



KEEPING YOUTH SAFE IN FACILITIES

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Disclaimer



This presentation is intended to provide you with some general information.



Nothing in this presentation is legal advice.



For advice regarding a specific situation, contact your attorney.



Topics to Cover

- Understanding the Work of the Protection & Advocacy System and Disability Rights Tennessee
- Take a Trip with DRT on a Monitoring Visit
- Interviewing Youth and Staff
- Findings from Monitoring Visits
- DRT Needs to Hear from You!
- How can DRT, Youth Attorneys, and Foster Care Review Board Members work together?

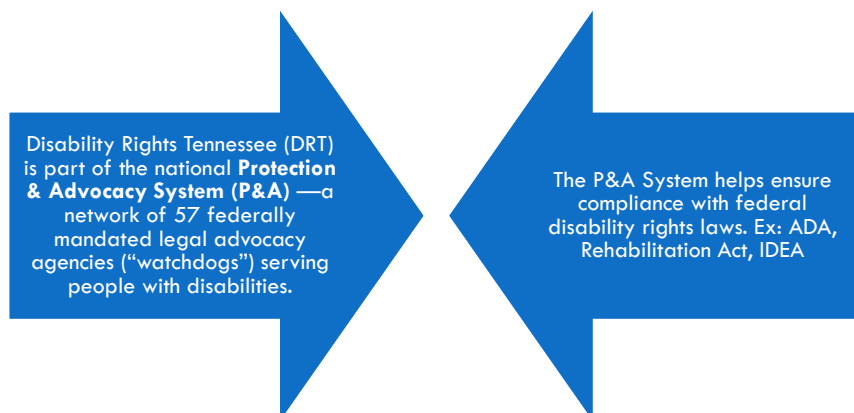


Understanding the Work of
The Protection & Advocacy System and Disability Rights Tennessee

Protection & Advocacy System



Protection & Advocacy System



Disability Rights Tennessee Overview

Who? Tennesseans with disabilities

What? FREE legal advocacy services

- Resource & Referral
- Investigation of Abuse & Neglect
- Advocacy Services
- Legal Representation
- Education & Outreach
- Public Policy Advocacy

Where? Statewide – 3 regional offices

Mission? DRT is a statewide nonprofit legal services organization dedicated to protecting the rights of Tennesseans with disabilities.



Our Work

DRT concentrates its work in three strategic areas:

Freedom from Harm

Freedom from Discrimination

Freedom to Participate in the Community



Access Authority

To ensure mandates can be effectively pursued, Congress granted P&As broad access to the records of individuals with disabilities and facilities in which they reside.

P&As are entitled to reasonable access to facilities that care for persons with disabilities (provided such access does not interfere with clinical or other care activities) when necessary to conduct an investigation of abuse or neglect or to monitor the treatment and safety of residents.

Gives DRT the opportunity to talk to residents, talk to staff, and go anywhere in the facility that residents can go.



Resource Center Referral Process

- Intake Phone Line: **1-800-342-1660**
 - Anyone can call who has concerns related to the treatment of individuals with disabilities.
 - Once DRT is alerted to situations, they may open an investigation if abuse or neglect is taking place in facilities.
 - If DRT does not feel like an investigation is necessary, they may give information and other referrals.
 - Calls can come from parents, advocacy agencies, Foster Care Review Board members, DCS, reporters.





What do investigators look for when monitoring juvenile facilities?



The Senses Test!!

What do you see? What do you hear? What do you smell?



Cleanliness

Mold in shower? Linens piled on the floor?



Staff/Youth Interaction

Are staff putting on a show?
What does youth body language say?

What do investigators look for...continued

Number of youth observed vs. What census says

Who is Receiving therapy?

- Are the services that are court ordered being rendered in the facility?

What is going on in the Classrooms?

- Are youth engaged? Do they act shocked that lessons are going on while monitoring is taking place?



Interviewing Youth and Staff

Techniques and Questions To Ask

Be Transparent

- Be clear why you are there and why you are asking the questions you are asking.

Casual Conversation

- For Staff find common ground (i.e. compliment clothes etc.)
- For Youth break the ice (i.e. favorite football team?)

