



"Building Partnerships"
Working Together to Protect
Persons with Disabilities



Is this a Crime?
*Massachusetts' Practices for the
Identification & Investigation of
Abuse Committed Against
Persons with Disabilities*

August 30, 2016
Philadelphia, Pennsylvania

PANEL MEMBERS



- ▶ **Elizabeth Dunphy Farris**
Legal Counsel to the
Hampden District Attorney (MA)



- ▶ **Timothy F.X. Grant**
Sergeant, Massachusetts State Police
State Police Detective Unit DPPC

Agenda

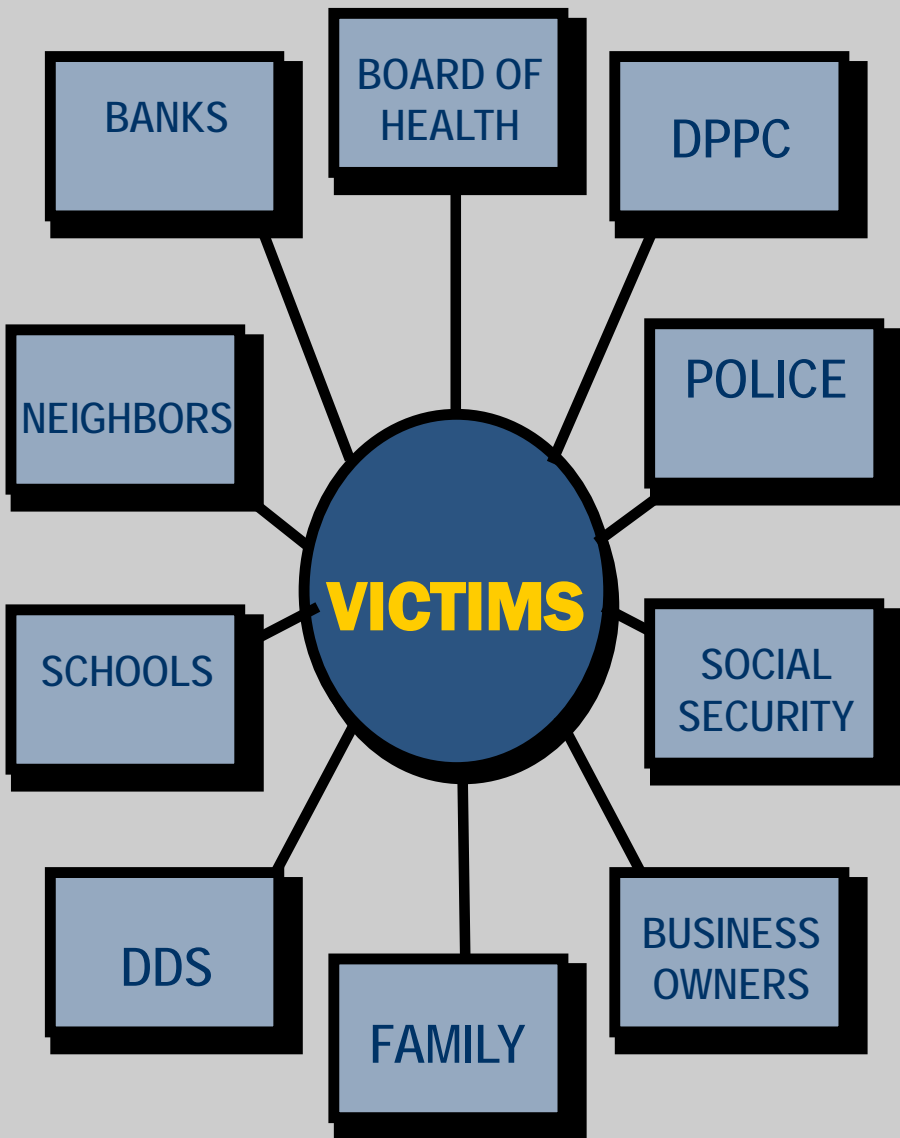


- **MA BPI – A multidisciplinary team (MDT) approach to the investigation and prosecution of abuse and crimes committed against persons with disabilities in Massachusetts**
- **Strategies for interviewing alleged perpetrators and victims, collecting evidence and making a case for prosecution in the criminal justice system**
- **Case studies from MA BPI MDT investigations and prosecutions**

Pictures of victim with visible signs of physical abuse, such as burns, bruises, welts, scars and a broken nose.



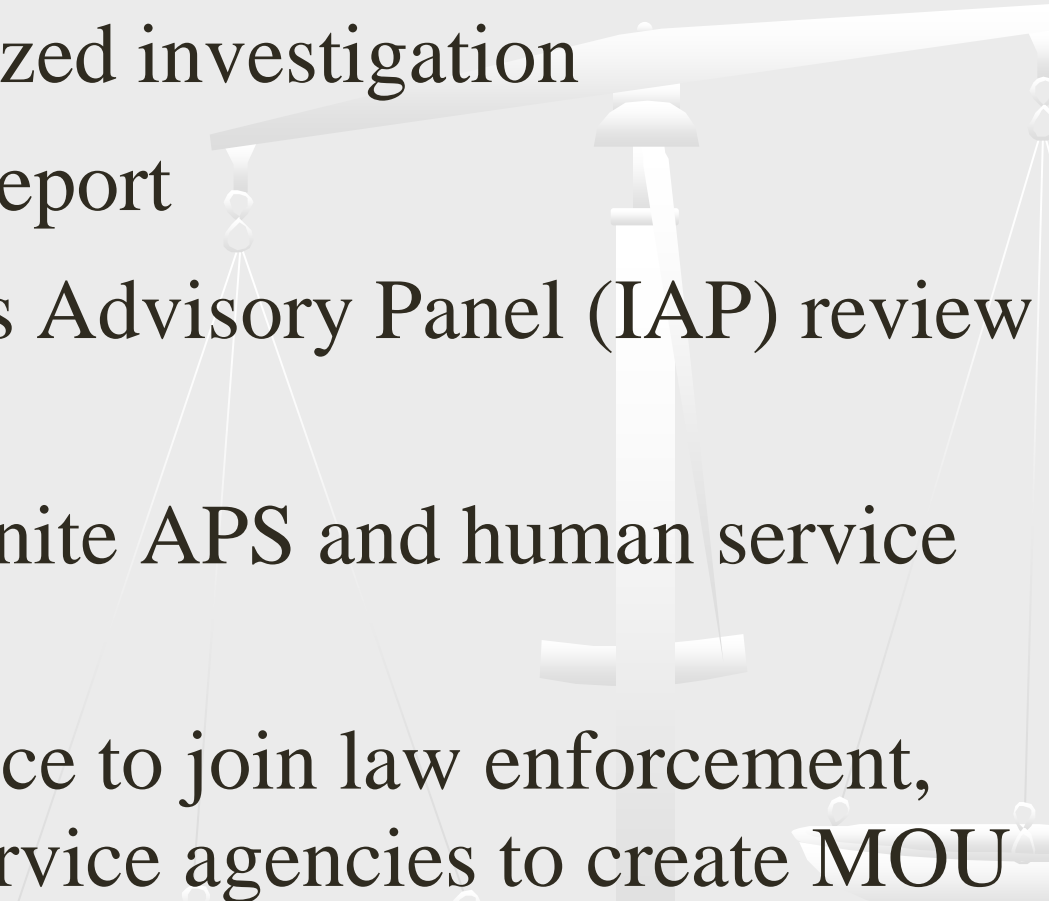
What Went Wrong



A System Failure


- Inaccurate and/or no information reported to APS
- Little to no response to complaints
- Lack of communication
- No coordination
- Delayed referral for criminal investigation
- Inadequate protections

Response to the System Failure

- Media scrutiny of high-profile systemic failures
 - Legislature-authorized investigation
 - House Post Audit report
 - DDS Investigations Advisory Panel (IAP) review and report
 - EOHHS effort to unite APS and human service agencies
 - Statewide conference to join law enforcement, APS and human service agencies to create MOU
- 

Building Partnerships for the Protection of Persons with Disabilities Initiative (BPI)

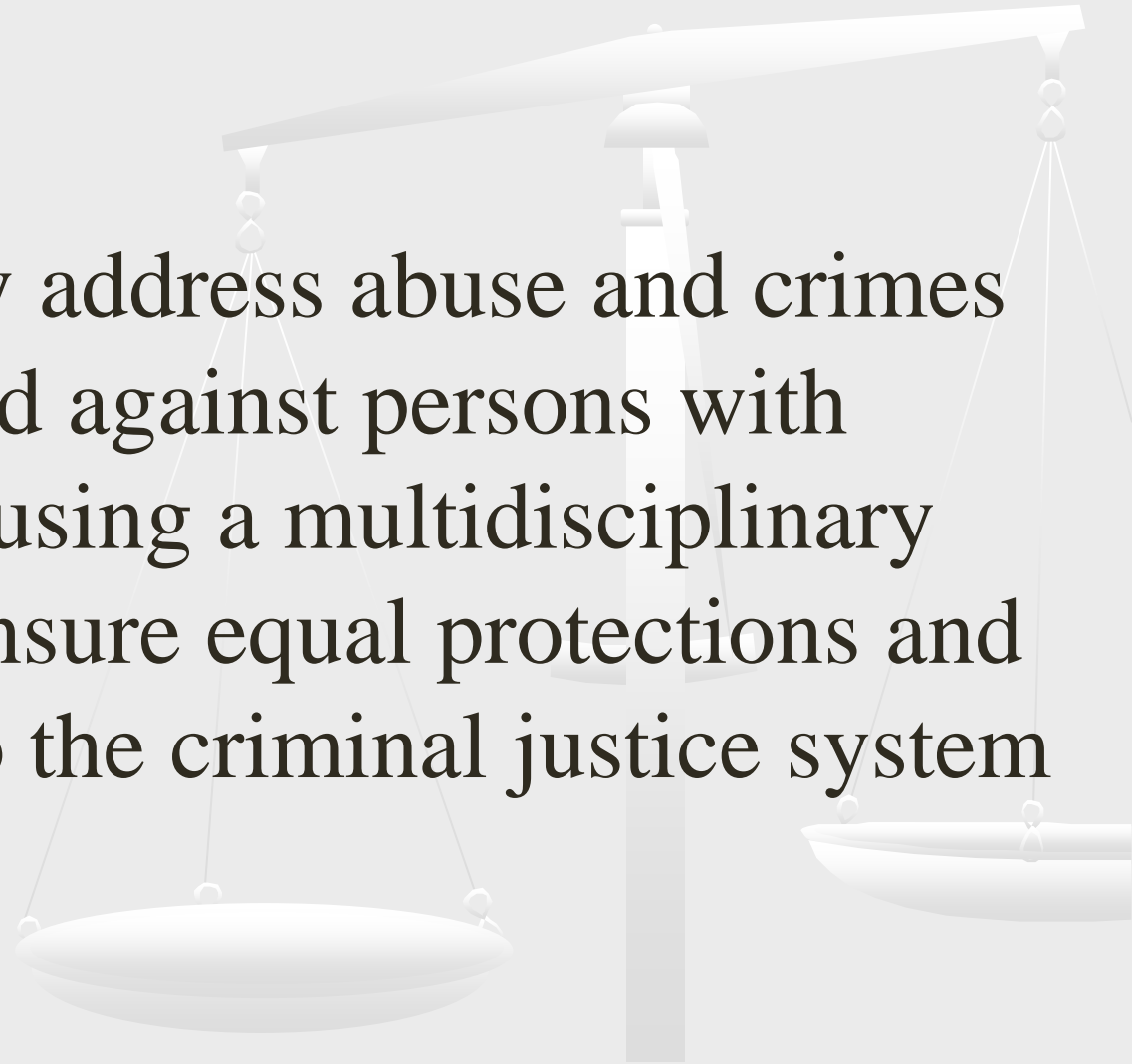
Statewide multidisciplinary initiative
to address abuse and crimes against
persons with disabilities – with
several components





Creation of BPI

To effectively address abuse and crimes committed against persons with disabilities using a multidisciplinary approach to ensure equal protections and equal access to the criminal justice system





BPI Steering Committee

- District Attorney
- MA District Attorneys Association
- Massachusetts State Police
- Disabled Persons Protection Commission
- Department of Developmental Services
- Department of Mental Health
- Massachusetts Rehabilitation Commission



BPI Steering Committee (cont'd)

- Office of Attorney General
- MA Office of Victim Assistance
- Provider Agency
- Massachusetts Advocates Standing Strong
- Department of Public Health
- Sexual Assault Nurse Examiner
- Executive Office of Elder Affairs



Implementation of BPI

- Developed Memorandums of Understanding
- Secured funding
- Drafted and secured passage of new legislation
- Developed training curricula and implemented training recommendations



The Agreement (MOU)

- I. Statement of Purpose
- II. Participating Agencies
- III. Goals
- IV. Reporting and Investigation
- v. Human Services Investigation
Liaison
- VI. Review and Evaluation



BPI Training Curricula

Includes:

