and rape
- punching, slapping, kicking, hitting, pinching
- speaking in harsh tones, cursing, and mean language directed at residents
- denial of medical care
- denial of food
- isolation
- neglect
- financial abuse/exploitation

The physical violence experienced by disabled people in institutions usually comes from three sources: nursing facility staff, family members, and other residents³. When violence is acted out by attendants or nursing home staff, is important to realize that these are the people charged with providing a majority of the disabled person's supports and services. A 2010 study found that more than half of all nursing home attendants have admitted abusing and neglecting residents⁴.

There is plenty of anecdotal evidence of sexual violence experienced at nursing facilities, but research and data examining the issue is limited. In the Center for Disability Rights' decades of work helping people transition out of nursing facilities, we have been made aware of numerous examples of sexual assault and rape in these institutions. In some cases, the abuse was repeated over the course of years. The people committing the atrocities often are in a position to exert power over residents and so a majority of these crimes go unreported. Without victims' reports, nursing facility ombudsman and watchdog organizations get very little opportunity to address the

issue. A truly independent ombudsman⁵ must regularly visit nursing facilities to assess how residents are treated. It is a voluntary position that is intended to provide oversight. In reality it has little impact on the practices and abuses of these institutions.

Emotional and psychological abuse is also a common experience among nursing facility survivors. This type of violence might include abusive language, intimidation, ridicule, purposeful isolation, limits on access to certain spaces, limits on mobility, such as the denial of the use of a wheelchair, or threats to withhold food or water. As with other types of violence, these abuses might come from staff or other residents. Emotional and psychological abuse often goes unreported, and its effects can be as devastating as physical violence. Such abuse has led to self-harm, depression, loss of appetite or inability to eat, and suicide⁶.

The potential for violence in an isolated setting where people are discouraged from reporting make it clear that nursing facilities and other institutions are not the best places to support disabled people in a healthy, safe or dignified way. Furthermore, nursing facilities are ableist⁷ institutions in that they deny independence to their residents because of their disabilities. Because residents live in relative isolation, nursing facilities normalize environments where violence in various forms is tolerated. For these reasons, we recommend that nursing facilities and other institutions be dismantled and replaced with home and community-based services.⁸ Disabled people who have the supports to live in our own homes have stronger connections to our communities, exercise more control over our lives, and are far less vulnerable to the abuse and violence experienced in institutional settings.

Government at all levels should use its powers to allow disabled people to exercise their right to independence - to live in the community. Until this right is assured, better safeguards and oversight must be put in place to root out the violence in institutions. Nursing facilities that permit violence upon their residents or do nothing to protect them from violence must be closed and their operators prosecuted. Policies and practices in facilities must ensure that disabled people are given more control over their own lives, that residents are informed of procedures for reporting abuse, that they have protections from any harmful repercussions of reporting, and that reports are not only taken seriously, but that allegations are referred to law enforcement and perpetrators are removed and charged appropriately.

Police and violence against disabled people

By some estimates, more than 50% of fatal police shootings involve disabled people⁹. The risk of a person with a mental health disability being killed when they are approached by police in the community is 16 times higher than that of a nondisabled person in the same situation¹⁰. These differences are even more extreme when looking at shootings involving disabled people of color. Police violence is a problem that has garnered attention nationwide, but the contributing role of ableism is rarely reported.

Especially with regard to people with mental health disabilities, when police violence is identified as a problem, it is met with either calls for more institutionalization, or more police training. In terms of violence, institutionalization of people with disabilities offers little except

another form of systemic violence against disabled people. These solutions operate from the false position that the problem is disabled people rather the systems and institutions.

More robust police training, despite its popularity, offers little evidence of effectiveness. While training may reshape individual attitudes towards disabled people, training programs have had very little effect on reshaping and removing the ableism and racism built into policing and the procedures employed by police departments.

Deaf people, Autistic people, and those with mental health disabilities are at far greater risk of violence when encountering police than nondisabled people, especially if they are from communities of color¹¹. There have been numerous cases in recent years of disabled people being assaulted, shot, and killed in their encounters with police. In just one example, Magdiel Sanchez, a Deaf man from Oklahoma City, was tasered, shot, and killed in front of his own home for not complying with police commands which he could not hear. In this example and others, racism, a lack of understanding of disability, and prioritizing compliance instead of accommodation have had fatal consequences.

