

STATE OF CONNECTICUT
OFFICE OF PROTECTION AND ADVOCACY FOR
PERSONS WITH DISABILITIES
60B WESTON STREET, HARTFORD, CONNECTICUT 06120-1551

James D. McGaughey
Executive Director

Phone 1/860-297-4307
Confidential Fax 1/860-297-4305

**Testimony of the Office of Protection and Advocacy for Persons with Disabilities
before
The Appropriations Committee**

February 13, 2013
Presented by: James D. McGaughey
Executive Director

Good morning, and thank you for the opportunity to talk about our agency's budget.

As I am sure the Committee knows, the Office of Protection and Advocacy for Persons with Disabilities is a relatively small agency, operating pursuant to both federal and state mandates to serve as an independent safeguard against abuse, neglect and violations of rights on behalf of Connecticut residents with disabilities and their families.

We make a number of significant contributions to the State's safety net: We investigate abuse and neglect; conduct mortality reviews, identify systems problems, and serve as a place people can turn to when they are up against it – when they need information and advice about advocating for themselves or their family members, or when the stakes are high and they just can't get heard and need an ally to represent them. These are all labor-intensive activities, as reflected by the high percentage of our overall budget that goes to personal services.

On our RBA report cards you will note that we have listed a large number of partners. Collaborating with others is the only way we can be effective given our relatively small size. We include community partners on that list as well as state agency service system partners. In fact, in our office we host several non-profit parent and consumer advocacy organizations, and make our meeting facilities available to a number of others. Yet, as I think this Committee clearly understood last year, our independent identity is also a crucial component of our effectiveness. This is not only a statutory requirement, but a necessity in order to maintain credibility with our constituency, and for the integrity of our safeguarding efforts – particularly our fact finding investigations. So I appreciate that you so clearly understood that, and I think it is now better understood generally, and I won't dwell on that point.

This year's RBA report cards include some new information that I would call to your attention. In fact, the some of the changes highlight the importance of this results-based analysis and have prompted us to drill deeper into what the data is telling us - both for management purposes, and for policy advocacy purposes as well.

The report card for our Abuse Investigation Program reflects the experience of a discrete operating unit that was established to implement state statutory mandates to investigate or "cause" investigation of

allegations of abuse and neglect (A&N) with respect to adults with Intellectual Disabilities. (Kids and elders are covered by other, generic abuse investigation/protective services programs located in other agencies). The numbers of total reports of suspected A&N have remained generally consistent over the last 6-7 years. Under the heading of "turning the curve", however, we found that the numbers of victims of multiple substantiated allegations decreased when we were able to use SSBG funds to create a position to do timely follow-up on substantiated allegations – allegations that result in requests that DDS develop Protective Services Plans (PSPs). However, this year, the data indicate that the trend is not as clear as we had thought: It now appears that there has been a slight but perceptible increase in numbers of individuals who experienced more than one instance of substantiated abuse or neglect. When we drilled down into the cases, we found that these individuals were clients of private sector service providers, and that although the instances of abuse and neglect were substantiated, those findings had not triggered the creation of PSPs – so there was nothing for us to monitor and follow-up on. This is the kind of thing we will be discussing with DDS. I am not sure the answer is to require PSPs in more cases. It is a slight uptick, and our data system is far from perfect. But the fact that these multiple victim scenarios are arising in certain types of programs – the ones that historically conduct their own internal investigations - certainly bears further exploration. We were scheduled to meet with Commissioner Macy on Monday, but had to postpone due to weather.

I would also note that we are proceeding with our Data Development Agenda. We are completing an application for IT Capital Investment bond funds. We have worked with DOIT/BEST to identify some off-the-shelf investigation management systems that could potentially be used by the entire network of investigators, including those in the private sector, to improve quality and timeliness of investigations as well as giving us a much more valid picture of the program's results.

The other program's report card – Case Services- also reflects a change from last year. This is the first year we have included the number of people contacting us to whom we respond with information, referrals to other services, and short-term, problem-solving assistance – coaching people through various processes, making a few telephone calls on their behalf, doing some research, things like that. These responses fall under the category of "Information and Referral" – I&R. Everyone who contacts us gets at least this level of service.