➤ Law Enforcement

- State & Municipal Police Recruits
- Veteran Officers

➤ Service Providers

➤ Persons with Disabilities

- Learning Tool
- Awareness & Action





Other Trainings

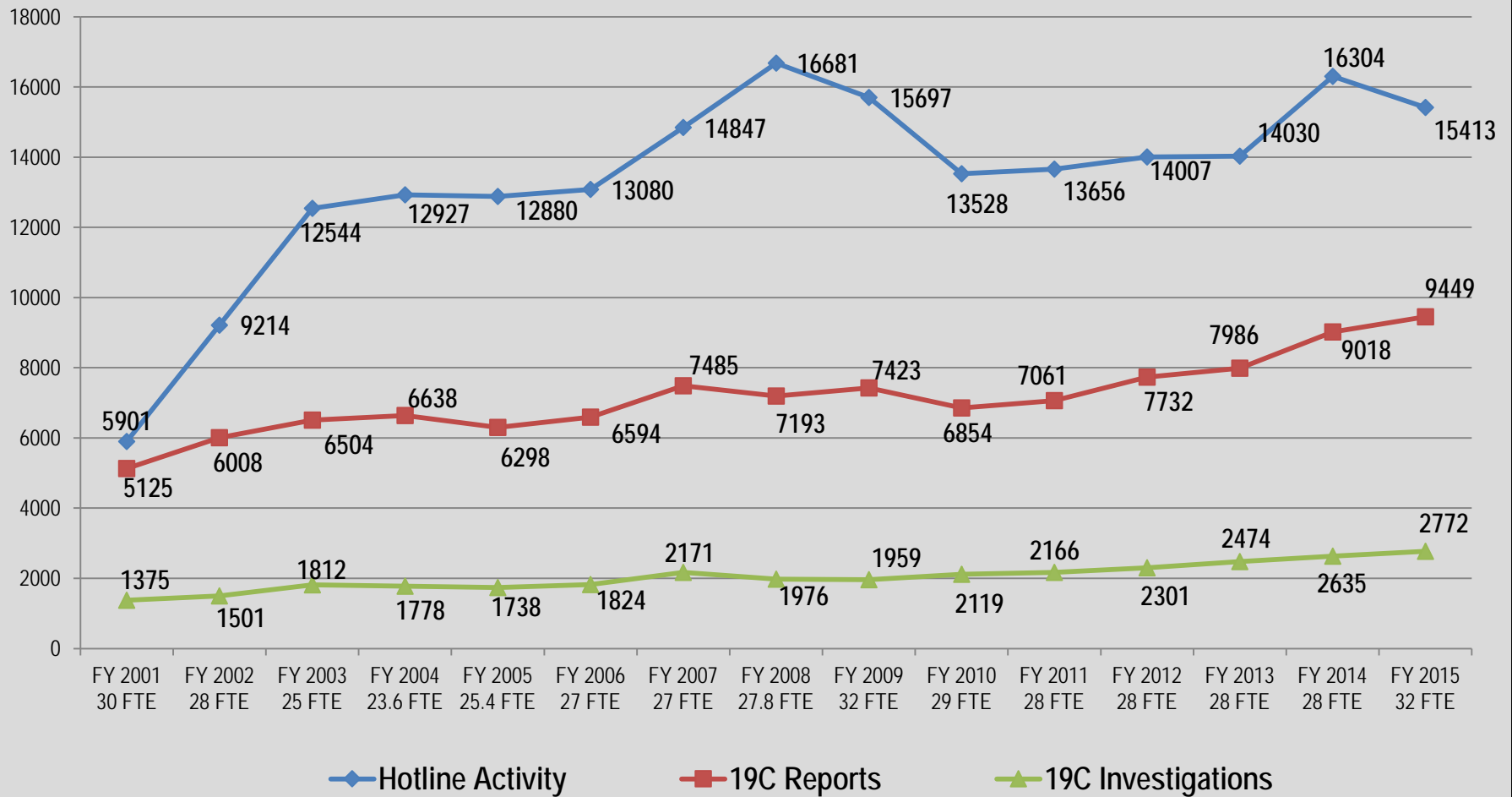
- Adult Protective Service (APS) Investigators
 - Forty-hour basic investigation certification
 - Forty-hour sexual assault certification
 - In-Service Training
- Emergency Room Nurses and Physicians (in collaboration with SANE)
- Judiciary/Court Personnel Training
 - Practical Guide for Court Personnel entitled, *Crimes Against Persons with Disabilities: A Practical Guide to the Reporting, Investigation and Prosecution*
 - Americans with Disabilities Act (ADA) Coordinators training



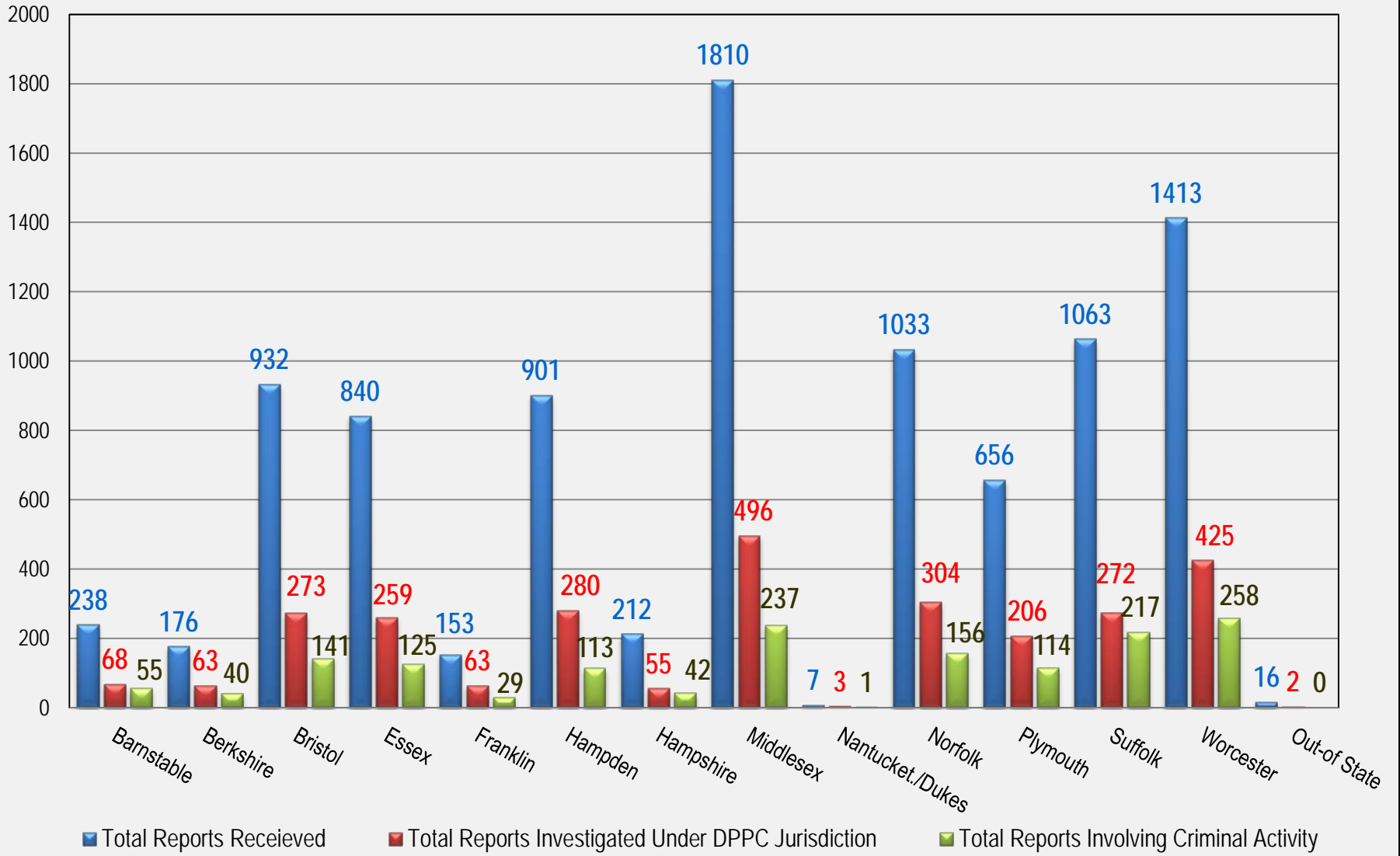
Reference Materials

- Crisis Intervention Program (CIP) Officer Reference Book
- BPI Replication Guide, Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice,
<http://www.ovc.gov/pubs/victimswithdisabilities/stateguide/index.html>, *Guide* (NCJ 239107)

FY2015 DPPC Hotline & Investigation Activity



FY2015 DPPC Criminal Reports by County



Criminal Activity

DPPC Database FY 2015

Assault & Battery on a Person with a Disability	744
Domestic Assault & Battery	275
Assault & Battery on a Person with an Intellectual Disability	16
Assault & Battery with a Weapon	28
Indecent Assault & Battery	278
Rape	198
Larceny of a Person with a Disability	252
Death	40
Narcotics Violations	15
Caregiver Negligence	66

MA Government Structure & Oversight

**Disabled Persons
Protection
Commission
(DPPC)**

**Executive Office of
Health & Human
Services
(EOHSS)**

DCF

*Department
of Children
and Families*

DDS

*Department of
Developmental
Services*

DMH

*Department of
Mental Health*

MRC

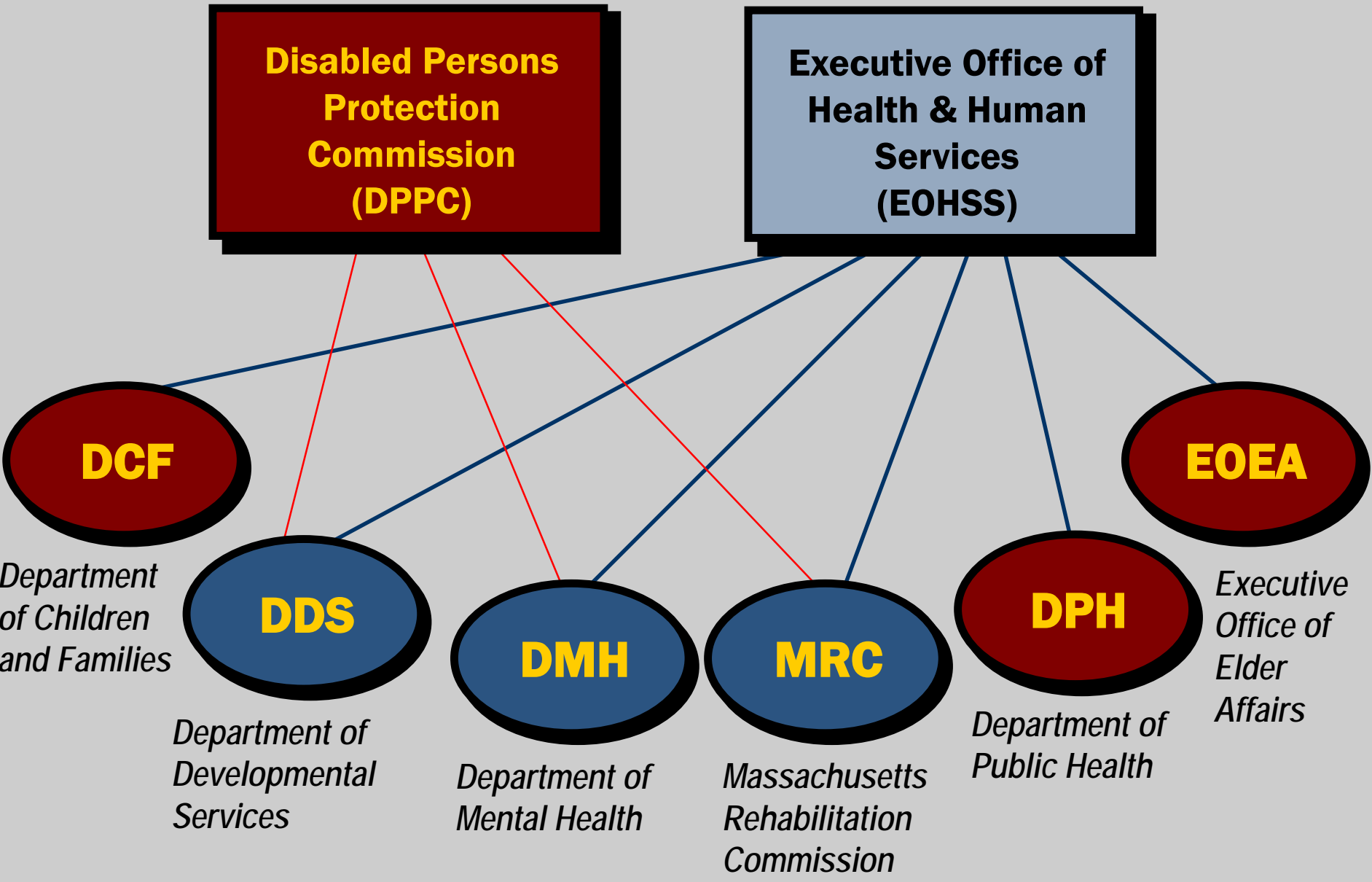
*Massachusetts
Rehabilitation
Commission*

DPH

*Department of
Public Health*

EOEA

*Executive
Office of
Elder
Affairs*



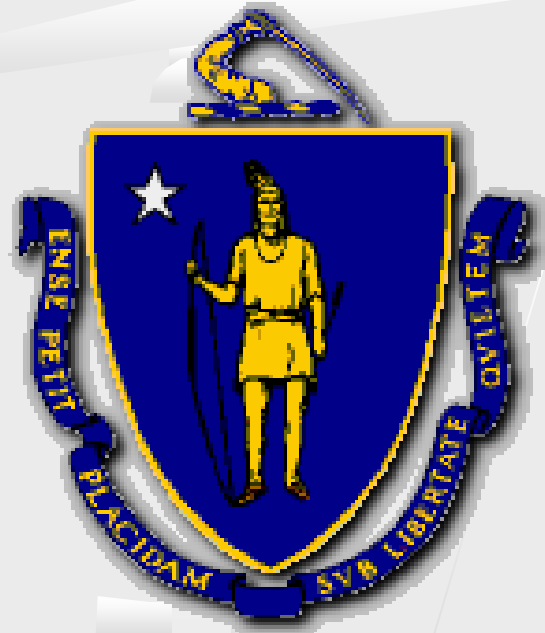
MA Law Enforcement Agencies



- Attorney General
- District Attorneys (11 Districts)
- State Police
 - Patrol Highways, State Parks
 - State Police Detective Units
 - ▼ Attorney General
 - ▼ District Attorney
 - ▼ Specialized Units
 - ▼ Disabled Persons Protection Commission
- Municipal Police (local) Cities and Towns