Statistics are showing these fatal encounters are too common. A report published by the Treatment and Advocacy Center investigation from 2014 estimated that nearly 50 percent of those killed by police have mental health disabilities¹².

When people with disabilities are killed by police the defense is often that the officers involved feared for the safety of either themselves or others in the community. This fear is rarely based on the reality of the individual killed but far more often is tied to the officer's perception of disability. Disabled people who demonstrate anything remotely interpreted as noncompliant are presumed to be dangerous. This presumption ignores the fact that disabled people are far more likely to be the victims of violence than the perpetrators¹³.

CDR recommends the creation of community support systems, outside of law enforcement, empowered to step in and assist or replace police when police find themselves in an encounter with a person with a disability. Police training must include their responsibilities under the Americans with Disabilities Act (ADA) and ensuring they are able to identify when to call upon other, new support systems and personnel. That way, officers can focus on best practices and legal requirements. For example, police should know how to handcuff Deaf people who use sign language with their hands in front so as not to deny them access to communication, but also know their responsibilities in providing personnel and mechanisms to facilitate adequate communication.

These new support systems should be carefully set-up in consultation with disability-led organizations as well as local community-based organizations. They should be seen more as community outreach organizations than anything resembling law enforcement. Their primary role should be supporting disabled people in the community in ways that limit and reduce the likelihood of emergent crises. They should increase access to community based mental health services and community integration in ways that make community spaces safer for everybody.

When an emergent mental health crisis does occur, these systems should have teams that are trained to defuse the situation in ways that preserve the safety of the individual in crisis as well as the community. Law enforcement should have as little involvement as possible. Police have done little to earn or deserve the trust of the Disability Community. For our community, limiting police interaction is a matter of self-preservation and valuing disabled lives.

Violence and Women with Disabilities

Disabled women experience domestic violence, sexual assault, and emotional abuse at much higher rates than non-disabled women¹⁴. Most often this violence is at the hands of intimate partners and family members but may also come from attendants and other service providers. The violence experienced by disabled women is often the very same violence experienced by nondisabled women, but the barriers to getting support and escaping abusive situations are greater.

Intimate partner violence is often about power and control, and women with disabilities, because we have disabilities, already have fought and still fight for control over our own lives. Society is not only male-dominated but ableist, and these two norms work together and separately to deny us control. In our personal and familial relationships, we are often led to believe we have lesser value and violence against us is justified.

Women with disabilities may be less likely to report or try to escape violence by an intimate partner or family member for a variety of reasons. Some of these reasons have to do with gender, some with disability, or both. The abuser may have control over the couple's financial resources. The person experiencing abuse may even be told that if she attempts to leave or reports the violence, the financial power could be used against her or any children in the relationship. If the abuser provides attendant services to the survivor, the survivor is placed in an even more subordinate position and may even be prevented from securing alternative attendant services based on systemic barriers. Women with disabilities may also feel their disabilities will prevent them from being taken seriously.

Unfortunately, people who may be empowered to reach out, assist and support survivors of violence are ill-equipped when it comes to helping disabled women. Whether it is a lack of disability-specific knowledge or ableism, professionals in positions to help often fail to do so. Doctors and other medical professionals report finding it difficult to tell when disabled women are being abused. Still worse many ignore or even deny abuse when it is brought to them, dismissing disabled women's knowledge of their own experiences¹⁵. Organizations providing assistance or domestic violence shelters may not be accessible to women with disabilities. If an abuser is also an attendant, resources are likely unknowledgeable about how to get emergency attendant services for a survivor. Too many shelters cannot accommodate wheelchair users, and even one inaccessible shelter is too many if the shelter that is nearest to a survivor's place of home, work, or school is inaccessible. Then, there are shelters that have been unable or unwilling to accommodate ASL or people with communication disabilities.

Under Title II of the ADA shelters must be accessible and they must provide reasonable accommodations to people seeking to use their services. For example, a shelter's 'no pet' policy cannot be used to refuse a service animal. Modifying spaces and removing structural barriers are also reasonable accommodations. Modifications can be crucial for someone needing attendant care while in a shelter setting.

Law enforcement is often called to intercede in violent domestic situations. In CDR's experience working with survivors, ableism often influences these interactions. Police have long been criticized for privileging nondisabled voices in conflicts including those of abusers over their victims. At the extreme, this may mean law enforcement will not actually speak to the disabled person. There is no excuse for this. Even in situations where a person does not speak, communication is possible. Decades of research shows that the longer women are stay in a violent relationship, the more likely it is to end in their death¹⁶. The barriers to escape faced by disabled women make this, an even more likely outcome.