We originally thought we should report I&R on a separate RBA report card, but because it is such an integral part of our Case Services Unit, and because it is quite difficult to separate its costs from the cost of other case services, we decided to include I&R data in our "how many" measure for Case Services. I should note that the drop-off in numbers of callers for I&R beginning in 2010 coincided with the availability of a good deal of new self-help material on our web site (now averaging 125,000 visits a year, 27,000 downloads of our publications and reports, and web traffic is up 20% from last year). Subjectively, our staff report that a higher percentage of people who are calling our Office are presenting thorny issues or are facing difficult situations. We are getting fewer of the relatively simple requests for information that historically were part of the I&R mix. So we think that more people with those relatively straightforward questions are using the self-help material on the website. But 2010 was also the first full year when we did not have contracted I&R services with other organizations. Historically, they accounted for 30-40% of I&R contacts. We had to discontinue the contracts (WeCAHR in Danbury and NHLAA, and earlier AFCAMP and PAP) due to drying up of federal funds. So some of the drop in total numbers reflects the loss of those contracts.

Which brings me to one of my biggest worries. Federal funds have historically amounted to between 30-35 % of overall budget. These funds come to us in the form of formula grants – the amounts vary from year to year based not only on Congressional appropriations, but also on variables such as population and poverty levels. Over the past 5 years, there has been no real growth, and in fact some diminution in the overall amount of federal grant money we receive. And, there has been a concomitant increase in the percentages of those grants devoted to cover salaries and increases in fringe benefit costs for federally-funded employee positions. The net result has been loss of federally funds available for contracts and for staff positions. Which, combined with reductions in state-funded positions has, over time, reduced our capacity to accept advocacy cases for representation. You can see that in the “how many” measure on the RBA report card. We have tried to be smart about managing this – the development of self-help literature and use of our website are examples, and we are also using an increasingly rigorous case selection process. Continuing to provide in-kind support for community-based organizations is also part of a “smart” strategy – a good way to multiply our impact without increasing the size of our own organization.

But, in the end, we are in a people business. One of the primary reasons people need us is because they aren’t being listened to, or are having extraordinary difficulty navigating around obstacles. We have to begin by listening carefully ourselves, and taking the time to make sure whatever remedy we work on is really going to be relevant to that individual or family. Advocacy is very labor-intensive work. So is conducting thorough investigations – which are the only kind that are worthwhile.

As you can see from the budget summary, we are down positions. Continuing the mitigation reductions – which I understand is an across the board proposal and not targeted at us at all – means we will be keeping two advocacy positions vacant for quite a long time – maybe for the entire upcoming fiscal year. And, given the concerns we all have about the future of federal funding, it isn’t at all clear that the assumptions of level federal funding that are reflected in the budget proposal will hold up. So it may be that we will be facing even more challenges as the upcoming biennium unfolds.

I might add that I am not alone in my worries about all this. Our Advocacy Board, which helps us set priorities, is undertaking a review of how we are structured. Part of that involves looking at the P&A agencies in other states and what they are doing to cope with scarcity and leverage resources; part of it will also involve some stakeholder focus groups here in Connecticut. The Board expects it will take the better part of this year to complete this process, but in the end we hope we will have a sound blueprint for going forward.

If there are any questions, I will try to answer them.

2013 Program Report Card: Case Advocacy Services (OPA)

Quality of Life Result: The civil and human rights of all Connecticut residents are respected and protected.

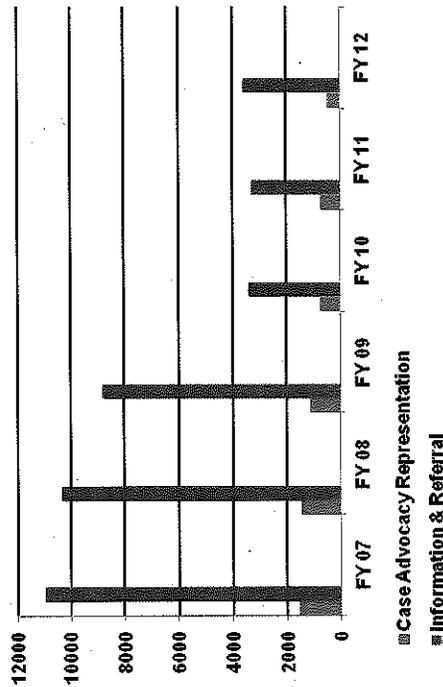
Contribution to the Result: Connecticut residents with disabilities have a place to turn to for help when they experience discrimination, abusive treatment or problems accessing relevant, respectful services.

