

# Advocacy Dimensions



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Minnesota State Planning Agency

Developmental Disabilities Protection and Advocacy Network

## *Abuse Reporting Laws Can Make a Difference: Identification and Prevention*

### 1980 Legislation Creates "Vulnerable Adult" Protection Act

In 1977, a 19 year old woman was found in a pool of blood by the staff of the nursing home in which she lived. Shara, who was immobile and could not communicate, was taken to a hospital. There, doctors discovered that she had a four centimeter long laceration of her vagina. Experts working with Shara said she had neither the strength nor the coordination to harm herself in this way. Yet, neither the hospital nor the nursing home reported the incident to any authority for investigation. No independent investigation has been done to determine who allegedly caused Shara this injury.

In September, 1979, Mary (not her real name) alleged that she had been raped by the male night staff person in her group home. The group home did not report the alleged incident to any authority until a routine licensing visit by the Department of Public Welfare in October. In January, DPW requested a report on the incident from the local welfare office. By June, DPW had not

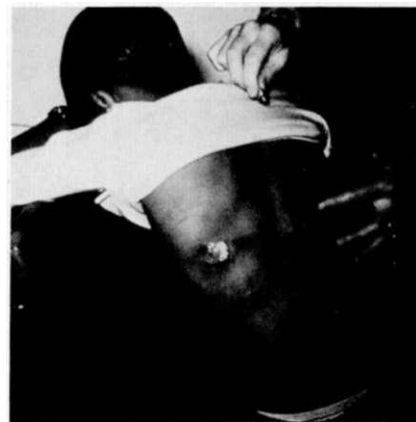
received a report and did not know if one had been prepared. No official action has been taken against the group home or the staff person.

Could these abuses have been prevented? Would prompt investigation have led to the apprehension and conviction of the abuser? Could action be taken to prevent similar incidents from reoccurring in these facilities?

Though these questions cannot be answered with certainty, the Vulnerable Adults Protection Act provides new hope that abuse of people with handicapping conditions and other vulnerable adults can be prevented. Eric Janus, Managing Attorney for Legal Advocacy for Developmentally Disabled Persons of Minnesota, who helped a group of citizens to draft The Adult Protection Act, answered the following questions about this new legislation:

### Child Abuse Reporting Stirs Public Response

Over 2,000 cases of child abuse were reported in Minnesota in 1978 — an increase of more than 500% from the 362 cases reported just four years earlier! Cause for alarm? Or applause? Very possibly, both.



The dramatic increase in reported cases of child abuse in Minnesota does not necessarily signal a corresponding increase in the number of incidents of child abuse that actually may have occurred. It stems, in part, from a growing awareness of

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## Advocacy Program Highlights

### **CENTS MAKES SENSE**

Karen is a high achiever and is fairly certain of her future goals. Like many others, she wants to succeed in a career, to have friends, and to tend a family. A college education is her greatest desire and although she fears the red tape and leaving the security of her home environment, Karen is ready and willing to go. She's even lined up a scholarship to cover tuition and knows exactly what courses interest her. But Karen can't attend a university for a very frustrating reason: she has cerebral palsy. Communication is difficult, for Karen must use a "talkboard" to spell out sentences. She lacks affordable wheelchair transportation, and she doesn't believe she'll be accepted by the college or the student body.

But there is help for Karen and other "non-traditional" students. It is a program called CENTS.

The Center for Education for Non-Traditional Students (CENTS) is a private non-profit organization which functions as a service broker between non-traditional student populations and institutions of higher learning. It provides support services to make it possible for those who have experienced chemical dependency, physical disability, incarceration, or emotional disturbances to choose and attend the college, university or vocational school of their choice. CENTS can work with students throughout the state. CENTS services include: counseling, advocacy, financial assistance, career and educational planning, transportation, and help with securing tutoring, physical care of special equipment. At the same time, CENTS works closely with post-secondary educational institutions and human service agencies to encourage an awareness of the abilities of handicapped populations and a sensitivity to their needs. CENTS prevents duplication of effort by working with related human service agencies.

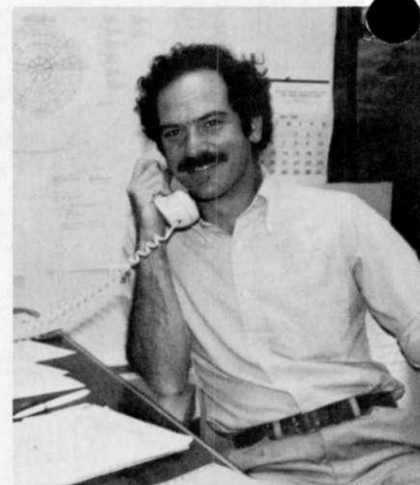
*CENTS is designed to bring together these neglected population groups and colleges. CENTS is prepared to help overcome the social, financial, programmatic and physical barriers that lie in the way of handicapped people working to make their goals become realities.*

CENTS may help in a variety of ways. Like other students, non-traditional students need accurate information and assistance in career and educational planning. They also need help with application, registration and financial aid. Often, as a result of their previous estrangement from society and their unfamiliarity with the academic world, they need encouragement while adapting to the new environment. Some students need special assistance: tutoring, or in the case of persons with a physical disability, transportation and physical care.

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## The Vulnerable Adult



Eric Janus  
Legal Advocate

### *Who are "vulnerable adults"?*

Three types of people are defined as "vulnerable adults" by the Act. First, adults who are residents or patients of facilities licensed by DPW or the Department of Health (hospitals, nursing homes, group homes, etc.). Second, adults who receive services from facilities licensed by DPW (e.g., DAC's). Third, adults "who, regardless of residence, are unable or unlikely to report abuse or neglect without assistance because of impairment of mental or physical function or emotional status."