Addressing Violence against People with Disabilities

In order to address violence against disabled people, it is vital that we first recognize that disabled people experience greater violence than nondisabled people. Much like with disability itself, our society often pretends not to see the truth. Until we acknowledge that these crimes are occurring, and until we accept that much of this violence is supported, exacerbated and sometimes carried out by the very structures we have put in place to protect people, we can do nothing to stop it.

The actions policy makers have traditionally taken have led us to a point at which disabled people are at far greater risk of encountering violence than nondisabled people. Nursing homes are dehumanizing places that lend themselves to the inhuman treatment we find in them. Oversight is not the solution, community is. Policing is built around notions of compliance, and our minds and bodies are often anything but compliant. A violent response to this reality is the wrong solution, and too often a fatal solution. We need supports and systems that accommodate and accept us. We need systems aimed at easing conflict and defusing crises, rather than escalating them. Escaping violence is difficult enough for all women; there should be no extra barriers for disabled women. We need accessible shelters, and we need professionals and law enforcement to learn to communicate with us and to believe us. With all of these issues, survivors and members of the communities most likely to encounter these forms of violence must be central in leading reforms. We must make these efforts now or our community will continue to be mistreated, abused, and killed.

About the Organization

The Center for Disability Rights (CDR) is a disability led, not-for-profit organization headquartered in Rochester, New York. CDR advocates for the full integration, independence, and civil rights of people with disabilities. CDR provides services to people with disabilities and seniors within the framework of an Independent Living Model, which promotes independence of people with all types of disabilities, enabling choice in living setting, full access to the

community, and control of their life. CDR works for national, state, and local systemic change to advance the rights of people with disabilities by supporting direct action, coalition building, community organizing, policy analysis, litigation, training for advocates, and community education.

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¹ <https://oig.hhs.gov/oas/reports/region1/11700504.pdf>

² <http://www.lifecarefunding.com/white-papers/moving-into-long-term-care-facility/>

³ <http://www.nursinghomeabuseguide.org/nursing-home-abuse-statistics/>

⁴ Id

⁵ We make the distinction of ‘a truly independent ombudsman’ because we have found that not all are independent. Unfortunately we have found that in many cases the ombudsman’s independence has been compromised by either personal or organizational ties to nursing facilities.

⁶ Acierno R, Hernandez MA, Amstadter AB, Resnick HS, Steve K, Muzzy W, Kilpatrick DJ. (2010) Prevalence and correlates of emotional, physical, sexual, and financial abuse and potential neglect in the United States: The National Elder Mistreatment Study. *Am J Public Health*. 100(2): 292-297.

⁷ Ableism is a word used to describe actions, attitudes, behaviors, practices, processes and systems that serve to discriminate against disabled people either intentionally or unintentionally. cf. Beratan, Gregg D.(2008)'The song remains the same: transposition and the disproportionate representation of minority students in special education',*Race Ethnicity and Education*,11:4,337 — 354 and Campbell F.K. (2012) Stalking Ableism: Using Disability to Expose ‘Able’ Narcissism. In: Goodley D., Hughes B., Davis L. (eds) *Disability and Social Theory*. Palgrave Macmillan, London

⁸ Home and Community Based Service are long term services and supports provided to allow a person to live at home and in the community. They are an alternative to institutionally based services.

⁹ <http://www.treatmentadvocacycenter.org/overlooked-in-the-undercounted>

¹⁰ Id

¹¹ <https://www.bjs.gov/content/pub/pdf/capd0913st.pdf>

¹² <http://www.treatmentadvocacycenter.org/overlooked-in-the-undercounted>

¹³ <https://www.bjs.gov/content/pub/pdf/capd0913st.pdf>

¹⁴ Breiding, M.J., Armour, B.S. (2015). [The association between disability and intimate partner violence in the United States](#). *Annals of Epidemiology*; 25(6): 455-457. doi: 10.1016/j.annepidem.2015.03.017.

¹⁵ Isabel Ruiz-Pérez, Guadalupe Pastor-Moreno, Vicenta Escribà-Agüir & Gracia Maroto-Navarro (2018) Intimate partner violence in women with disabilities: perception of healthcare and attitudes of health professionals, *Disability and Rehabilitation*, 40:9, 1059-1065

¹⁶ <https://www.cdc.gov/violenceprevention/nisvs/index.html>