



Alaska Protocol for Addressing Violence/Abuse of People with Disabilities



A Ramp to the Moon by Melina Fatsiou-Cowan

Sponsored by funding from the Alaska Mental Health Trust Authority and the State of Alaska, Governor's Council on Disabilities and Special Education in partnership with the University of Alaska, Center for Human Development.



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Including Regional Protocols for:

- Far North
- Interior
- Southwest
- South-Central
- Southeast

Acknowledgements

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Additional resource funding has been provided by the State of Alaska, Governor's Council on Disabilities and Special Education to support the collaborative efforts of disability and domestic violence/sexual assault providers to support women with disabilities who have been victimized.

Special recognition also needs to go to the following collaborators:

- **Access Alaska, Anchorage**
- **Access Alaska, Fairbanks**
- **Alaska Network for Domestic Violence and Sexual Assault**
- **Independence *First* of Milwaukee, Wisconsin**
- **Southeast Alaska Independent Living (SAIL)**
- **State of Alaska, Adult Protective Services**

A special thanks goes to Leslie Myers of Independence *First* of Milwaukee, Wisconsin for creating the protocol and committed her time and expertise to bring this best practice to Alaska.

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Section 1

Statement of Principles

The agencies and individuals representing D.A.R.T. Alaska have adopted this protocol to ensure that individuals with disabilities, who are victims of violence and abuse, receive appropriate and effective victim services. D.A.R.T. Alaska acknowledges the following:

- Abuse of individuals with disabilities is widespread, but often unrecognized in our society.
- Abuse can occur in any number of settings including home, work, education or social environments, as well as institutions or residential facilities.
- Abuse is a violation of an individual's human and civil rights by another person(s). The risk of being abused depends upon the situation, the environment and the perpetrator. It is not related to the behavior of the victim.
- Many incidents of abuse are criminal offenses.
- The abuse may be perpetrated by someone who is in a position of trust, power or authority; it may be a relative, friend or someone who is responsible for providing care (paid or unpaid); it may be another service user or a stranger.
- Preventing the abuse of individuals with disabilities is the responsibility of all segments of society.
- Those agencies (both non-profit and for-profit), professionals and volunteers that work with individuals with disabilities, have a particular responsibility to ensure that the programs and services they offer are not only effective but also safe.
- Early detection of abuse can occur if these agencies ask, those people with disabilities they are in contact with, about violence and abuse.

The individuals and agencies represented on D.A.R.T. Alaska agree that individuals with disabilities have the right to:

- Live their lives free from coercion, intimidation, oppression and physical, sexual, emotional or mental harm
- Receive full and comprehensive information to enable them to make informed choices about their own circumstances

- The same protections under the law afforded people without disabilities
- Have equal access to the judicial process
- Have equal access to victim services

Recognizing that inequality, disadvantage and discrimination exist in society, the individuals and agencies represented on D.A.R.T. Alaska will strive to comply with the equal opportunity policy and standards of the Department of Workforce Development, Department of Health and Family Services and all-applicable state and federal statutes and regulations relating to nondiscrimination in employment and service delivery.

As such, no otherwise qualified applicant for services or service participant shall be excluded from participation, be denied benefits, or otherwise be subject to discrimination in any manner on the basis of race, color, national origin or ancestry, sex or sexual orientation, gender identity/expression, religion, age, political belief or affiliation, disability or association with a person with a disability. This policy covers eligibility for and access to service delivery and treatment in all of programs and activities.

The organizations, represented on D.A.R.T. Alaska, will ensure that any necessary measures to support and empower individuals with disabilities (i.e. advocacy, interpreters etc.) will be provided. In addition when a situation arises that involves an adult who does not have the capacity to consent to the actions taken to protect him/herself, clarification will be made about whom, if anyone, has the power to act on his/her behalf.

Section 2 Definitions

This policy/protocol covers individuals with disabilities* who are experiencing violence/abuse**.

***Disabilities**

For the purposes of this policy/protocol the member organizations will use the definition of an individual with a disability as stated in the Americans with Disabilities Act.