DPPC Profile

- Created: 1987, Independent Agency
- Location: Braintree, Massachusetts
- Staffing: 32
- Units
 - Administration Finance
 - **Hotline/Intake**
 - **Investigations**
 - **Oversight**
 - **Legal**
 - Informational Technology
 - Outreach and Prevention
- State Police Detective Unit

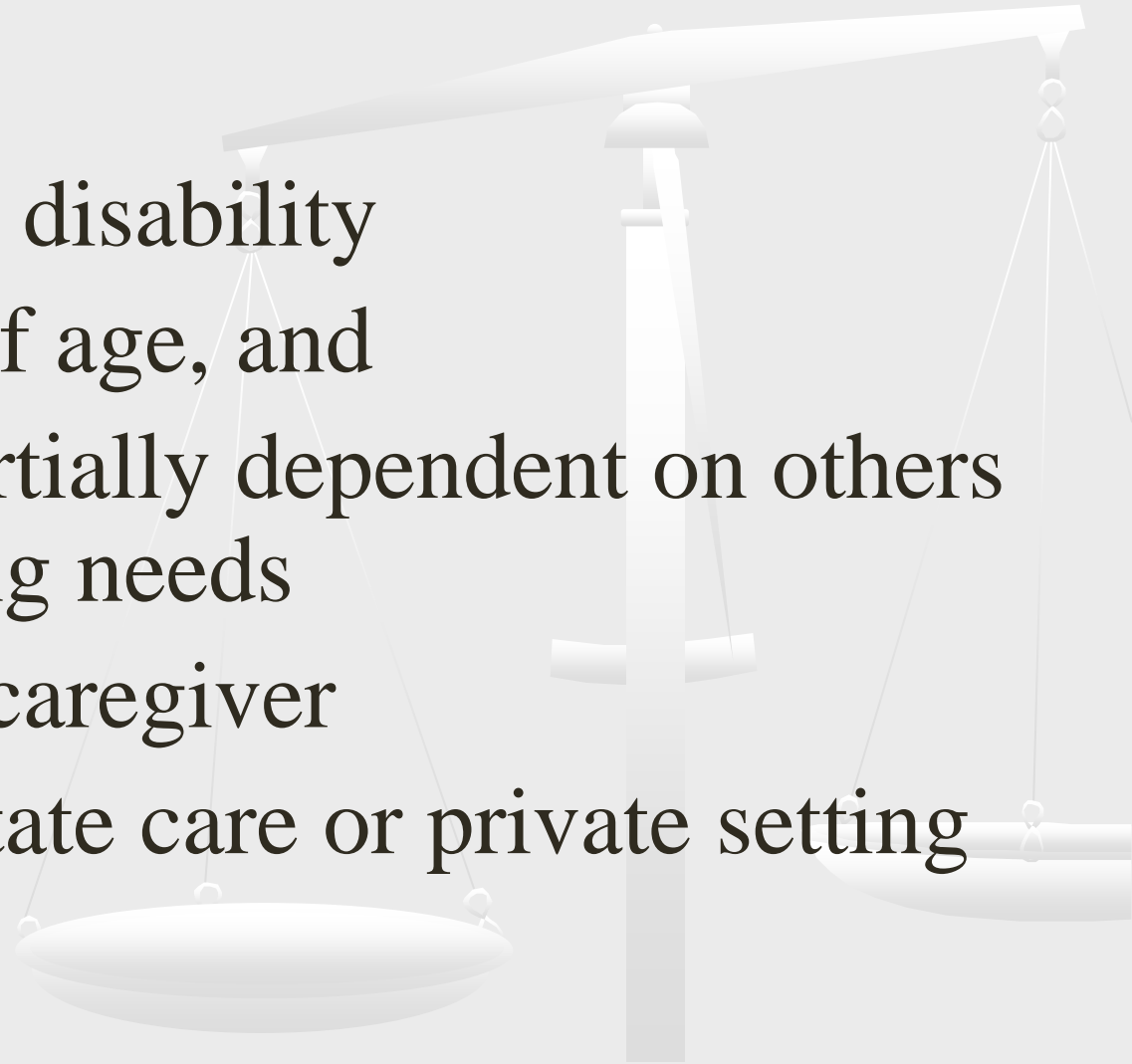


DPPC Statute

M.G.L. c. 19C

➤ Jurisdiction:

- Person with a disability
- 18-59 years of age, and
- Wholly or partially dependent on others for daily living needs
- Abused by a caregiver
- Residing in state care or private setting

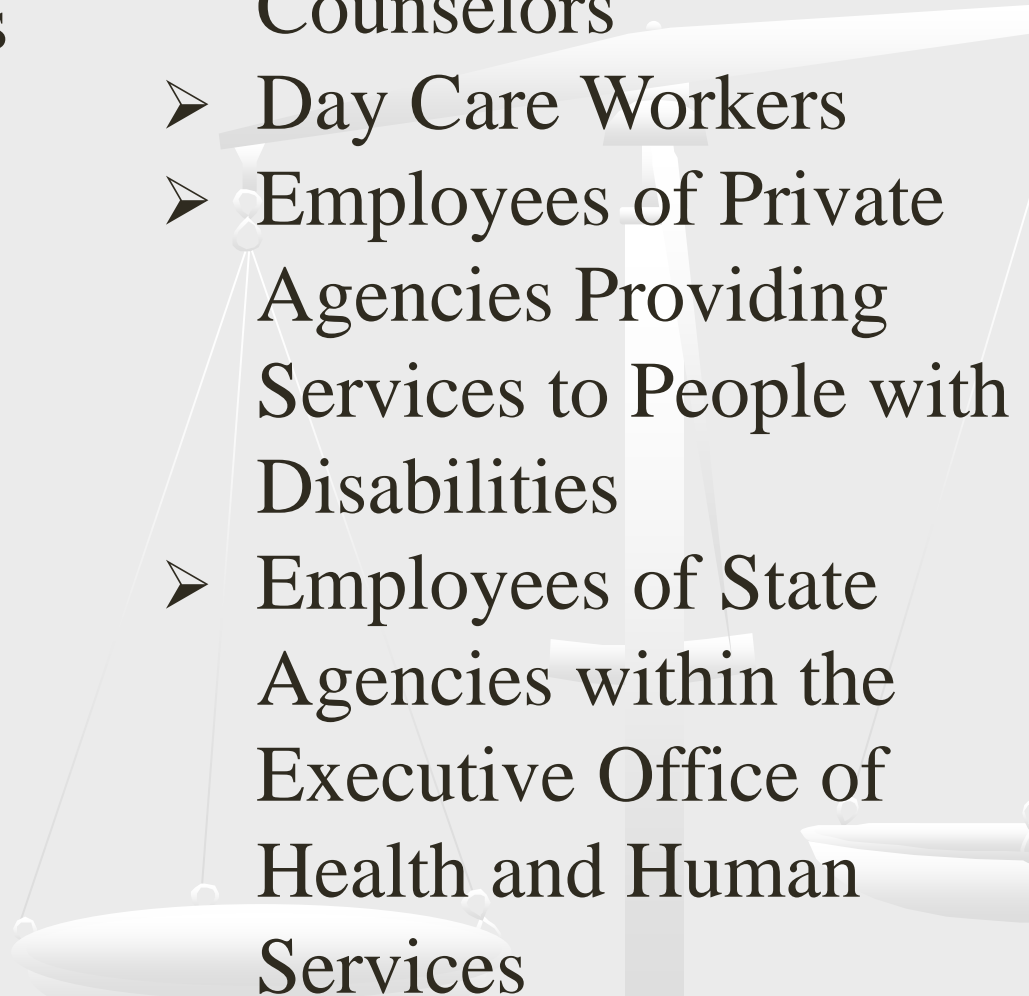


Mandated Reporters



- A person, who as a result of their profession, is more likely to be aware of the abuse
- Mandated Reporters are required by law to report instances of **suspected** abuse to the DPPC Hotline

Who are Mandated Reporters

- Medical Personnel
 - Medical Examiners
 - Social Workers
 - Foster Parents
 - Police Officers
 - Dentists
 - Public or Private School Teachers
 - Educational Administrators
 - Psychologists
 - Guidance or Family Counselors
 - Day Care Workers
 - Employees of Private Agencies Providing Services to People with Disabilities
 - Employees of State Agencies within the Executive Office of Health and Human Services
- 

How to File an Abuse Report

- Call the DPPC 24-Hour Hotline at:

1-800-426-9009

1-888-882-0350 TTY

And file **WRITTEN REPORT** to the DPPC
within 48 hours

- In case of an **Emergency** or a **Crime**, call

911 or Local Police

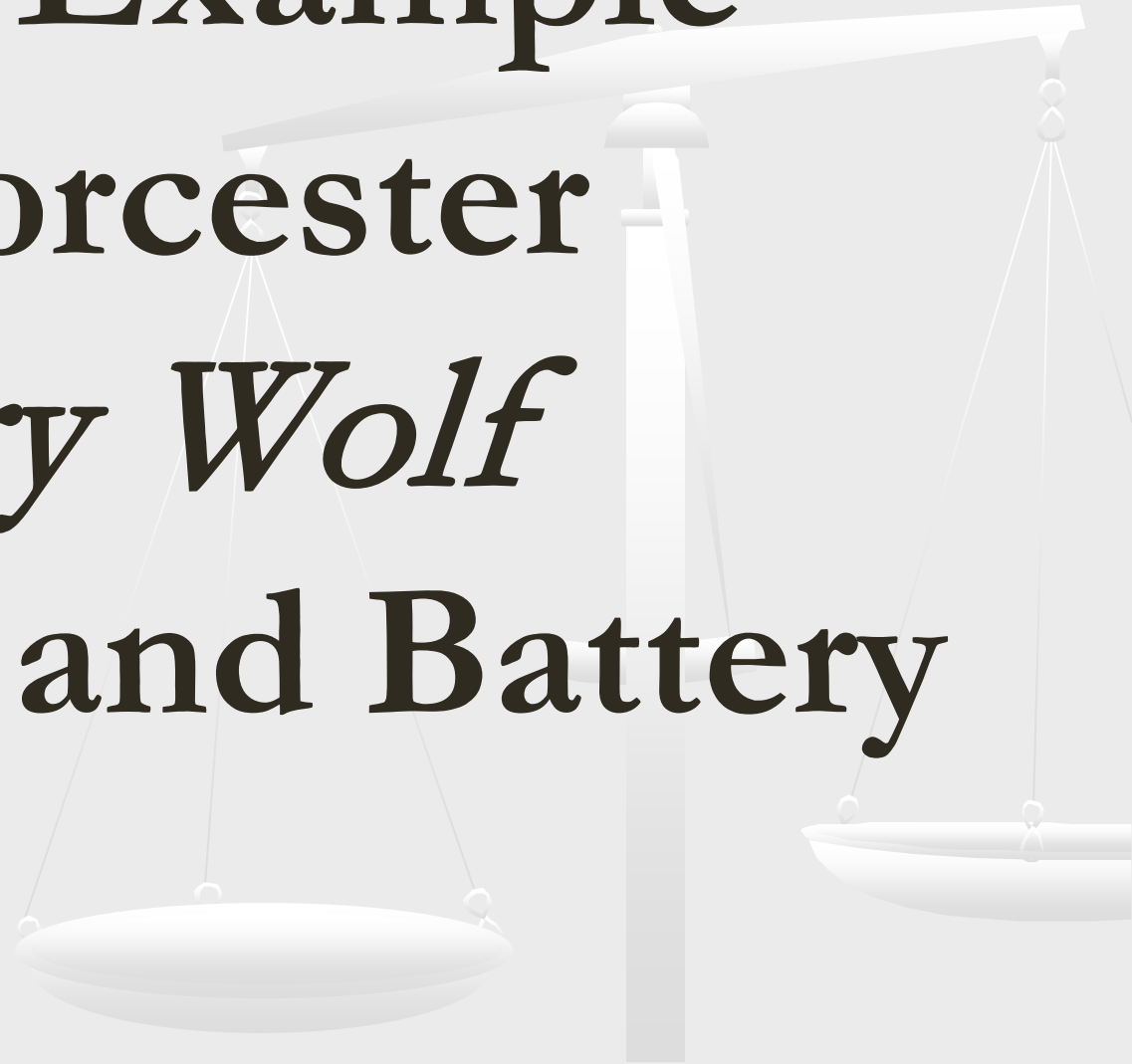
followed by a call to the DPPC

Case Example

Worcester

Cry Wolf

Assault and Battery



DPPC Intake Unit

24 HOUR HOTLINE

- Operates a 24-hour Hotline:
 - 1-800-426-9009
 - 1-888-882-0350 TTY
- Receives reports of suspected **physical, verbal, sexual abuse, neglect and deaths** of adults with disabilities
- Evaluates reports to determine required response [emergency or non-emergency] and jurisdictional criteria
- Provides information and referrals to callers



DPPC/SPDU Criminal Screening

- District Attorney's office notified
- Designated assistant district attorney assigns criminal investigations to:
 - Local Police
 - DA's SPDU
 - DPPC's SPDU
- Human Service agency contacts notified
- Civil Investigator proceeds with protective services