Program Expenditures	State Funding	Federal Funding	Other Funding	Total Funding
Actual FY 12	\$702,249	\$657,431	0	\$1,359,680
Estimated FY 13	\$674,080	\$673,578	0	\$1,347,658

Partners: State and federal agencies and organizations serving people with disabilities, including the U.S. Departments of Justice and Education, and the following state agencies: DPH, DSS, SDE, DMV, DCF, DMHAS, DOT, DDS, DMHAS, DOT, DCF, CDHI, CHRO, BESB, and DOC; licensing and oversight bodies; state and national disability advocacy organizations including the National Disability Rights Network (the national umbrella organization for Protection & Advocacy Systems), and Connecticut's non-profit legal services organizations.

How Much Did We Do? The number of people served by Case Advocacy Services annually.

What level of service did people receive?



Story behind the baseline: Most people contacting OPA receive short-term problem-solving assistance (Information & Referral). A smaller number receive Case Advocacy Representation from staff advocates, or, in some cases from agency attorneys. Decisions about accepting cases for representation are based on both program mandates and annual

Trend Going in Right Direction? ▲ Yes; ▼ No; ◀ Flat/ No Trend

priorities which are established by the Advocacy Board.

Beginning in FY 2010, there was a significant reduction in I&R requests reported. Some of this was due to increased utilization of the agency's improved web-based resource guides; a lot was due to not renewing contracts with regional I&R sub-contractors (due to lack of funding). Reductions in the numbers of people receiving case advocacy representation reflect the loss of staff advocate positions due to various funding cuts.

Trend: ▼

How Well Did We Do It? Because many people contacting OPA are facing deadlines for things like evictions, special education meetings, fair hearings, etc., we measure the time that elapses between receipt of an initial request for assistance and our response as an indicator of how well we are doing this work. I&R calls are expected to be returned within 24 hours; decisions about requests for case representation may require review of documents or additional information. In almost all cases correspondence is generated summarizing information provided or notifying the requestor of a decision on a request for representation. (In some cases, however, it is more appropriate and more timely to contact individuals by phone, in person, or by another means.)

2013 Program Report Card: Case Advocacy Services (OPA)

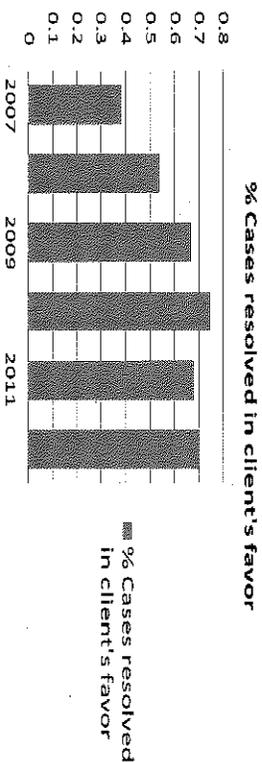
Quality of Life Result: The civil and human rights of all Connecticut residents are respected and protected.

In 2012 OPA committed to develop a way to track the timeliness of decisions. Specifically, we started to track how long it took from initial contact with OPA to when clients were informed whether OPA would take on their case. This year, we have also begun to track I&R response time

Story behind the baseline: As indicated in the 2012 RBA report card, OPA has just begun collecting this data. We are still working to generate this graph. In 2012 187 cases went to case review and it took an average of 16.5 days for case review decisions to be made. This number is misleading—93 of the cases were decided in 10 or fewer days and in many cases, the decision was made the same day. When we are contacted about special education issues, OPA advocates had requested copies of student records and reviewed the records before taking the case to case review. This delayed our response time significantly. Now advocates are bringing situations to case review right away, and if needed the Case Review Team advises the advocate to gather more information. Sometimes a situation is clear enough that the Case Review Team can tell an advocate to go ahead and begin work on a case.

