

The Justice Center: Opportunity Missed

A Report on Survey Findings:
The NYS Justice Center's Impact on the
Disability Sector

October 2016

“To build a culture of individual responsibility, people must trust in the reliability and reasonableness of justice. . . The worse government fails, the more our instinct is to put legal shackles on it. . . . Instead of holding people accountable when something goes wrong, we demand law to guarantee something like that will never happen again. . . .”

The Death of Common Sense: How Law is Suffocating America,
by Philip K. Howard, 1994

The NYS Justice Center for the Protection of People with Special Needs (the Justice Center) began operation on July 1, 2013.

Justice Center Vision

People with special needs shall be protected from abuse, neglect, and mistreatment. This will be accomplished by assuring that the state maintains the nation’s highest standards of health, safety, and dignity; and by supporting the dedicated men and women who provide services.

Justice Center Mission

The Justice Center is committed to supporting and protecting the health, safety, and dignity of all people with special needs and disabilities through advocacy of their civil rights, prevention of mistreatment, and investigation of all allegations of abuse and neglect so that appropriate actions are taken.

Executive Summary

Following multiple **New York Times** articles, Governor Andrew Cuomo commissioned a report that triggered legislation authorizing the creation of the NYS Justice Center for the Protection of People with Special Needs (the Justice Center). The voluntary sector widely supported the goals outlined in the report and generally perceived the stated increased efficiency in the handling of allegations of abuse and neglect across State agencies as what might prove to be an asset to their respective quality assurance/improvement practices that had been in place for years.

Since July 2013, the widespread provider impression of the Justice Center has been less than positive. The Justice Center has not made significant progress toward the original goals identified in the Governor's report of supporting staff in the protection of one of New York's most vulnerable groups. In fact, the Justice Center now stands as an unfunded, administrative burden on providers, and the people we support and the employees who work in our agencies have been negatively affected by the State agency established for opposite purposes. We publish these survey findings in strong hope that the opportunity for significant changes in the Justice Center's operations and approach will get the agency back on track with its original goals.

This report summarizes survey results from a significant majority of voluntary, non-profit providers who fall under the Justice Center's purview. The largest portion of programs that survey respondents operate are certified by the Office for People With Developmental Disabilities (OPWDD). Responses include observations/experiences since July 2013, with any annual information presented representing experiences from 2015.

Our Key Findings:

- There have been \$149.1 million in the Governor's budget request for new appropriations to support the Justice Center since it began in July 2013. Voluntary providers have had their funding cut by almost \$500 million over the past 4 years.

Executive Summary

- \$26 million/year in additional unreimbursed costs for voluntary providers in investigations/aspects of investigations have been created by Justice Center requirements.
- \$4.5 million has been incurred by providers in costs for staffing on administrative leave awaiting Justice Center action.
- Less than 10% of agencies surveyed indicated that they have witnessed an improvement in the quality of life for the people they support as a result of the Justice Center's implementation.
- The survey results indicated that almost all (98%) of respondents had in fact fired/removed staff for allegations of abuse/neglect prior to the Justice Center's implementation. Similarly, prior to the Justice Center's implementation, 99% had involved law enforcement when a crime was thought to be committed.
- At a time where many providers are faced with greater than 10% employee vacancy rates, the survey findings show that 57.6% indicate the Justice Center activities have decreased their ability to recruit and retain staff.
- Two thirds (63/94 responding to the question) believe that their incidents were incorrectly classified by the Justice Center.
- 42% report Justice Center delays have been disruptive to their organization.
- 1 in 3 agencies reported that the Justice Center staff used their law enforcement authority in a manner that threatened and intimidated staff.
- 81% report that they have experienced an improvement in the Justice Center's operations since it began operations in July 2013.
- With the Justice Center's reported rate of 45 convictions since it began in 2013, even assuming the unlikely prospect that none of the convictions would have occurred without the Justice Center's existence, the cost/conviction is over \$11 million!

Executive Summary

Our Key Recommendations:

- The NYS Comptroller's office needs to conduct an audit of the Justice Center to assess its effectiveness and efficiency and identify opportunities for improvement.
- The Justice Center authorizing statute needs to be rewritten with its overarching goal being to streamline the incident management activities across State agencies and to position the Justice Center as a referral agent for law enforcement activities for the more egregious cases of abuse and neglect.
- The Justice Center's education and family outreach functions in the original statute should be emphasized along with a general focus on quality and best practices.
- State agency coordination with the Justice Center must immediately be corrected and improved – the blurred lines between State agencies and the Justice Center cause confusion, frustration, and waste.
- The Legislature needs to act swiftly to revise the authorizing legislation for the Justice Center, and return funding diverted for this public policy experiment back to the services and supports for the people it was intended to protect.
- The antagonistic approach to staff must stop immediately; the goal of supporting staff and incorporating the concept of restorative justice must be put at the front of the Justice Center's activities.
- The Justice Center must be held accountable for its performance.

Sundram Report Calls for Sweeping Reforms...

“Creating transparency of the investigative process by including independent actors on incident review committees, and requiring an annual systemwide public report on outcomes by the Commission on Quality of Care and Advocacy for Persons with Disabilities.

Restoring the trust and confidence of the residents, staff, families and the public requires (paraphrased) a coordinated, consistent effort to:

- *Create an effective system for thorough investigations of incidents once reported,*
- *Implement differential responses to incidents based on the nature/severity,*
- *Include mechanisms for rehabilitation of employees committing lesser offenses.”*

NOTE: The voluntary community agrees and supports all three of these goals. We believe the findings in this report show not only has the Justice Center missed the mark on each, it has worked to achieve diametrically opposed outcomes.