CASE ASSIGNMENT

DPPC 19C APS Investigations

**Conducts abuse/neglect investigations,
assesses risk and recommends
protective service actions**

DPPC

DDS

DMH

MRC

Cases not Meeting DPPC Jurisdiction

**Disabled Persons
Protection
Commission
(DPPC)**

**Executive Office of
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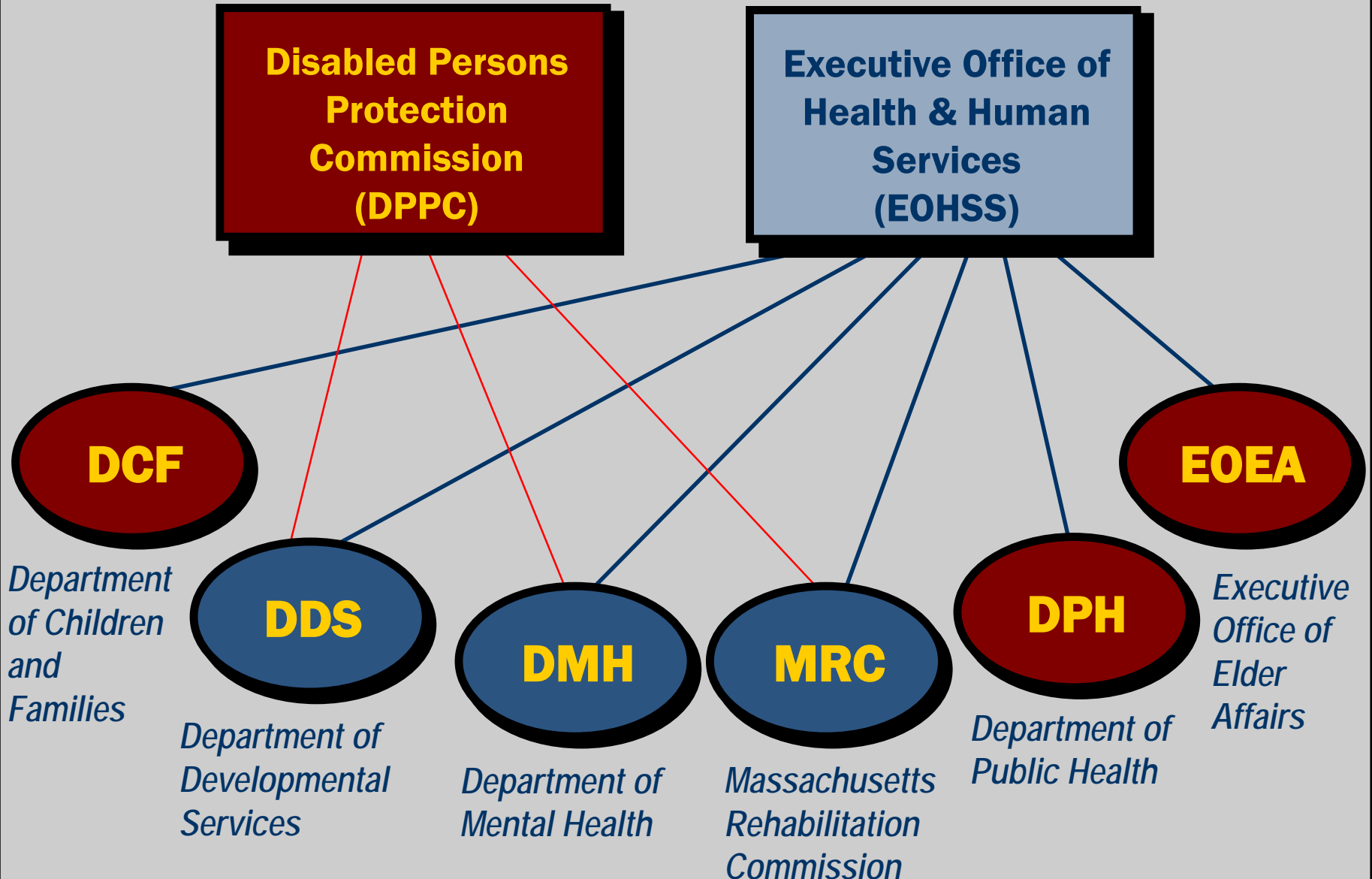
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Affairs*



DPPC Oversight

Assesses victims risk, monitors civil and criminal investigation and ensures protective services are in place

DPPC

DDS

DMH

MRC

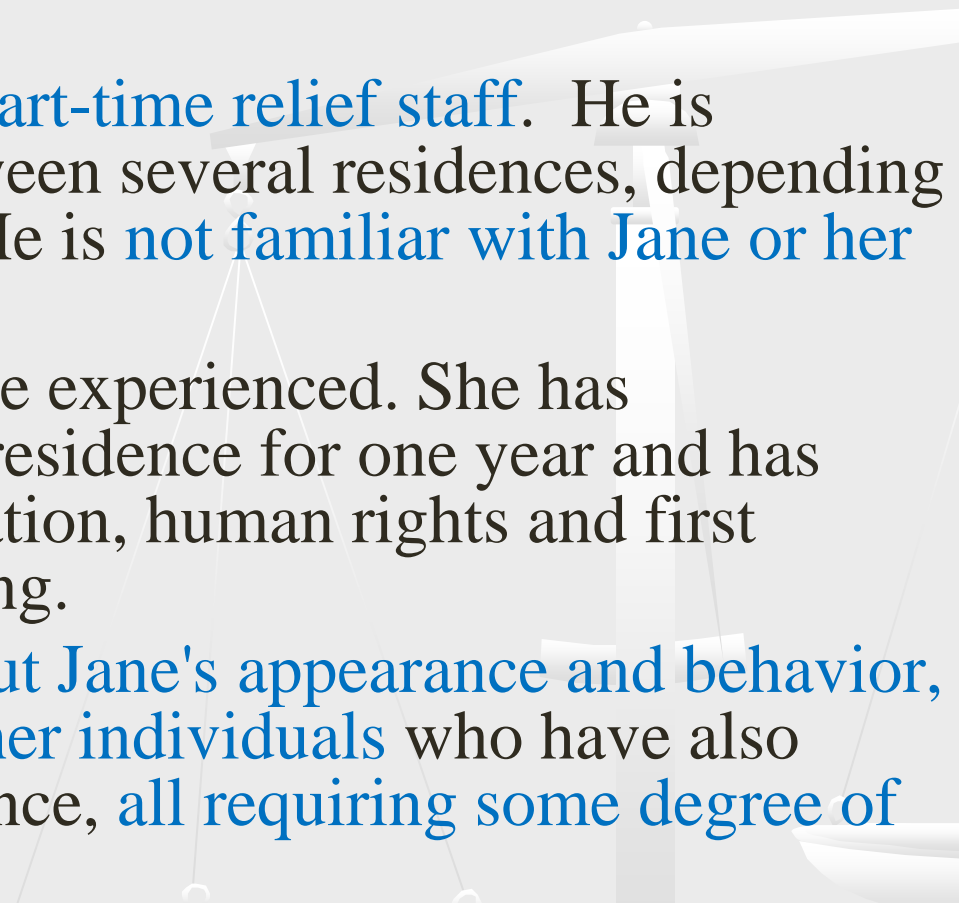
Protective Service Examples

- 
- Access Warrants
 - Protective Orders
 - Respite Care
 - Emergency Shelter
 - Restraining Orders
 - Case Management
 - Family Planning
 - Housing Assistance
 - Adaptive Equipment
 - Transportation
 - Specialized Counseling
 - Guardianship/GAL
 - Counseling
 - Financial Management
 - Education/Training
 - Support Groups
 - Employment/Vocational Services
 - Legal Assistance
 - PCA's/Home Health
 - Clinical Evaluation
 - Medical Assistance

“JANE” – The “mosquito bite” case

- A 45 year old female with developmental disabilities, named Jane, who is a person that is **intellectually challenged, mildly autistic, deaf and non-verbal**, returns home, to her residential program, 45 minutes later than her usual time.
- The van driver that transports Jane back and forth to her day program tells the staff at the residence that he ran into traffic and that is why they are late.
- In the course of changing Jane out of her work clothes, it is observed that she has **multiple scratches and bug bites all over her body**.
- At this time **Jane tried to cover the bites up, and seemed visibly upset and distraught**, and ran to her room. ...

“JANE” – The “mosquito bite” case

- ...The staff present at the time, are the 3-11 shift staff; **two staff** assigned to provide support for **four individuals**.
 - One of the staff is a **part-time relief staff**. He is assigned to float between several residences, depending on coverage needs. He is **not familiar with Jane or her typical behaviors**.
 - The other staff is more experienced. She has been working at this residence for one year and has received basic orientation, human rights and first aid/CPR/safety training.
 - She is **concerned about Jane's appearance and behavior, but there are three other individuals** who have also returned to the residence, **all requiring some degree of personal care**.
- 

**What does a
BPI-based
MDT look like
given these
facts?**



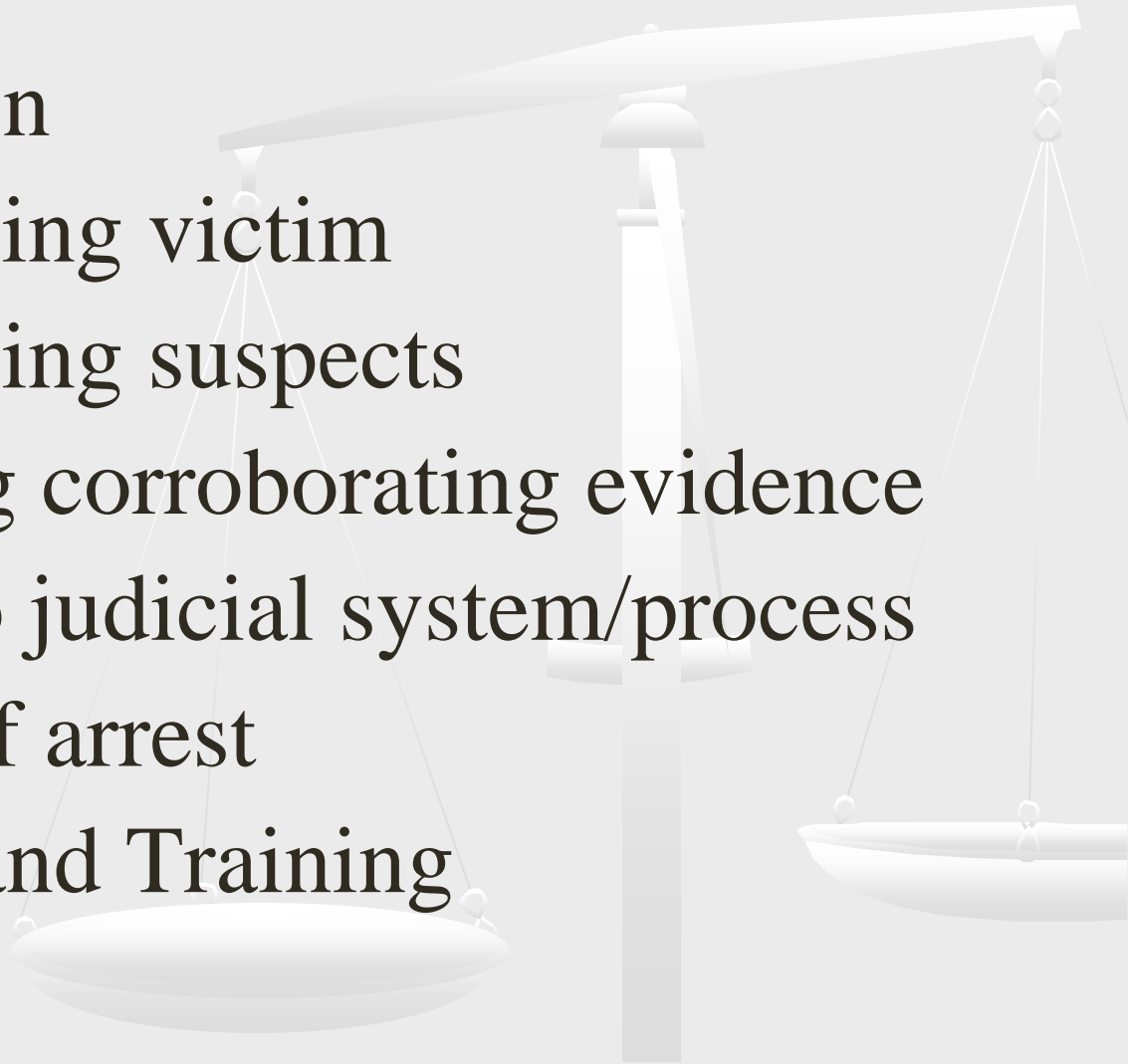


Law Enforcement Role in BPI

➤ Investigation

- Interviewing victim
- Interviewing suspects
- Obtaining corroborating evidence
- Access to judicial system/process
- Powers of arrest