Trend: too soon to tell

Is Anyone Better Off? The percentage of cases where issues are resolved partially or fully in the client's favor.



Trend Going in Right Direction? ▲ Yes; ▼ No; ◀▶ Flat/ No Trend

Story behind the baseline: "Issues resolved partially or fully in the client's favor" can be measured using our case management database. Each client has an Advocacy Plan which spells out how the case will flow and what OPA will do. OPA opened 431 cases and closed 252. Of the closed cases, 176 were resolved in the client's favor. The cases that remain open typically either were opened late in the year or involve a very high level of intervention.

Trend: ▶▶ The trend may be leveling off. From a low of 38% in 2007 to a high of 75% in 2010, the success rate increased substantially.

Proposed Actions to Turn the Curve: OPA was unable to develop special education clinics as originally planned. OPA was successful in hiring an attorney who has expertise in special education, but not until the first half of SFY 13. This will free up other legal resources to focus on other issues at no additional cost.

Data Development Agenda: As indicated in the 2012 RBA report card, OPA has developed a tool to capture the data for measure number 2--the time it takes from initial contact with OPA to when the individual seeking assistance is notified as to the decision made at Case Review on whether to provide Case Advocacy Services. This year OPA has also begun tracking response time for Information and Referral Services. OPA has a stated expectation to respond to calls, e-mails and other contacts within 24 hours.

2013 Program Report Card: Abuse Investigation Division (OPA)

Quality of Life Result: All adults with intellectual disability are safe and secure.

Contribution to the Result: The Abuse Investigation Division (AID) ensures that allegations of abuse and neglect with respect to adults with intellectual disability are promptly and thoroughly investigated, and that when abuse or neglect is substantiated, Protective Service Plans (PSPs) are initiated through appropriate service agencies in order to remedy conditions and protect victims. If a situation of immediate jeopardy is reported, AID initiates a request for an Immediate Protective Service Plan (IPSP) from the Department of Developmental Services (DDS), pending the results of a full investigation. In addition, AID maintains a central registry of allegations, and monitors the status of PSPs to ensure promised services are, in fact, being delivered, and to determine whether there is a continuing need for a formal protective service plan.

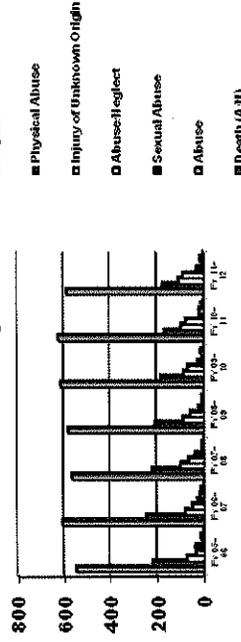
Program Expenditures	State Funding	Federal Funding	Other Funding	Total Funding
Actual FY 12	\$880,355	\$66,280	0	\$946,635
Estimated FY 13	\$847,749	\$63,825	0	\$911,574

Partners: Department of Developmental Services (DDS) and private providers licensed or contracted by DDS; State Prosecutors, Statutorily Mandated Reporters; State and local police agencies; probate courts; Departments of Public Health (DPH), Social Services (DSS) and Children and Families (DCF); Fatality Review Board for Persons with Disabilities (FRB); Office of the Chief Medical Examiner (OCME); Connecticut Sexual Assault Crisis Centers; local mental health authorities.

How Much Did We Do?

Reporting rates of selected, specific categories of abuse and neglect.