### *What sort of protection is provided by the Act?*

Suspected abuse or neglect must be reported to the proper authorities by certain people (mainly professionals and others who work in facilities). The local welfare department, upon receiving a report, must investigate to see whether protective services are needed. If a licensed facility or person is implicated, the licensing agency must investigate to determine whether any corrective action must be taken.

## Child Protection Act

*What does the Act prevent abuse before it happens?*

The Act requires facilities which serve vulnerable adults to develop abuse prevention plans. These plans should identify factors which might lead to abuse, and develop strategies for minimizing the risk of abuse.

*What assurance is there that abuse will be reported?*

The Act imposes several penalties on persons obligated to report who fail to report abuse or neglect. These include criminal penalties if the failure is willful, liability for damages if the failure is negligent, and the possibility of disciplinary action by the licensing agency if the person is licensed.

*Is there any requirement that the various agencies involved in investigating abuse or neglect coordinate their activities?*

*Yes.* Any agency which receives a report must notify all other appropriate agencies. Agencies which regulate facilities must develop procedures for coordinating their investigations with law enforcement and local welfare agencies.

*Is there any protection against retaliation for people who report abuse or neglect?*

*Yes.* Such retaliation is prohibited. Any adverse action taken against the reporter or the vulnerable adult within 90 days of the report is presumed to be retaliatory, although this presumption may be rebutted. A person who retaliates is liable for actual damages and a penalty up to \$1000.

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## The Child Abuse Reporting Act

the problems, which has led to significantly increased voluntary reporting, and in part from the 1975 revision of Minnesota's Reporting of Maltreatment of Minors Law. Effective August 1, 1975, the revision expanded the number of professions mandated to report, added the required reporting of sexual abuse, and granted immunity from civil and criminal liability to any person making a report in good faith. Minnesota's Reporting Act (MN Statute 626.556) now mandates that "A professional or his delegate who is engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, or law enforcement who has knowledge of or reasonable cause to believe a child is being neglected or physically or sexually abused shall immediately report information to the local welfare agency, police department or the county sheriff."

Of the 2088 cases reported to the Department of Public Welfare in Minnesota for 1978, 1,172 were received from professionals required to report and 916 were from voluntary reporters. Statistics are expected to show that reported cases increased even more markedly in 1979 as a result of another recent revision in the applicable law, in which cases of child neglect were also required to be reported.

While the Welfare Department focuses on family intervention in child abuse problems, it is the responsibility of the Minnesota Office of Health Facility Complaints to investigate institutional abuse, or neglect in community health care facilities. Jean Donaldson,

Director of that agency, says that the office still feels the need to focus on educating facility workers about their obligations to report.

Mandatory reporting is a recognition of the historic inadequacy of voluntary disclosure of child abuse and the apparent reluctance of even professionals to intrude upon the privacy and sanctity of the home and family in matters involving parent-child relations. Reporting of child abuse and neglect, whether mandatory or voluntary, is obviously an important starting point.

But reporting of child abuse to the proper authorities is *only* a starting point, if the declared public policy underlying the law is to become a reality: "... to strengthen the family and make the home safe for children through improvement of parental and guardian capacity for responsible child care."

Anyone who works with young children and their families has a special responsibility to be actively involved and educated in child abuse prevention, identification and referral.

Working with parents to aid understanding of child behavior, child development and special needs, and child rearing techniques is an effective preventive strategy. There is also a great need for more agencies to offer respite care and other supportive services, especially to parents of children whose special needs may put increased stress on the family. By offering education, support, and serving as

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liaison between families and other supportive service agencies, human service workers can be helpful in preventing crises.

Teachers, child care workers, and other adults who have daily contact with children must learn to be aware of early warning signs, or patterns of behavior that may be indicative of abuse and/or neglect. The worker's relationships with children provide the clues, if they pay attention to their own feelings and have faith in their own judgments. When a child consistently fails to respond appropriately to the relationship offered, this can be a sign that something is amiss. An excellent reference book that provides a detailed guide for determining possible abuse or neglect is *Some-where a Child is Crying: Maltreatment — Causes and Prevention*, by Dr. Vincent J. Fontana (Macmillan Publishing Co., Inc., New York.)

Much more research on the topic of child abuse is necessary before the underlying causes can be more clearly identified. The stress of parenting has been one of the

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And, too, faculty and staff often have questions about working with unfamiliar populations. Currently, CENTS is providing special training for post-secondary personnel, called "Access Awareness." These workshops address the attitudinal needs of persons who have a handicap.

There are many advantages to CENTS. CENTS, in itself, does not offer college credit or classes. Rather it taps the many existing traditional and innovative academic programs. By acting as a clearinghouse which utilizes existing services, CENTS is economical. Through contact with both human service agencies and educational institutions, CENTS can fill the gaps between services. Because it is tied to neither one academic institution nor one therapy program, CENTS can provide a comprehensive and flexible approach to meet individual needs. If you are interested in the CENTS Program, please write or call for more information:

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factors pointed to as a potential cause of child abuse. In general, children with special physical or emotional problems, such as the developmentally disabled, may put higher stress on the family. If a parent's own unmet early needs combine with a lack of understanding of their child's development and abilities, the parent may see the child's behavior as intentional naughtiness.

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The Act requires the commissioner of Public Welfare to undertake an aggressive program to educate those required to report, as well as the general public, about the requirements of the Act.

The effective date of the Vulnerable Adults Protection Act is January 1, 1981. Prior to that date, currently existing laws require that abuse be reported in certain circumstances.

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