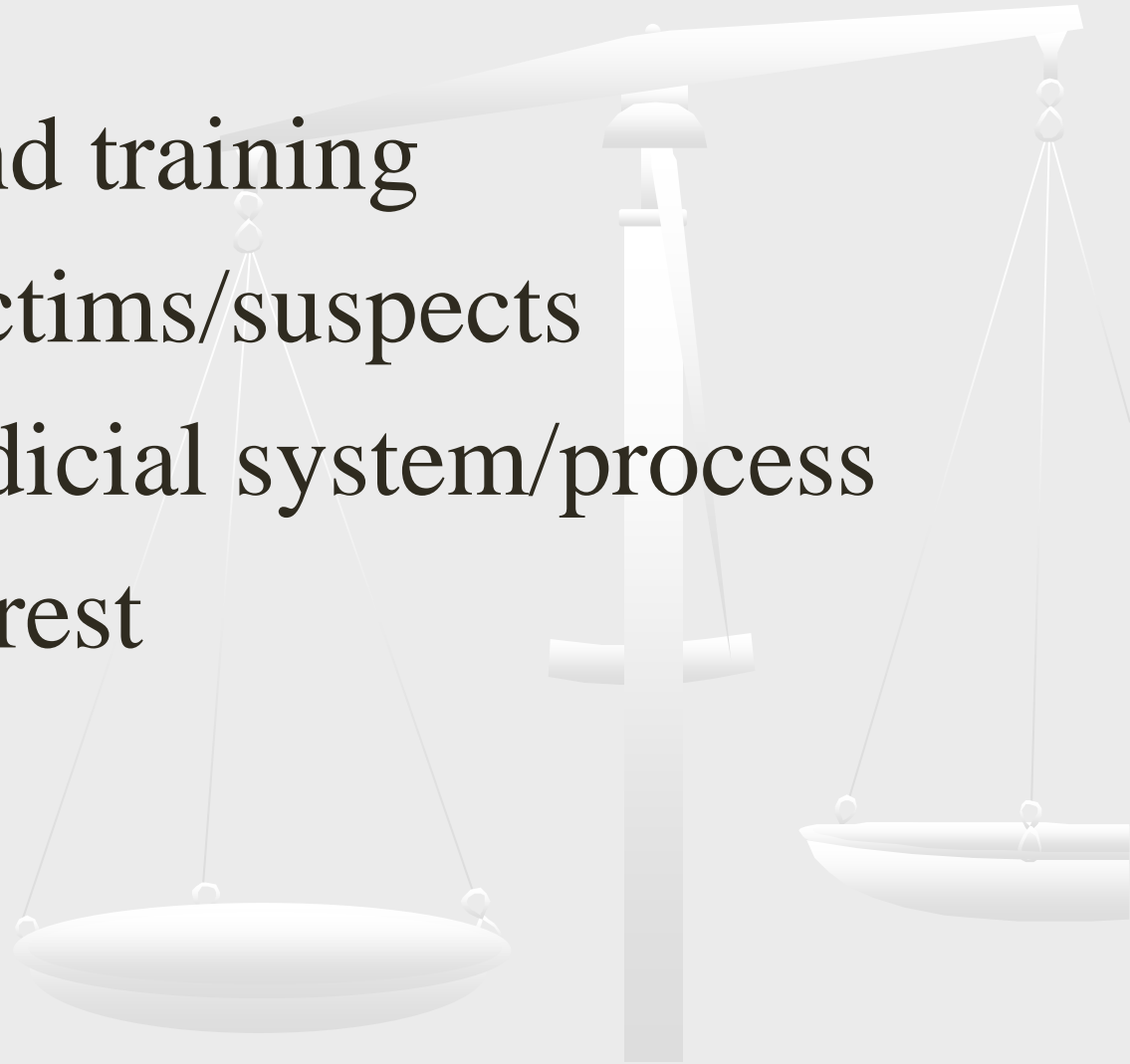
➤ Education and Training





Law Enforcement Assistance to APS

- Education and training
- Interview victims/suspects
- Access to judicial system/process
- Powers of arrest

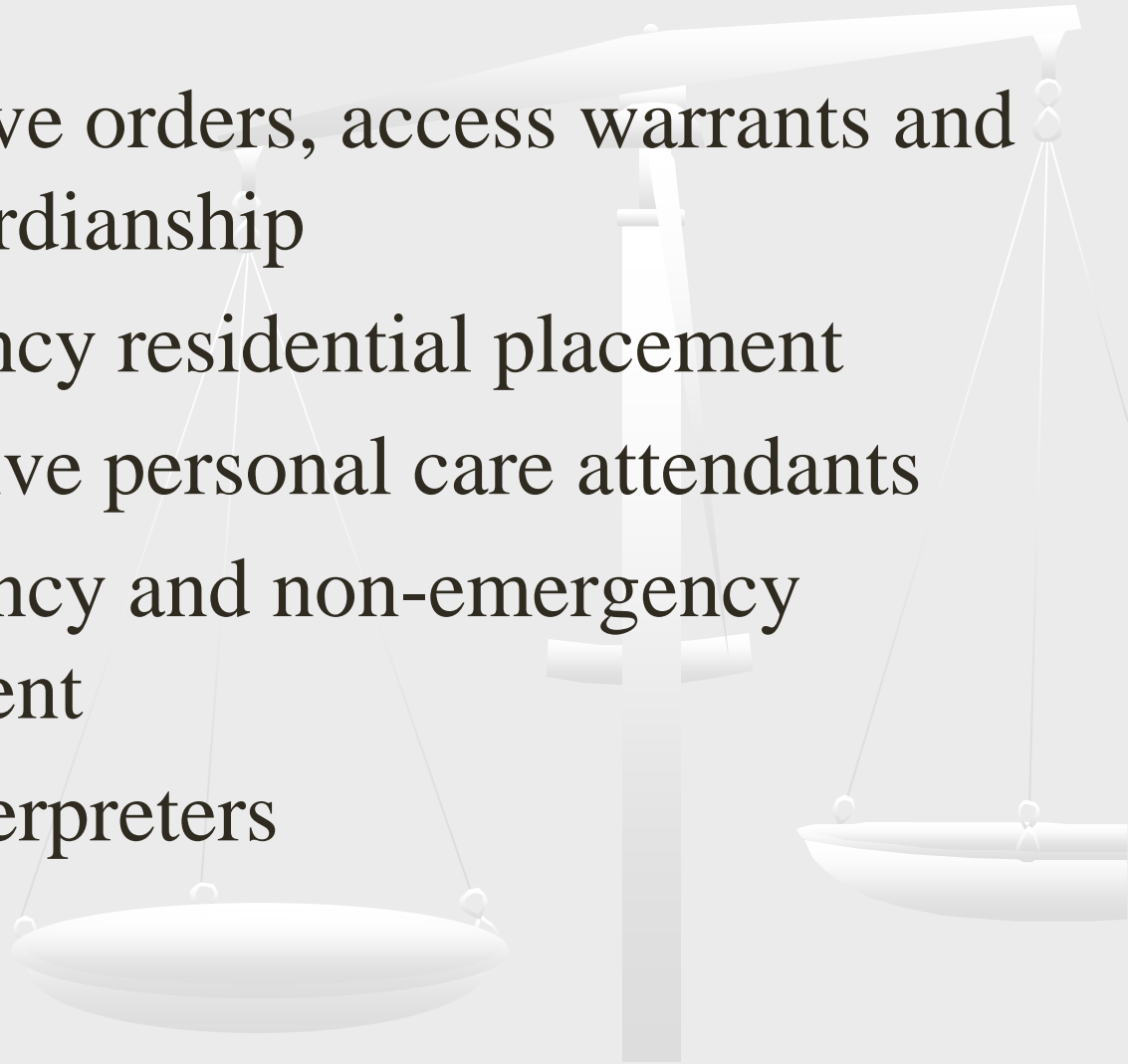




APS Assistance to Law Enforcement

At the Scene:

- Secure protective orders, access warrants and emergency guardianship
- Obtain emergency residential placement
- Obtain alternative personal care attendants
- Access emergency and non-emergency medical treatment
- Arrange for interpreters





APS Assistance to Law Enforcement

At the Interview:

- Provide background data on alleged victims, abusers and providers
- Assist with gathering and analysis of medical and administrative records
- Assist in identifying communication abilities
- Assist with scheduling interviews
- Arrange for interpreters
- Assist with interview process, as needed

Interviewing Persons with Intellectual Disabilities

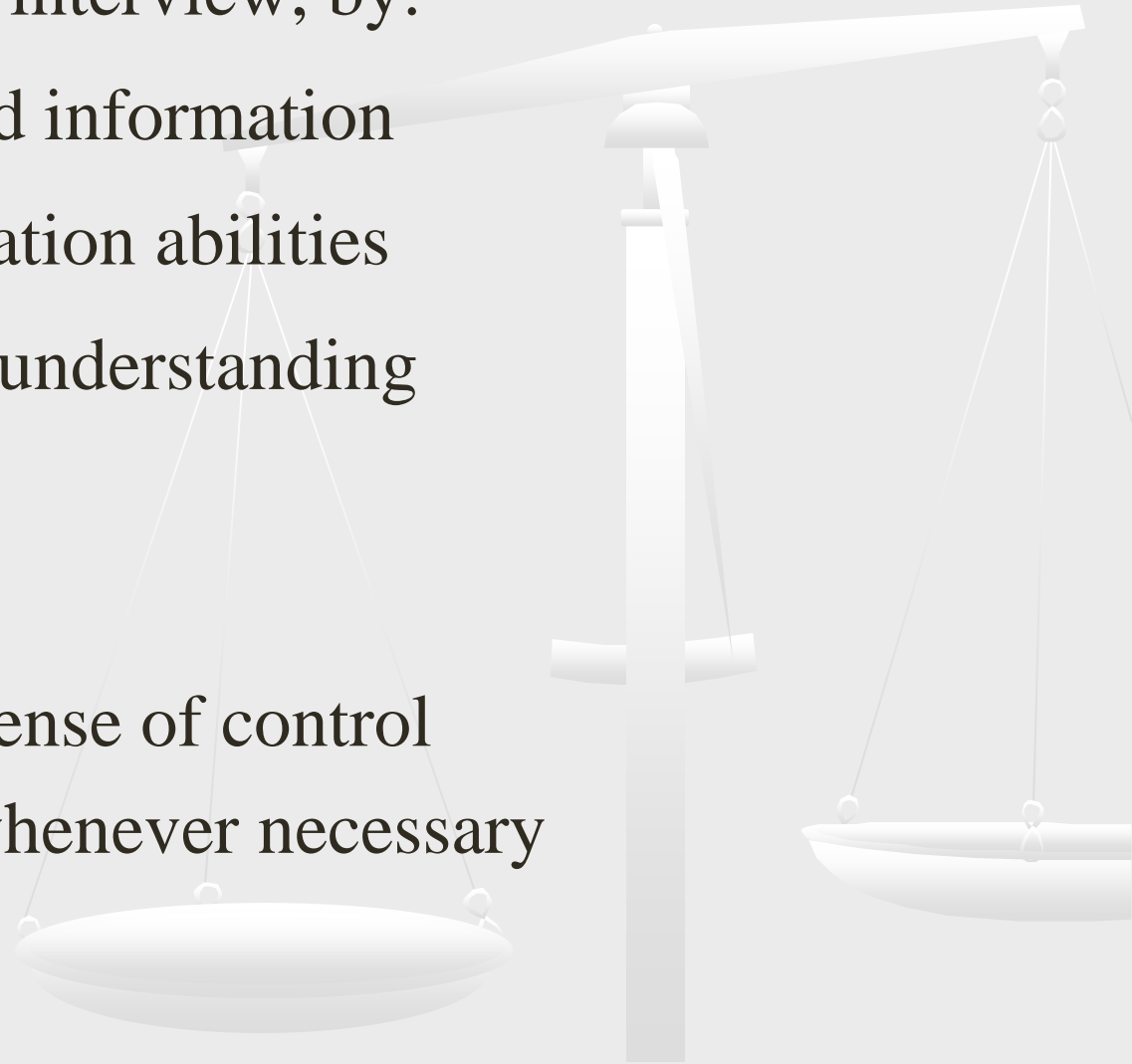
The nature of the interview and the type of questions asked are critically important and can have significant impact upon the quality of the individual's responses.

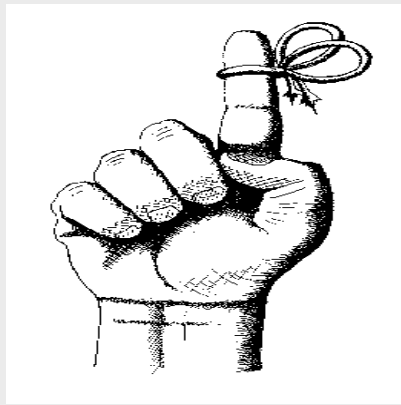
- **Set the Stage**
- **Prepare**
- **Conduct interview(s) according to the persons level of understanding**

Tips for a Successful Victim Interview

Prepare for the victim's interview, by:

- Obtaining background information
- Assessing communication abilities
- Determining level of understanding
- Reducing stress
- Establishing rapport
- Giving the person a sense of control
- Seeking assistance, whenever necessary





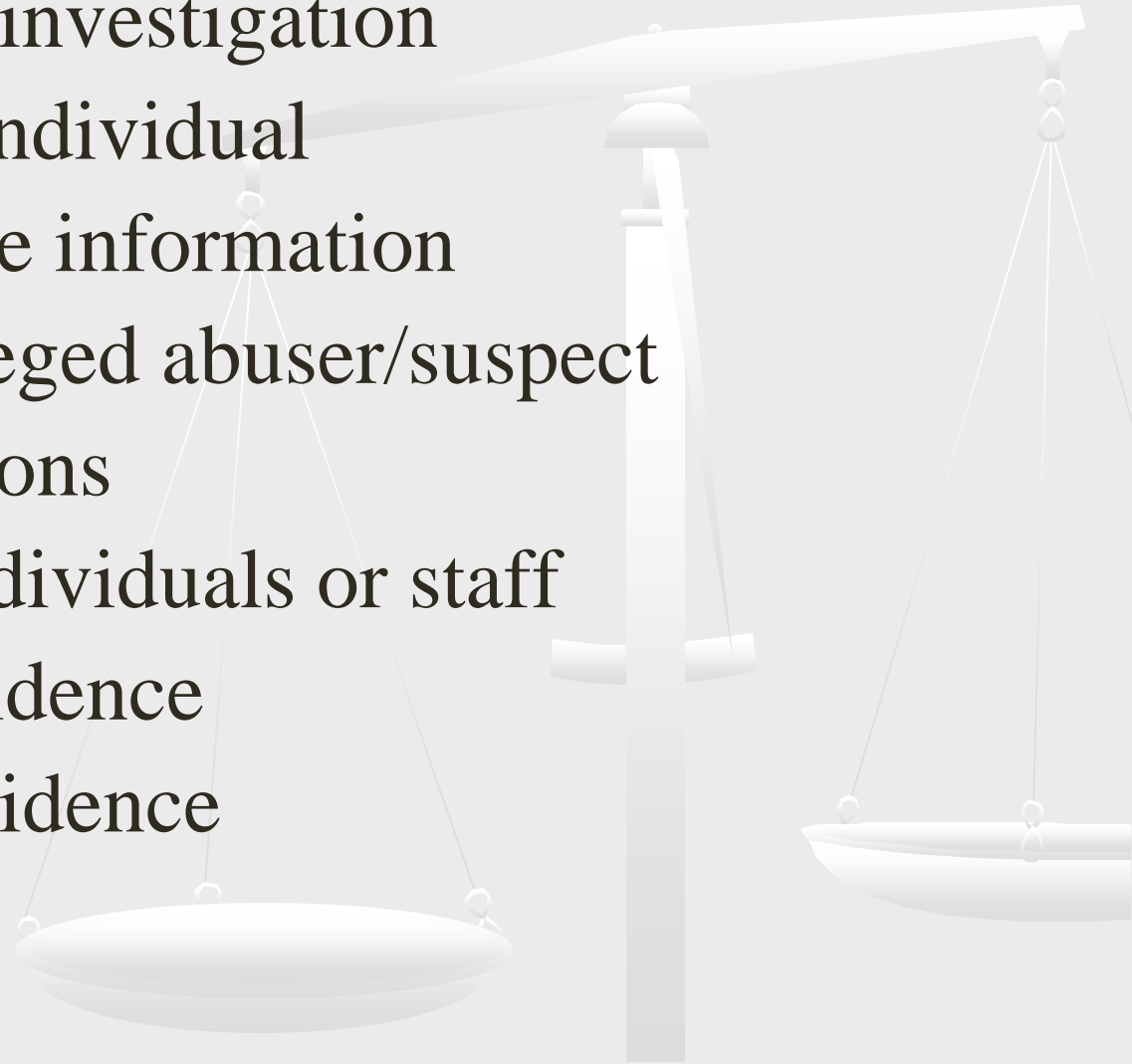
Remember

- **Every person with an intellectual or other disability is unique and there may be broad differences in ability to think and communicate in interviews.**
- **The nature of the interview and type of questions asked are critically important and can have significant impact upon the quality of the individuals responses**

