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Representing a Person with a Disability who is a Survivor of Domestic Violence

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A wheelchair user and stroke survivor is being abused by her sister but is afraid to speak out because she depends on the abuser for care. A deaf woman tries to report her boyfriend after he rapes her, but the police send her away because no sign language interpreter is available. A man with a broken back hesitates to flee his abusive wife for fear a court will grant her custody of their children because of his disability. A woman is left paralyzed after her husband attacks her with an ax and she must now live in a nursing home, where she is denied physical therapy and an electric wheelchair and faces long-term institutionalization.

Domestic violence is a serious problem in the disabled community.² Obstacles like mobility and sensory impairments, discrimination, fear of losing custody of children or being institutionalized, and lack of social service resources prevent people with disabilities from escaping their abusers.

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² While women with disabilities experience physical, emotional or sexual abuse at about the same rate as women without disabilities, they experience abuse by a greater number of abusers and over a longer period of time than do non-disabled women. M.A. Nosek *et al.*, *National Study of Women With Physical Disabilities: Final Report*, 19(1) *SEXUALITY AND DISABILITY* 5 (2001). Men with disabilities are at increased risk of physical abuse. Laurie Powers & Mary Oschwald, *Violence and Abuse Against People With Disabilities: Experiences, Barriers and Prevention Strategies* 4 (2004), at <http://www.directcareclearinghouse.org/download/AbuseandViolenceBrief%203-7-04.pdf#search='powers%20oschwald%20disabilities%20abuse'>.

In 2001, the Legal Clinic for the Disabled (LCD)³ created its Anti-Violence Initiative to help physically disabled victims of domestic violence overcome these obstacles. Experience in these cases has taught us two important lessons. First, attorneys must educate the community and courts about domestic violence and disabilities. Second, helping a client with a disability permanently escape an abusive situation does not end with obtaining a protection from abuse order (PFA). The attorney must also be willing to help the client obtain benefits, social services, transportation, medical care and financial aid to secure their independence and safety.

Attorneys for survivors of domestic violence must strive to educate the judiciary about the special needs of disabled victims. A disabled person might suffer abuse specific to his or her disability that does not fit neatly under the definition of abuse in most states' protection from abuse statutes. "Abuse" under the Pennsylvania Protection from Abuse Act, for example, includes

attempting to cause or intentionally, knowingly or recklessly causing bodily injury . . . with or without a deadly weapon . . . or [k]nowingly engaging in a course of conduct or repeatedly committing acts toward another person, including following the person without proper authority, under circumstances which place the person in reasonable fear of bodily injury.⁴

While leaving someone unattended without readily available food or water for extended periods of time, moving phones or orthotic devices out of reach, placing furniture to obstruct her path, denying medication, or yelling and berating her might not constitute "abuse" under this act where the victim has no disability, such conduct, especially in the aggregate, is more than sufficient to place a disabled person under reasonable fear of bodily harm and thus constitute "abuse" under the Pennsylvania act. As advocates we must educate the courts and the community to view the definition of "abuse" through a broader lens when domestic violence and disability intersect.⁵

³ LCD is a non-profit corporation with offices in Philadelphia's Magee Rehabilitation Hospital. LCD was founded in 1987 and is the only organization in Southeastern Pennsylvania dedicated to providing free individual legal services to low-income people with physical disabilities.

⁴ 23 PA. CONS. STAT. ANN. § 6101(a).

⁵ Illinois has explicitly recognized a broader definition of abuse where the victim has a disability. The Illinois Domestic Violence Act of 1986 protects "high-risk adults with disabilities" who are victims of

A PFA alone will not enable a severely disabled person to break the cycle of domestic violence. Without the promise of adequate support after the abuser is gone, a person with disabilities will not risk the stability of what they have, no matter how bad it is, for the risk of being institutionalized. A comprehensive social service plan must be part of the safety plan and must be implemented immediately after evicting the abuser. This requires coordination of social services and public benefits to ensure that the client receives attendant care, transportation, medical treatment, food, housing and financial aid. LCD works with social service and government agencies to ensure that these services are provided as necessary. When the abuser is removed from the home and services are in place, LCD represents the client in family law proceedings – seeking spousal and child support, custody, and divorce where necessary. Physical abuse and economic abuse go hand-in-hand, and LCD also represents clients in civil proceedings to right economic wrongs perpetrated by abusers. This work requires an extraordinary amount of time and effort.

The case of PJ is illustrative. PJ is a stroke survivor and wheelchair user whose only asset is an old two-story house. She relies on attendant care for most of her daily needs. Until recently, PJ's sister lived with her and was her primary caregiver. PJ trusted the sister to handle her personal and financial affairs. Tragically, the sister abused this trust. The sister stole PJ's money, disregarded her bills, and abused her physically. She threw PJ into her wheelchair, left her unattended for extended periods, and constantly yelled at her and told her she would end up in a nursing home if the sister ever left. Because the sister's presence threatened PJ's physical, psychological and financial well-being, LCD obtained a PFA to evict the sister. Eviction of the sister, however, left a void in PJ's care and led to a host of legal, financial and other problems that LCD worked to cure:

- LCD worked with a social services provider to place attendant care workers in the home as soon as the sister was evicted,
- LCD helped the District Attorney with a fraud investigation of the sister,
- LCD rewrote PJ's will at her request,

“abuse, neglect or exploitation.” ILCS § 60/201. “Neglect” includes the failure to provide food, water, shelter, clothing or medical care. ILCS § 60/103.

- LCD found a pro bono attorney to help recover money the sister had stolen from PJ in an insurance scam,
- LCD found a second pro bono attorney to help PJ fight a foreclosure on a fraudulent mortgage another unscrupulous relative placed on the home,
- LCD found a law student to help PJ organize and pay her monthly bills,
- LCD helped PJ get a loan to replace a furnace that failed in the winter, and
- LCD monitors PJ's medical and social service providers to ensure consistency in her services.

As part of our Anti-Violence Initiative, we reach out to medical providers, social and legal service providers, domestic violence shelters, disability advocacy groups and consumers. Our goal is to educate them about abuse of people with disabilities and to ensure that they know our services are available. By providing intensive services, outreach, and legal education, LCD hopes to empower our clients to step forward, tell their stories, and break the cycle of domestic violence that denies them independent and secure lives.

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