Rates of Selected Categories of Abuse and Neglect



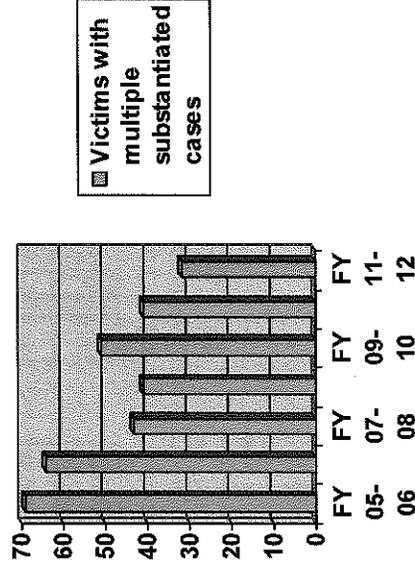
Story behind the baseline: Reporting of suspected abuse or neglect is a critical component in statewide efforts to remedy systems issues and protect against abuse and neglect. By tracking overall reporting activity, and focusing on particular categories, significant deviations from historical norms can be identified and further explanations sought. Identifying reporting patterns for particular categories of allegations also assists in developing systemic strategies for preventative efforts.

Trend: mixed ◀▶ Pretty stable.

Trend Going in Right Direction? ▲ Yes; ▼ No; ◀▶ Flat/ No Trend

How Well Did We Do It?

Abuse/neglect victims with multiple substantiated



cases.

2013 Program Report Card: Abuse Investigation Division (OPA)

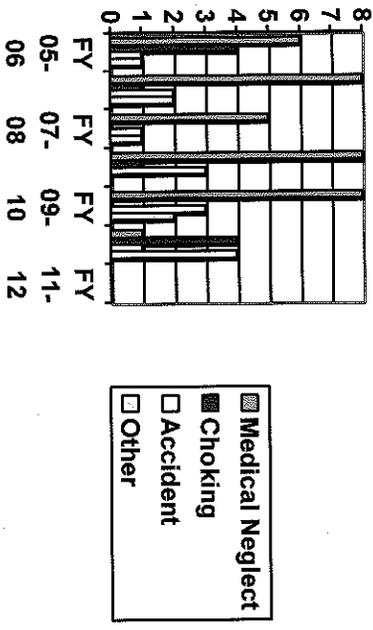
Quality of Life Result: All adults with intellectual disability are safe and secure.

Story behind the baseline: By focusing on the number of people who repeatedly become victims of abuse or neglect, this is one measure of the effectiveness of protective service interventions (PSPs). The decreasing number of repeat victims shown in this graph correlates to the establishment of a position within AID specifically dedicated to following up on PSPs. The one-year increase does not make a trend but we are aware of it. In addition, we are working to ensure individuals are provided with the appropriate services and supports to minimize the risk of re-victimization.

Trend: ▼

Is Anyone Better Off?

Types of abuse and neglect allegations linked to DDS client deaths.



Story behind the baseline: Since 2004, AID has been charged with conducting investigations into all DDS client deaths where abuse or neglect are suspected to have played a role. Although the absolute numbers are relatively small, analysis reflected in this measure has informed efforts to address systems. For instance, in response to several deaths that resulted from choking on food, AID

urged DDS to initiate training and policy reviews that resulted in stronger safeguards for people at risk of choking

Trend: ◀▶ The trend is mixed. Deaths due to medical neglect have been almost eliminated. Choking deaths are back to 2005—2006 levels.

Proposed Actions to Turn the Curve: Quarterly meetings with the Department of Developmental Services to discuss trends and ways to better ensure the safety of their clients. Issuance of periodic reports regarding trends in allegations. Ongoing communication with regulatory agencies such as the Department of Public Health about the need for nursing homes to be competent to care for persons with intellectual disability.

Develop additional data on the length of time PSPs must remain under active monitoring, and identifying any regional or programmatic variables. This information will inform discussions with DDS and other partners. Continue to press for effective and timely PSPs during quarterly meetings with the Commissioner of DDS and his executive team.

Data Development Agenda: AID is working to improve its internal database to ensure that when queried the result is 100% reliable. The current database enables detailed case management but is not robust enough to properly track data and spot trends in a timely manner. Currently, it takes much paper, pencil, and time to check the results of the current software. The current AID database functions to maintain day to day operations, but an improved database will help AID keep on top of trends such as those measured in this report card. The better AID keeps on top of these trends the more credibility AID has to alert service providers and others to watch for dangers and opportunities to safeguard people with intellectual disability.

Trend Going in Right Direction? ▲ Yes; ▼ No; ◀▶ Flat/ No Trend