*Victims most often disclose to someone they trust.
IF THIS IS YOU ... Contain your emotions.*

Caregivers/providers should not:

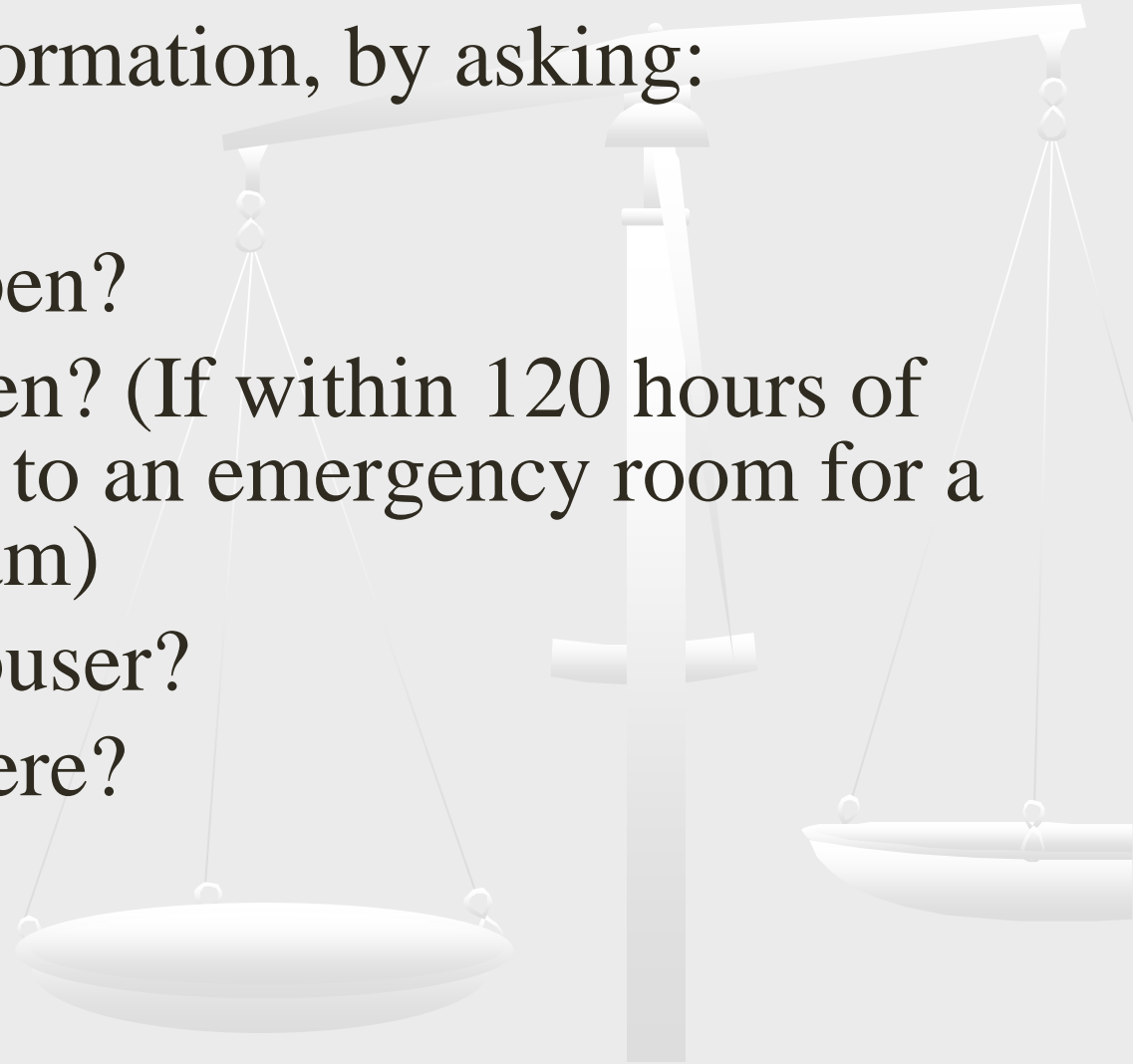
- Try to conduct an investigation
- Re-interview the individual
- Interpret or edit the information
- Interrogate the alleged abuser/suspect
- Involve other persons
- Interview other individuals or staff
- Go looking for evidence
- Touch physical evidence



Evidentiary Foundational Requirements

Gather essential information, by asking:

- What happened?
- Where did it happen?
- When did it happen? (If within 120 hours of sexual assault, go to an emergency room for a sexual assault exam)
- Who is alleged abuser?
- Why were you there?



What???

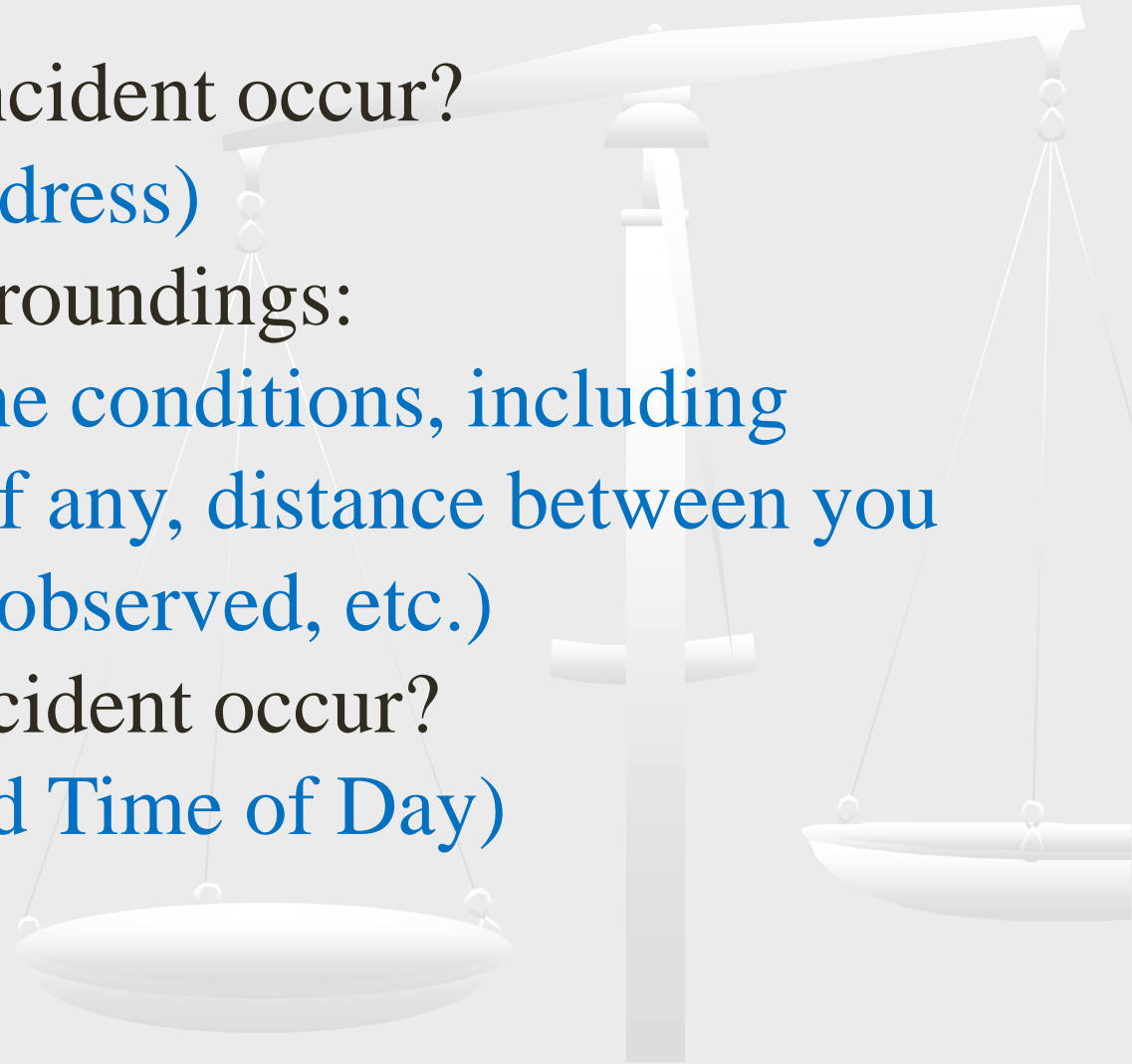
Set the Scene. Someone else will be relying on your report to understand the events you describe.

What happened?
How did you respond?

Typically, the only information a prosecutor has is the police/APS report. It can influence charging decisions, bail /dangerousness hearings and other pretrial events.

Where and when??

- Where did the incident occur?
(Area and address)
- Describe the surroundings:
(Lighting; scene conditions, including obstructions, if any, distance between you and what you observed, etc.)
- When did the incident occur?
(Day, Date and Time of Day)



Who???

- Names, addresses and phone numbers of defendant, victims and witnesses
- Relationship of parties [How long have they known each other?? And, if appropriate (in domestic cases), Why did the relationship end ??]

Why ???



- Why were you there? [*i.e.*, Were you called there? Were you conducting a home visit? Were you conducting a statutory investigation?]
- What attracted your attention?
- Have you received complaints at this address/or from this person previously?

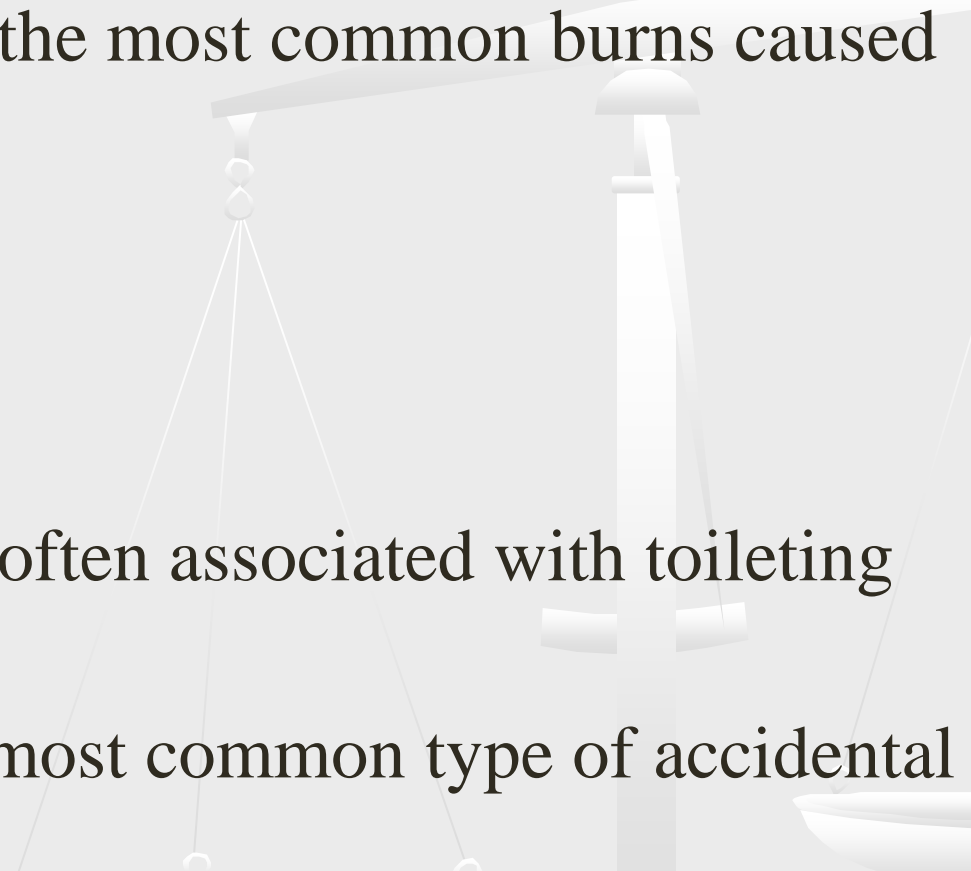
Consider Corroborating Evidence

- Suspect's interview
- Forensic evidence
 - DNA/CODIS
 - Crime scene(s)
 - Victim's injuries
- Other documentary evidence
 - photographs/charts
 - medical records
 - school/work records



Burns

Accidental or Inflicted?

