

# Disability Rights Iowa Monitoring and Investigations

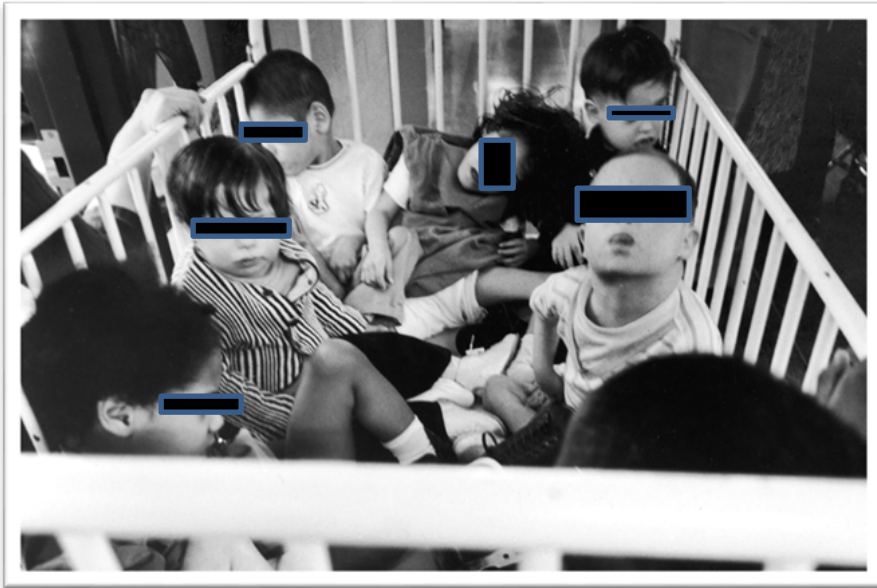
**DRI's Unique Activities as the designated Protection  
and Advocacy Agency in the State of Iowa**



# Willowbrook – The P&A Origin Story



# Abuse and Neglect – Exposed by an Outside Entity



# Definitions

## Abuse

- Any act or failure to act which was done knowingly, recklessly, or intentionally, and which caused, or may have caused, injury or death to an individual.
  - Exs: Physical assault, Excessive force in restraints, Verbal harassment, Restraint or Seclusion not in compliance with regulations

## Neglect

- A negligent act or omission by an individual responsible for providing services, supports or other assistance which caused or may have caused injury or death.
- Exs: Failure to
  - Provide a safe environment
  - Provide adequate nutrition, clothing or healthcare
  - Carry out an IPP

# Access Authority

## The Keys



# Access Rights under P&A Authority

Allows DRI access to PEOPLE, PLACES, and INFORMATION:

1. To access facilities and service settings to monitor those locations; and
2. To conduct abuse/neglect investigations

# Monitoring

- Physical access to a place where people with disabilities live, or receive services
  - Ex: MHIs, SRCs, NFs, ICFIDs, PMICs, HCBS etc.
- Broad, planned look at a facility focusing on:
  - Environmental conditions
  - Rights education and protection
  - Quality of services
  - Compliance Issues
- Announced or Unannounced

# Typical Monitoring

- Meet with facility leadership
  - Interview on practices and obtain policies
- Facility Tour
- Unaccompanied Access
  - Meet with residents
  - Observe
- Possible on the spot advocacy
- Debrief, Analyze Info Obtained
- Follow-Up Recommendation Letter



# Power of Photos - Monitoring



# Investigations

- DRI Acts as “Quasi-Investigative Agency”
- Incident Specific
- Access Authority is Triggered by:
  - *A report to P&A; OR*
  - *if P&A determines that there is probable cause to believe the incident occurred*
- Grants Access to
  - Records
  - The individual with the disability/witnesses
  - Relevant locations

# Investigations

- DRI's Role – Independent, Neutral, Fact Finder
- Function: Determine if abuse or neglect occurred and pursue corrective action if appropriate.
  - Can include: obtaining records, interviewing the individual/witnesses, observing and photographing the scene, oversight over another agencies investigation, consultation with professionals/agents
  - Investigative File Confidential to DRI
  - Will result in Report of Findings

# Access to Records

## **Without Access Authority**

- For legal advocacy: pursuant to rules of discovery

## **With Access Authority: Investigations ONLY**

- For investigations: access to examine all records relevant to investigation – Including internal investigative materials
- **Under investigation authority, have right to access records not subject to discovery, such as peer review**
- Reports prepared by an agency charged with investigating reports of incidents of abuse, neglect, injury, or death, including supporting information



# Access to Places- Investigation



# Purpose of DRI Investigations

1. If wrongdoing is substantiated, hold people accountable
2. Determine underlying causes and ensure corrective action to prevent recurrence
3. Determine if oversight agency's review process worked as intended, and make recommendations accordingly
4. Potential catalyst for systemic reform: legislation, policy reform, litigation

# Range of Recommendations

- Employee discipline (e.g., reprimand, reassignment, suspension, termination)
- Restitution
- Relocation of the individual per their wishes
- Staff training
- Policy review or change
- Individual service plan (ISP) or program review or revision
- Therapy or services to the person who experienced the abuse or neglect
- Supervision or staffing change
- Referral of the individual to other agencies for additional services
- Offer or provision of in-home services or out-of-home services
- Quality assurance review
- Revocation or nonrenewal of the contract or license
- Full or partial provider decertification
- Referral to law enforcement
- Referral to the licensing/certification board

# Special considerations

- Access Authority is used correctly and wisely
- Monitoring and Investigations require trained staff
- Information obtained through Access Authority must be maintained confidentially
- Breadth and scope of monitoring activities and investigations require strategic determinations considering:
  - Potential outcomes
  - Strength of concern
  - Available resources