Assume non-authoritarian posture

- Know physical power structures in the room.
- Don't appear threatening



Strategies

Techniques



Use Open-Ended Questions



Nod to show you are listening

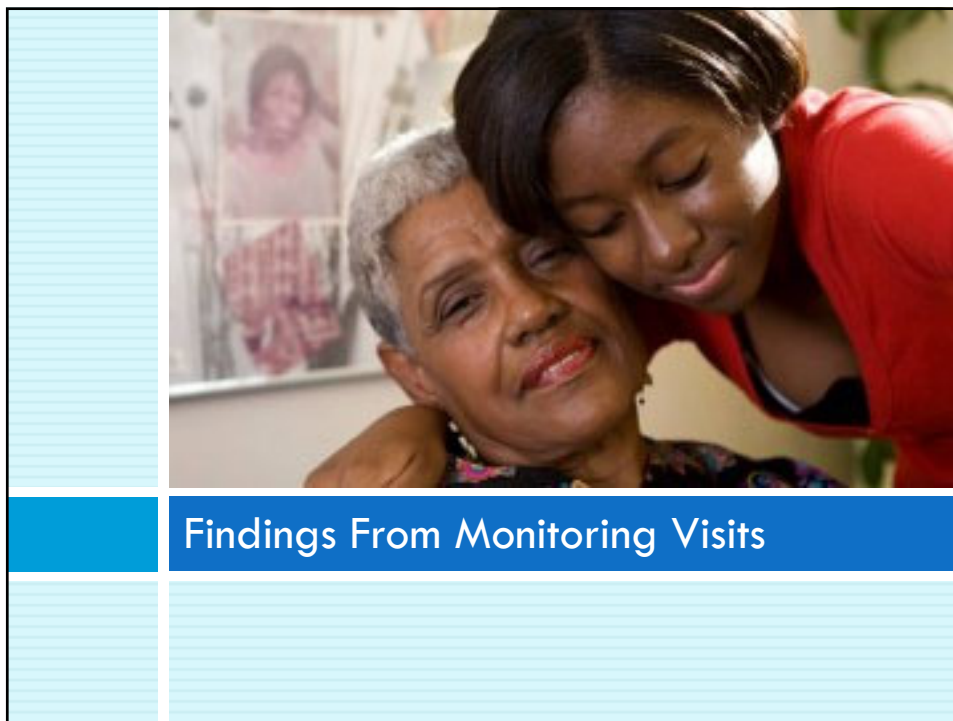


Don't just lecture, but actively listen

Questions

- What would you change?
- Is there something we haven't talked about you would like to share?





Common Findings at Facilities

Isolation	Lack of Programming	Poor Education	Lack of Trauma Care and Services
Staff who lack training in Mental Health and Disability Issues	Lack of Religious Opportunities	Racial Disparities Between Facilities	Lack of Gang Prevention Curriculum
	In some cases, failure to regularly see DCS Case Workers	Injuries Due To Restraint	

Specific Findings from Facilities

Failure to **appropriately assess** youth – or to consult and follow existing assessments – for placement decisions or the delivery of appropriate services.

Failure to **educate** youth and failing to comply with special education requirements for youth with disabilities under the Individuals with Disabilities Education Act.

Failure to provide proven, evidence based **therapeutic services or rehabilitative programming.**

Facility relies on poorly monitored **psychotropic medications for 78% of youth** interviewed and warehouses youth with disabilities in violation of the ADA.

Failure to ensure that healthcare needs are met in a timely fashion or at all.

- “[Facility] functionally isolates young people from all other productive supports, such as family, religion, and community-based services. [Facility’s] failure to provide rehabilitative programming and to instead arbitrarily punish and isolate youth has created a powder keg of pent-up frustrations and hopelessness.”



More Specific Findings from Facilities

Physical, Sexual, and Emotional Abuse by Staff: Staff orchestrating attacks on youth through an incentivization practice known as placing “hoodles” on a youth’s head. **25% of youth** reported being victims of, witness to, or assisting staff in this practice.

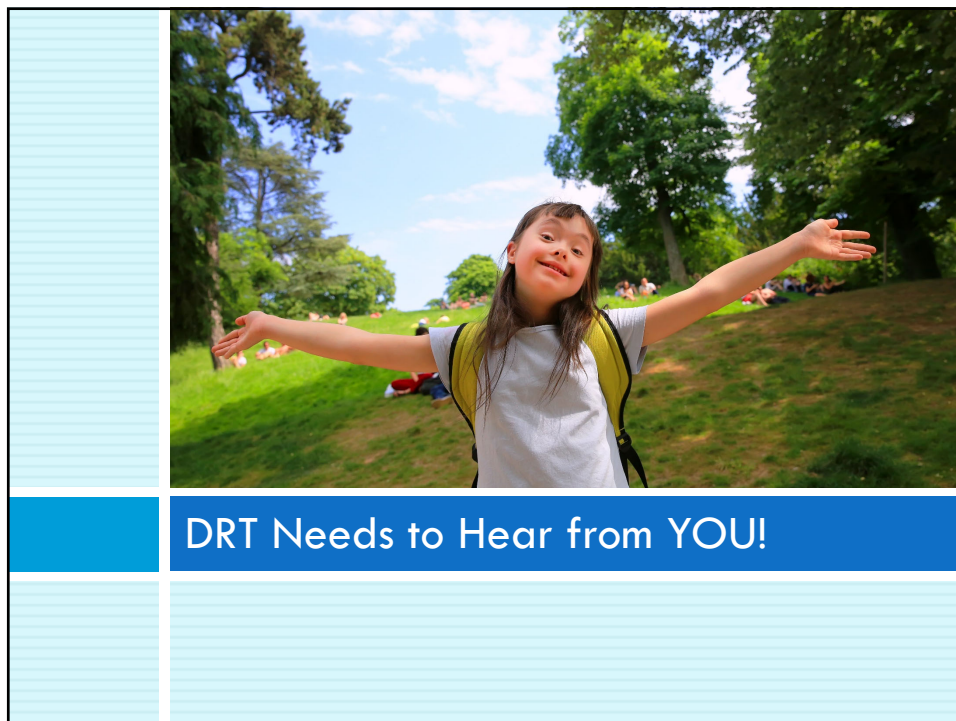
Facility Failed to Respond to Allegations of Staff Abuse: Comptroller found authorities had failed to ensure that facility “corrected potentially harmful practices that risk the safety of the children who are in their custody.”