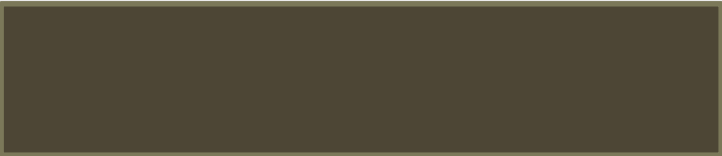
- 
- Immersion burns are the most common burns caused by:
 - Glove
 - Sock/ Stocking
 - No splash marks
 - Immersion burns are often associated with toileting “accidents”
 - Splash burns are the most common type of accidental burns

Average water temperature

	<u>Degrees</u>
➤ Comfortable infant bathing	mid 90s
➤ Comfortable jacuzzi	@ 103
➤ Adult - painful to touch	118 - 120
➤ Adult deep 2nd to 3rd degree in 30 sec.	130
➤ Adult deep 2nd to 3rd degree in 10 sec.	138
➤ Adult deep 2nd to 3rd degree in 3-4 sec.	146
➤ AVERAGE HOME TAP WATER !!	140-145

Bruising

- Rate of healing depends on location and depth of bruise
- Face and genital area heal faster than other parts of the body because excellent blood supply
- Color changes: **red**, **purple**, **blue**, **green**, **yellow**, brown
- Because of variability in this progression:
 - new - **red**, **purple**, **blue**
 - old - **green**, **yellow**, brown



Middle aged woman with fresh bruises on left arm and torso, and....



... laceration and electrical cord marks on left arm and torso.



Skin lesions caused by wire brush



Human bite mark (10 days old)



Human bite mark (with size standard)



Lesions from suction



Oval grab marks (control marks)



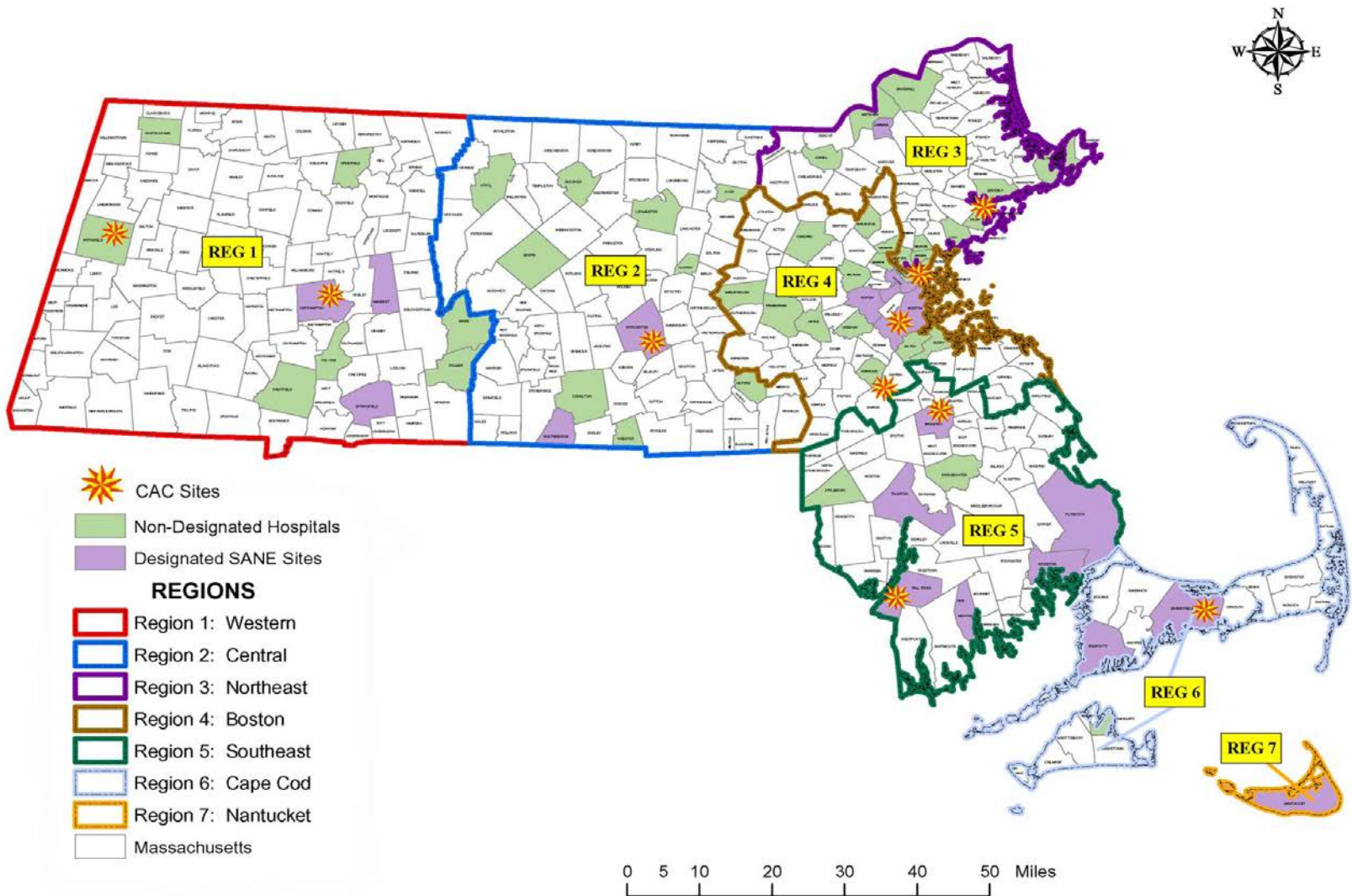
SANE Role in BPI

Sexual Assault victims can wait **up to 8 hours to be examined**

- Average **length of exam** is **3 - 4 hours**
- **85%** of hospitals offered some training to new RN's
 - **only 25%** offered yearly updates
- **Evidence**
 - **39% of evidence collection**, when indicated, was **not completed**
 - **38% of evidence collected** was collected **inappropriately**

(Source: MA DPH Study)

SANE and CAC Program Site Designation





Criteria for a SANE Exam

- **Patient must be medically cleared**
- **Able to consent**
- **Assault within **5 days/120 hours****
- **Patient does not have to report to police to have evidence collected (evidence held for 6 month+ if not reporting at this time)**

90-95% conviction rate when a SANE testifies at trial!



Prosecution-Based BPI Model

- Coordinate team response
- Provide legal assistance
- Prosecute Offenders





District Attorney's Personnel

- Eleven (11) jurisdictions in Massachusetts
- Geographically Divided (primarily by county)
- Assistant District Attorney(s)
 - Elders and Persons with Disabilities Unit
 - Superior/District Court
- Victim Witness Advocate(s)
- Forensic Interviewer
- Massachusetts State Police Detective Unit

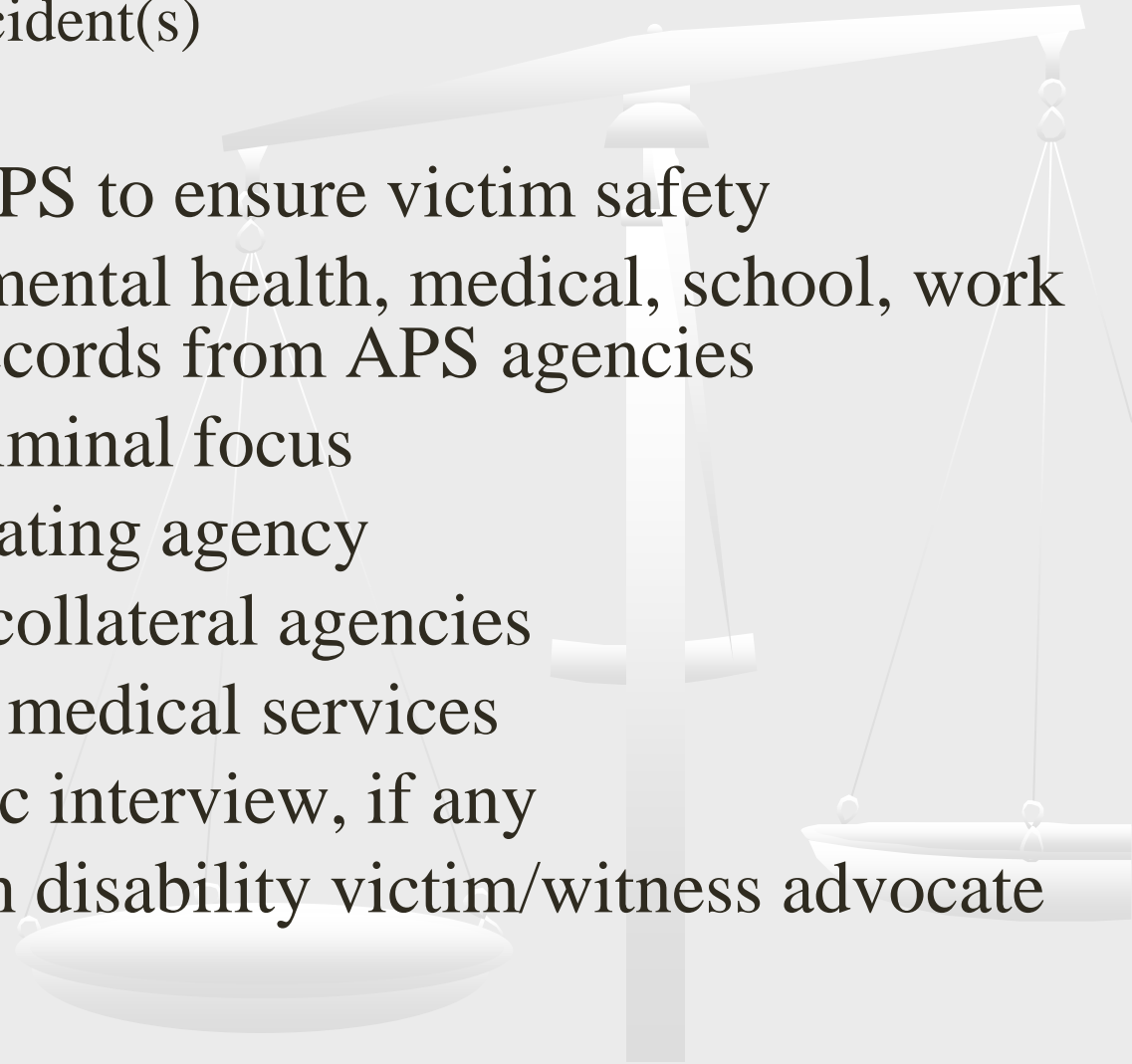
DA's Role in BPI

➤ Notification from DPPC

- Identifies parties
- Details reportable incident(s)

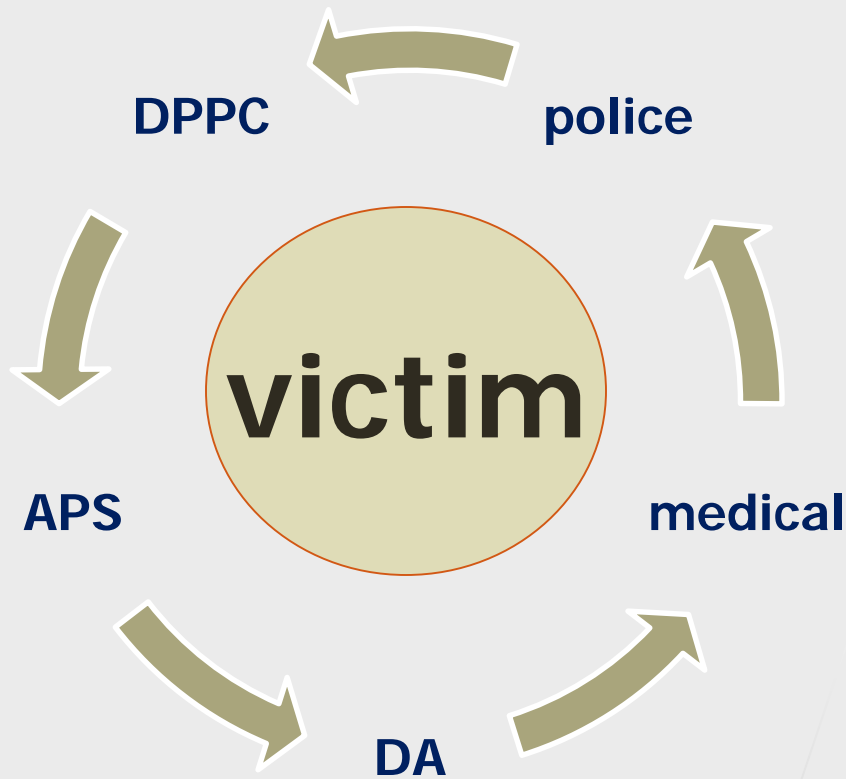
➤ Review by ADA

- Coordinate with APS to ensure victim safety
- Obtain necessary mental health, medical, school, work or social worker records from APS agencies
- Determine civil/criminal focus
- Designate investigating agency
- Identify available collateral agencies
- Request necessary medical services
- Coordinate forensic interview, if any
- Assign person with disability victim/witness advocate



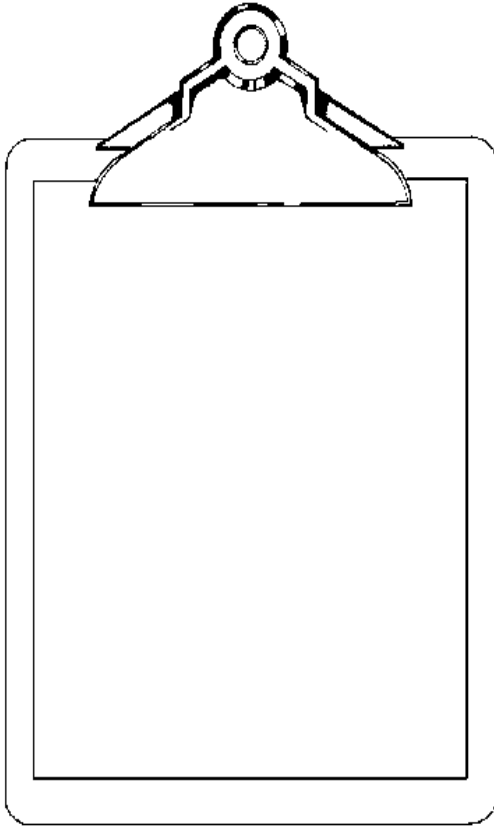


Forensic Interview of Victim



- One interview of victim meets needs of all agencies
- Less trauma for victim (and family)
- More efficient investigation
- Improved evidence collection
- Access to more information
- Increased chance of successful prosecution

Compiling a case file



- **Reports**
- **Statements**
- **Photos/Videos**
- **Electronic Recordings (911)**
- **Diagrams**

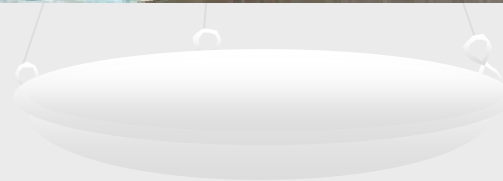


Corroborating Evidence

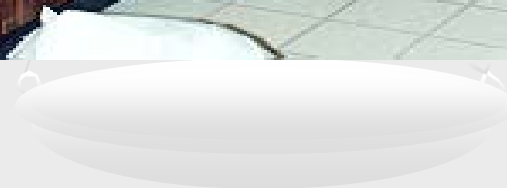
In the Matter of a Grand Jury Investigation,
427 Mass. 221, (1998)

- Grand jury may order blood/buccal samples from individuals
- Standard: **Reasonable basis for believing** that blood sample will provide test results that will significantly aid grand jury in their investigation of circumstances in which there is good reason to believe a crime has been committed

Has a crime been committed?