Under the Americans with Disabilities Act (ADA), an individual with a disability is a person who:

1. Has a physical or mental impairment that substantially limits one or more major life activities;
2. Has a record of such an impairment; or
3. Is regarded as having such an impairment

(For additional definitions related to the ADA, see Appendix I)

****Abuse**

For the purposes of this protocol all criminal acts, like sexual assault, domestic violence, theft, battery, etc. will be covered according to existing statutes. In addition the following definition of abuse, exploitation and neglect will also be included. Abuse is defined as:

- Any treatment of an adult or child with a disability that places life, health or welfare in jeopardy or which is likely to result in impairment of the person's health
- Any conduct committed with an intent or reckless disregard that is likely to cause unnecessary harm, unnecessary pain or unnecessary suffering to the adult or child with a disability
- Confinement or unnecessary restraint of an adult or child with a disability
- Any sexual activity with an adult or child with a disability by a caregiver, either while providing a service for which he/she receives financial compensation or at a care giving facility or program
- Any pattern of malicious behavior that results in impaired emotional well-being of an adult or child with a disability

Examples of Physical Abuse

Physical abuse is usually recurrent and escalates in both frequency and severity. It may include (but is not limited to) the following:

- Hitting

- Pushing
- Hair pulling
- Kicking
- Strangling
- Assault
- Inappropriate handling
- Overuse of restraints
- Over-medicating
- Inappropriate behavior modification
- Keeping the individual awake
- Driving recklessly
- Forcing the individual to eat, drink or take medications
- Attempted murder
- Repeated kicking to the abdomen during pregnancy; violence resulting in miscarriage (Adapted from: "Dynamics of Caregiver Abuse" by Disability Services ASAP of SafePlace, Austin, TX 2000).

Examples of Sexual Abuse

Sexual violence is a verbal or physical act that is sexual in nature and violates a person's sense of trust and/or feeling of safety. Sexual violence includes rape or other sexual assault/abuse by a date or acquaintance, a partner, a caregiver, a family member or a stranger. Sexual assault occurs when the person does not give consent, is unable to give consent or when the sexual conduct is occurring with a licensed professional or service provider. The following are some of the ways a person may be sexually assaulted.

Hands-Off or Covert Offenses do not involve physical contact, but does include voyeurism, exhibitionism, forced viewing of pornography, sexual harassment and threats

Hands-On or Overt Offenses involve physical contact and can include genital contact with or without penetration. This contact might be to the victim's vagina, penis, breast, anus or mouth. The perpetrator might be making contact orally, genitally, digitally or with objects

Harmful Genital Practices, unnecessary and unwarranted or excessive personal care to a person's genitals, breast or anus.
(Adapted from Wisconsin Coalition for Advocacy (2004) Cross Training Workbook: Violence Against Women with Disabilities).

Examples of Emotional Abuse/Verbal Abuse

Emotional or psychological abuse almost always precedes and accompanies physical or sexual violence as a means of controlling through fear and degradation. It is the type of abuse that victims usually report as the most painful and destructive. It may include (but is not limited to) the following:

- Verbal abuse that is focused on the person's disability
- Denial of rights to make decisions
- Threats to harm the individual, pet(s), family or children
- Humiliation
- Insults
- Isolation
- Emotional neglect
- Criticizing the person's looks, disability, culture and/or spiritual beliefs
- Refusing to talk to the person
- Sabotaging the victim's efforts to gain or maintain employment, education or training
- Extreme jealousy and possessiveness
- False accusations, blaming the victim for everything
- Lying, breaking promises, destroying trust (Adapted from: "Dynamics of Caregiver Abuse" by Disability Services ASAP of SafePlace, Austin, TX 2000).

Examples of Financial Abuse/Exploitation

Financial Abuse/Exploitation is defined as misusing the resources of an elderly or disabled person for personal or monetary benefit. This includes (but is not limited to):

- Denial of access to or control of funds
- Misusing or theft of financial resources
- Stealing money or personal items
- Not returning change from purchases
- Taking Social Security or SSI (Supplemental Security Income) checks
- Abusing a joint checking account (Adapted from: "Dynamics of Caregiver Abuse" by Disability Services ASAP of SafePlace, Austin, TX 2000).