Facility Sanctioned Abuse Through Its Seclusion Practices: Rampant and inappropriate use of solitary confinement in a “Behavior Dorm”. Records reflect stays in behavior dorm result in increased suicidality. Placement in behavior dorm is often preceded by harmful physical restraint practices, such as take-downs and prone restraint.

Lack of Effective Grievance Procedure: From 2019-2020, only three grievance hearings were held for almost 300 youth grievances.

- “The American Academy of Child and Adolescent Psychiatry notes that youth are of ‘particular risk’ of depression, anxiety, and psychosis due to isolation practices and points out ‘the majority of suicides in juvenile correctional facilities occur when the individual is isolated or in solitary confinement.’”





DRT Needs to Hear from YOU!

Information that could be pass along to DRT


- **Step 1: Mandatory Reporting Requirement!**
 - If you see any abuse or neglect issues, you must report to Child Protective Services
- **Step 2: Share information with DRT so we can investigate**
 - If there are recurring mentions in a facility, we know to go in and monitor.



Foster Care Review Board

- Juvenile Court Rule 403
- (d) Conduct of the Review.
- (e) Recommendations. The board shall make written recommendations that address the child's safety, well-being, and permanency. The board shall deliberate to develop recommendations. All deliberation shall occur outside the presence of the parties, their attorneys, and other persons present for the review. Recommendations shall be made addressing the needs pursuant to Rule 402(b) of these rules. All recommendations should be agreed upon by a majority of board. If there is no majority agreement for each recommendation, the court facilitator shall:
- (i) Direct Referral. When the board makes the determination that a direct referral shall be made by the court, the court facilitator will determine the type of direct referral as provided by T.C.A. § 37-2-406(c)(1)
- (j) Statements of Child. Any statements made by a child at the review are not admissible in a delinquent or unruly proceeding prior to a dispositional hearing.
- TCA 37-2-406
 - (b) It is the responsibility of the foster care review board or court to conduct the reviews specified in subsection (a). The board and the department shall develop adequate procedures to ensure that the case of each child in foster care is reviewed no less frequently than ninety (90) days after placement in foster care and every six (6) months thereafter;
 - (B) Where issues in a particular case constitute a risk of harm and directly compromise the health, safety or welfare of the child, such direct referral case shall be heard by the judge or magistrate within seventy-two (72) hours, excluding non-judicial days.

- Guardian ad Litem Supreme Court Rules, Rule 40
- Definitions
- (1) "Guardian ad Litem" is a lawyer appointed by the court to advocate for the best interests of the child and to make sure that the child's concerns and preferences are effectively advocated.
- (2) "Child's best interests" refers to a determination of the most appropriate course of action based on objective consideration of the child's specific needs and preferences.
- (c) General guidelines
- (1) The child is the client of the guardian ad litem. ... The child, not the court, is the client of the Guardian ad litem.
- (d) Responsibilities
- (1) Conducting an independent investigation...that includes:
 - (1) Obtaining necessary authorization for release of information, including an appropriate discovery order;
 - (2) Explaining to the child, in a developmentally manner:
 - Preparing the child for the hearing
 - Advocating the position that serves the best interest of the child
- (e) Responsibilities and duties when ...the child's best interests and ... preferences are in conflict



Questions?



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 <https://twitter.com/tnrights>

 <https://www.instagram.com/tnrights/>

Support our Work

<http://www.disabilityrightstn.org/donate>



Thank You!

CONTACT US

Website: www.disabilityrightstn.org

Phone: **1-800-342-1660**

E-mail: GetHelp@disabilityrightstn.org