Examples of Neglect

Neglect is the failure of an individual to provide treatment or services necessary to maintain the health or safety of the individual in their care. Neglect includes (but is not limited to):

- Denial of food, clothing, shelter and/or transportation
- Not working assigned hours or not performing assigned duties
- Withholding medications, food, medically necessary treatment or medical/assistive equipment like walker, wheelchair or communication device
- Leaving alone without a way to call for help
- Mistreating or refusing to feed pet(s) or service animal
- Leaving individual on toilet or in soiled undergarments for long periods of time
- Using vehicle without permission (Adapted from: "Dynamics of Caregiver Abuse" by disability Services ASAP of SafePlace, Austin, TX 2000).

Perpetrators

For the purpose of this protocol perpetrators of abuse/violence against individuals with disabilities may include (but is not limited to):

- Date or acquaintance
- Spouse
- Partner
- Family member
- Caregiver (paid or unpaid)
- Service Provider
- Stranger

Domestic Violence-under AS 18.66

"Domestic violence" and "crime involving domestic violence" mean one or more of the following offenses or an offense under a law or ordinance of another jurisdiction having elements similar to these offenses, or an attempt to commit the offense, by a household member against another household member*:

- A. A crime against the person under AS 11.41 (Homicide; Assault and Reckless Endangerment; Stalking; Kidnapping and Custodial Interference; Sexual Offenses; Robbery, Extortion, And Coercion)
- B. Burglary under AS 11.46.300_- 11.46.310;
- C. Criminal trespass under AS 11.46.320_- 11.46.330;
- D. Arson or criminally negligent burning under AS 11.46.400_- 11.46.430;
- E. Criminal mischief under AS 11.46.475_- 11.46.486;
- F. Terrorist threatening under AS 11.56.807_or 11.56.810;
- G. Violating a protective order under AS 11.56.740_(a)(1); or
- H. Harassment under AS 11.61.120_(a)(2) - (4)

***Household member**" includes

- A. Adults or minors who are current or former spouses;
- B. Adults or minors who live together or who have lived together;
- C. Adults or minors who are dating or who have dated;
- D. Adults or minors who are engaged in or who have engaged in a sexual relationship;
- E. Adults or minors who are related to each other up to the fourth degree of consanguinity, whether of the whole or half blood or by adoption, computed under the rules of civil law;
- F. Adults or minors who are related or formerly related by marriage;
- G. Persons who have a child of the relationship; and
- H. Minor children of a person in a relationship that is described in (A) - (G) of this paragraph

For additional information on domestic violence laws go to:

[http://www.legis.state.ak.us/cgi-](http://www.legis.state.ak.us/cgi-bin/folioisa.dll/stattx04/query=[jump!3A!27as1866990!27]/doc/%7B@8698%7D?)

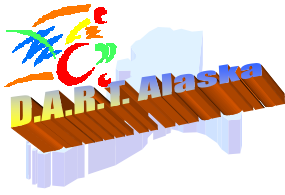
[bin/folioisa.dll/stattx04/query=\[jump!3A!27as1866990!27\]/doc/%7B@8698%7D?](http://www.legis.state.ak.us/cgi-bin/folioisa.dll/stattx04/query=[jump!3A!27as1866990!27]/doc/%7B@8698%7D?)

Section 3 Information Sharing

The programs developing this policy/protocol shall not disclose the victim's identity and/or specifics about the victim's circumstances to the collaborating agencies/programs in D.A.R.T. Alaska without the written consent of the victim, unless otherwise required to do so by state or federal law (i.e. mandatory reporting of abuse of vulnerable adults and children). A victim must sign a *D.A.R.T. Permission Form* prior to the exchange of any information regarding that victim. Once the *Permission Form* has been signed, information shall be exchanged for the purposes of referral, treatment and intervention planning and coordination efforts. Each D.A.R.T. agency will use their agency release of information forms for contact subsequent to the initial D.A.R.T. meeting.

Copies of the original signed *D.A.R.T. Permission Form* shall be kept on file with the initiating organization, and a copy will be transmitted to the receiving party. The agencies/programs developing this policy shall provide non-identifying statistical information during monthly case study reviews and for end of the year program evaluation.

See page 10-11 for a sample *D.A.R.T. Alaska Permission Form* and page 12 a sample *D.A.R.T. Alaska Confidentiality Statement*.



D.A.R.T. Permission Form

In order to provide the best possible services to victims with disabilities, agencies throughout Alaska have developed the Disability Abuse Response Team (D.A.R.T.). D.A.R.T. offers wrap-around services to victims with disabilities and all of the agencies listed on this form are members of D.A.R.T. By signing this form you are giving us permission to contact these agencies on your behalf. It is up to you which agencies we contact. Your safety and the privacy of your personal information is of utmost importance to the members of D.A.R.T. so those agencies you select will be informed of your situation on a need to know basis. Individuals receiving D.A.R.T. services have the right of confidentiality in all matters not directly related to the information necessary for advocacy.

Name: _____ Disability (optional): _____

Address: _____ Phone: _____

City/State/Zip: _____

Agency: _____ Contact Name: _____

I understand that I am under no obligation to sign this permission form and that I can revoke, in writing, this permission form at any time.

Signature: _____ Date: _____

Guardian: _____ Date: _____

Witness: _____ Date: _____

Release Expires: _____

This form is **ONLY** for DART related services and is not intended to (nor can it) replace any of the individual partner agency's standard Release of Information.

This form is to be given to the DART Coordinator and shall be destroyed once services have been rendered to the individual requesting DART services.

(On Program Letterhead- to be discussed and given to program participant)

**Domestic Violence/Sexual Assault Program
Information on Confidentiality**

It is the policy of Domestic Violence/Sexual Assault Program to keep confidential any written record of a woman's stay. Confidential communications will not be disclosed, including the information that you are receiving services from the Domestic Violence/Sexual Assault Program (DVP), without your informed written consent. This policy is required by state and federal law to protect a woman and her children's safety.

**BEFORE YOU SIGN THIS RELEASE OF INFORMATION,
IT IS IMPORTANT TO DISCUSS CONFIDENTIALITY AND
SAFETY PLANNING WITH AN ADVOCATE.**

If you want an agency or individual to be able to contact you directly at the DVP, you can indicate that on the attached release of information form. If you want the DVP to be able to share specific information with another agency/individual for a limited purpose, such as verifying that you are staying in shelter, you need to indicate the name of the agency/individual and the limited information and purpose for the release of information.

You do not need to fill out the attached release of information form in order for agencies/individuals to contact you at the DVP. Without a release of information, we will explain to a caller that we can not give out any information on whether someone is receiving services from the DVP, but can take a message for that person.

(COPY FOR PROGRAM PARTICIPANT)

**Domestic Violence/Sexual Assault Program
Sample Release of Information**

I hereby authorize the DVP advocates to share information with the following agencies:
(Please write your initials separately next to the agencies for which you authorize a release of information.)

<u>Initial</u>	<u>Agency</u>	<u>Information to be Released</u>
_____	Alaska Housing Authority <i>for the limited purpose of</i>	_____ _____
_____	Div. of Family & Youth Services(DFYS) <i>for the limited purpose of</i>	_____ _____
_____	Law Enforcement <i>for the limited purpose of</i>	_____ _____
_____	Child Care & Family Resources <i>for the limited purpose of</i>	_____ _____
_____	Public Assistance Office (ATAP) <i>for the limited purpose of</i>	_____ _____
_____	School Personnel/Childcare Facility <i>for the limited purpose of</i>	_____ _____
_____	Batterer Intervention Program <i>for the limited purpose of</i>	_____ _____
_____	District Attorney's Office <i>for the limited purpose of</i>	_____ _____
	<u>Additional:</u>	
_____	<i>for the limited purpose of</i>	_____ _____
_____	<i>for the limited purpose of</i>	_____ _____
_____	<i>for the limited purpose of</i>	_____ _____

This release of information is in effect from _____ through _____.
I understand that I may revoke this consent at any time.
THIS RELEASE WILL AUTOMATICALLY EXPIRE ONE MONTH FROM THE DATE IT IS SIGNED UNLESS A SHORTER OF PERIOD OF TIME IS INDICATED ABOVE.

_____	_____
Program Participant	Advocate
_____	_____
Date	Date

(Form that can be used with an outside agency)

**Domestic Violence/Sexual Assault Program
Sample Release of Information**

It is the policy of the DVP to keep all records, communications and observations confidential. This includes all service, and administrative records, including any and all logs/records resulting from telephone contacts, and any other work product of staff related to recipients of service. This policy is required by state and federal laws on confidentiality. Confidential communications will not be disclosed except with the explicit written permission of the individual involved.

I, _____, hereby authorize DVP to share the following information:

_____ for the limited purpose of:

_____ with the following:

(Individual/Agency/Organization Name)

This release of information is in effect from _____ through _____.

I understand that I may revoke this consent at any time.

THIS RELEASE WILL EXPIRE AUTOMATICALLY ONE MONTH FROM THE DATE IT IS SIGNED UNLESS A SHORTER PERIOD OF TIME IS INDICATED ABOVE.

IMPORTANT NOTICE

This information has been disclosed to you from records and/or conversations whose confidentiality is protected by state and federal laws. State law and/or regulations limit your right to make any further disclosure of this information without the prior written consent of the person to whom it pertains.

Program Participant

Advocate

Date

Date



Confidentiality Statement

Individuals receiving D.A.R.T. services have the right of confidentiality in all matters not directly related to the information necessary for advocacy.

D.A.R.T. Team members must be conscious and careful about the information they are sharing with the other D.A.R.T. Team members. Only information that is pertinent to the matter at hand should be shared. Personal details and information that is not necessary to provide effective services should not be shared. Individuals and D.A.R.T. Agencies will use their own release of information forms for contacts subsequent to the initial D.A.R.T. meeting.

Clients/consumers wishing services from D.A.R.T. who are currently receiving domestic violence and sexual assault services must sign the Waiver of Nondisclosure (XXXXX) on the back of the D.A.R.T. Permission Form, prior to contacting D.A.R.T. members.

The Permission Form being used does not constitute a waiver of the domestic violence or sexual assault-victim privilege under Sec. XXXX, In addition the Permission Form does not comply with HIPAA requirements for the release of health care information. Any information shared between agencies may not be re-released without the client's written informed consent.

It is not uncommon for individuals with disabilities to be relegated to the status of objects and their private business/information talked about indiscriminately. It is imperative that this behavior does not happen with the members of the DART Team.

Section 4 Training

Victim Service Agencies

Agencies serving victims will provide existing staff and new hires with training regarding disability awareness and the response to allegations of abuse/violence towards people with disabilities. All staff members shall be provided information and training on:

- Basic knowledge of the laws protecting people with disabilities from abuse.
- An understanding of and recognition of subtle forms of abuse, disrespect, issues of power and control, and negligent treatment towards people with disabilities.
- Awareness of the obligation to report facts indicating the possibility of abuse and/or neglect.
- Knowledge of procedures for reporting and investigating suspected incidents of abuse and/or neglect.
- Knowledge and access to community resources that focus on disability.

Disability Service Agency

Agencies serving people with disabilities will provide existing staff and new hires with training regarding the prevention of abuse and the response to allegations of abuse towards the people they support. All staff members shall be provided information and training on:

- Basic knowledge of legal definitions of abuse and/or neglect and the laws protecting people with disabilities from abuse.
- Recognition of abuse, including signs of physical and sexual abuse.
- An understanding of and recognition of subtle forms of abuse, disrespect, issues of power and control, and negligent treatment.
- Awareness of the obligation to report facts indicating the possibility of abuse and/or neglect.
- Knowledge of procedures for reporting and investigating suspected incidents of abuse and/or neglect.
- Knowledge and access to community resources which focus on abuse and/or neglect prevention and which reduce the likelihood of victimization.