Does the scene match the story?



Make observations. Document what you see.





Search can reveal weapons



Search can reveal weapons



**One of three children in home, among other injuries,
exhibits fresh and old patterned bruises**



At scene, three year old child with developmental disabilities and limited communication abilities exhibits fresh patterned bruises



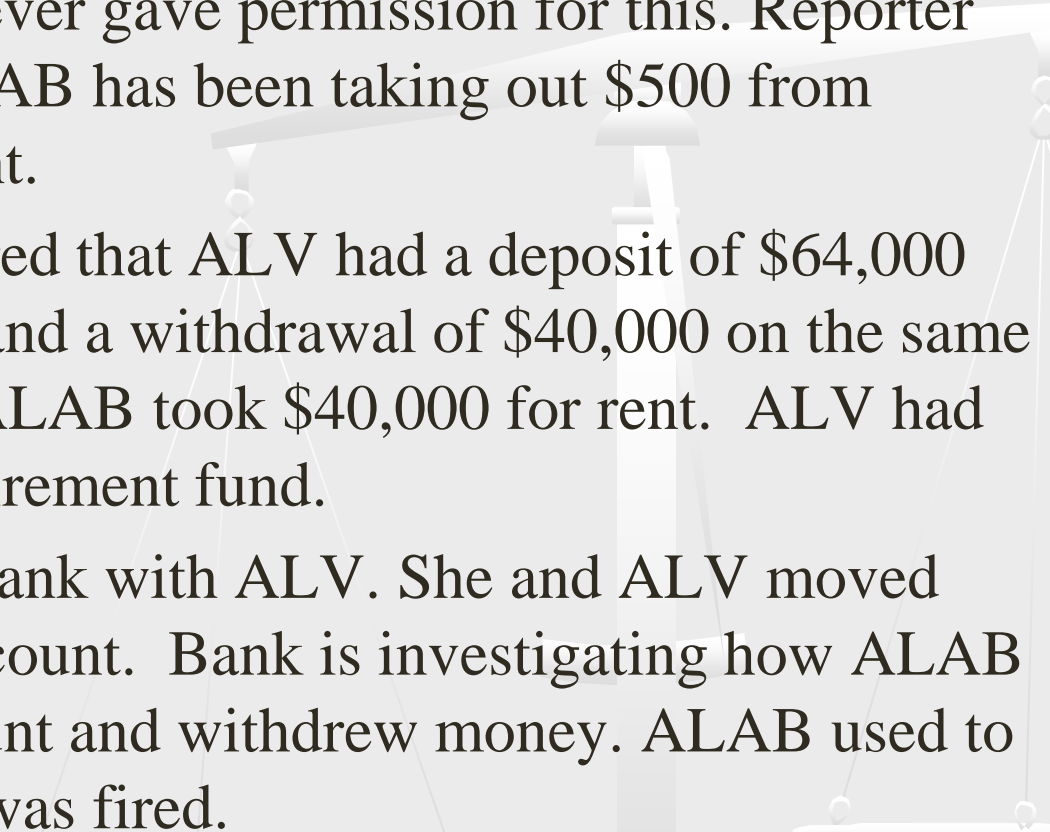
Subsequent medical examination documents injuries



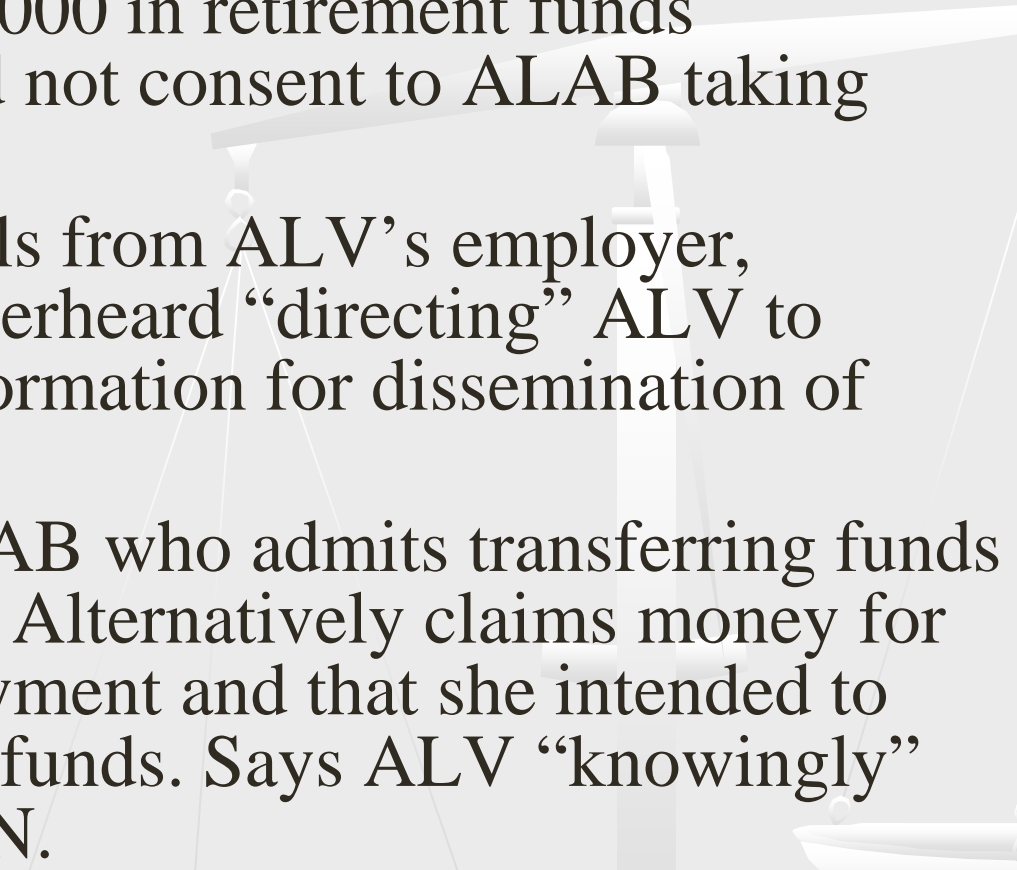
Case Studies of BPI-MDT Referrals

- **Case #1** – Alleged Financial Abuse of adult male with an intellectual disability, by relative;
- **Case #2** – Alleged Sexual Abuse of adult male with physical disabilities, by caretaker;
- **Case #3** – Alleged Sexual Abuse of teenage male with developmental disabilities, by stranger;
- **Case #4** – Alleged Sexual Abuse of two adult women, sisters with developmental disabilities, by biological father (involving delayed disclosures).

DPPC REFERRAL #1

- In talking about income tax and bank accounts with ALV, Reporter discovered that ALAB's name was added to ALV's bank account. ALV never gave permission for this. Reporter also observed that ALAB has been taking out \$500 from ALV's account for rent.
 - Reporter also discovered that ALV had a deposit of \$64,000 from retirement fund and a withdrawal of \$40,000 on the same day. ALV indicated ALAB took \$40,000 for rent. ALV had no plans to cash in retirement fund.
 - Reporter went to the bank with ALV. She and ALV moved \$20,000 to another account. Bank is investigating how ALAB got her name on account and withdrew money. ALAB used to work at the bank and was fired.
- 

MDT Approach

- Police obtain ALV statement and background. ALV denies knowing \$86,000 in retirement funds disseminated and did not consent to ALAB taking money.
 - Obtain telephone calls from ALV's employer, wherein ALAB is overheard "directing" ALV to provide personal information for dissemination of funds.
 - Police interview ALAB who admits transferring funds to personal account. Alternatively claims money for ALV's use and enjoyment and that she intended to pay back withdrawn funds. Says ALV "knowingly" gave her SS# and PIN.
- 

RESULT

ALAB charged with Larceny over \$250 from a Person with a Disability

Plea of guilty. Restitution of all monies to ALV.

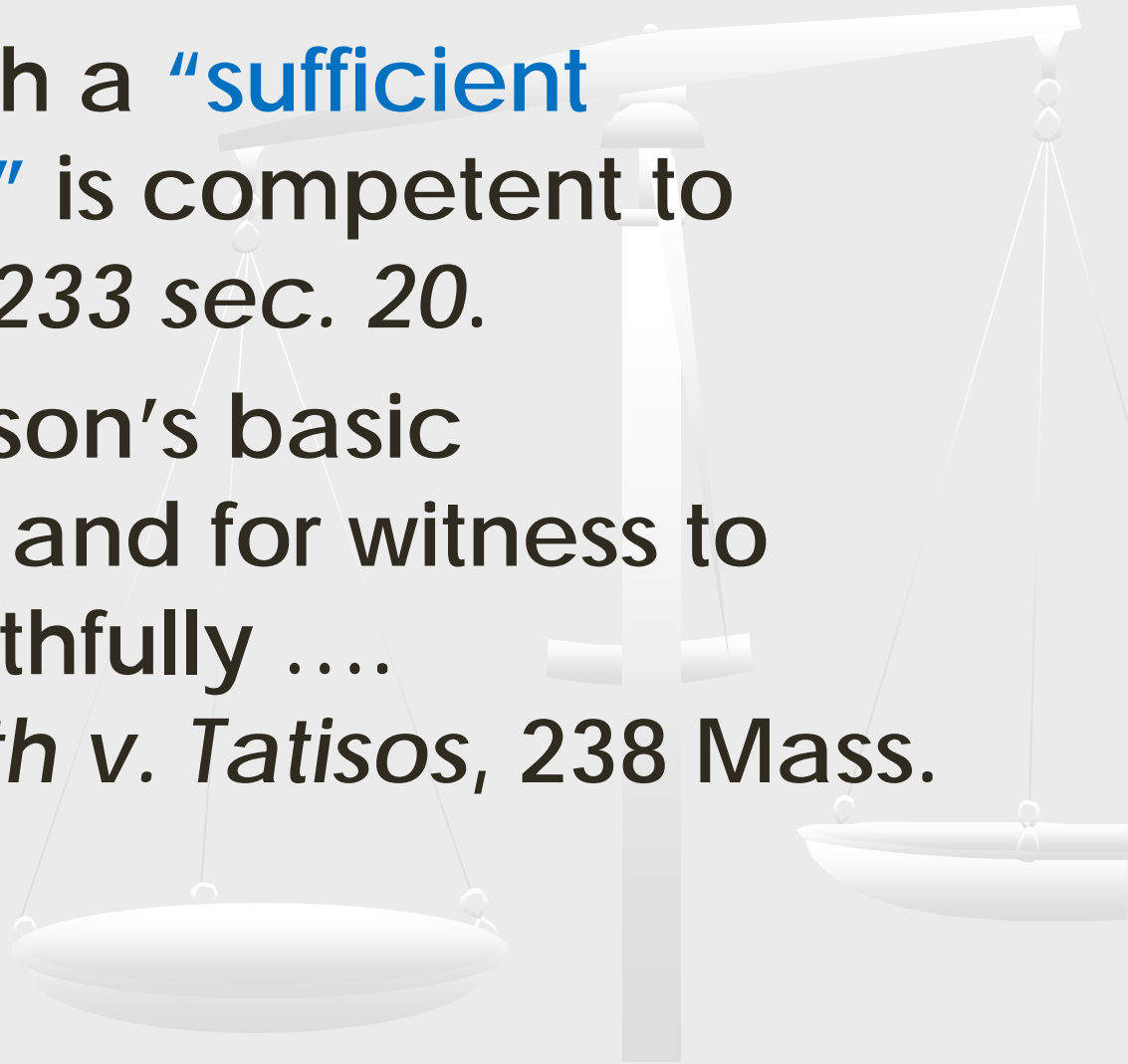
Legal Issues relating to victim/witness



- **Consent** – person's free/voluntary act
- **Competency** – question of law
- **Capacity** – question of fact
- **Privilege(s)** – question of common law/statute
- **Confidentiality** – involves private information

Competency of Victim/Witness

- Any person with a “sufficient understanding” is competent to testify. *G.L. c. 233 sec. 20.*
- Refers to a person’s basic understanding and for witness to relate back truthfully
Commonwealth v. Tatisos, 238 Mass. 322, 325 (1921)



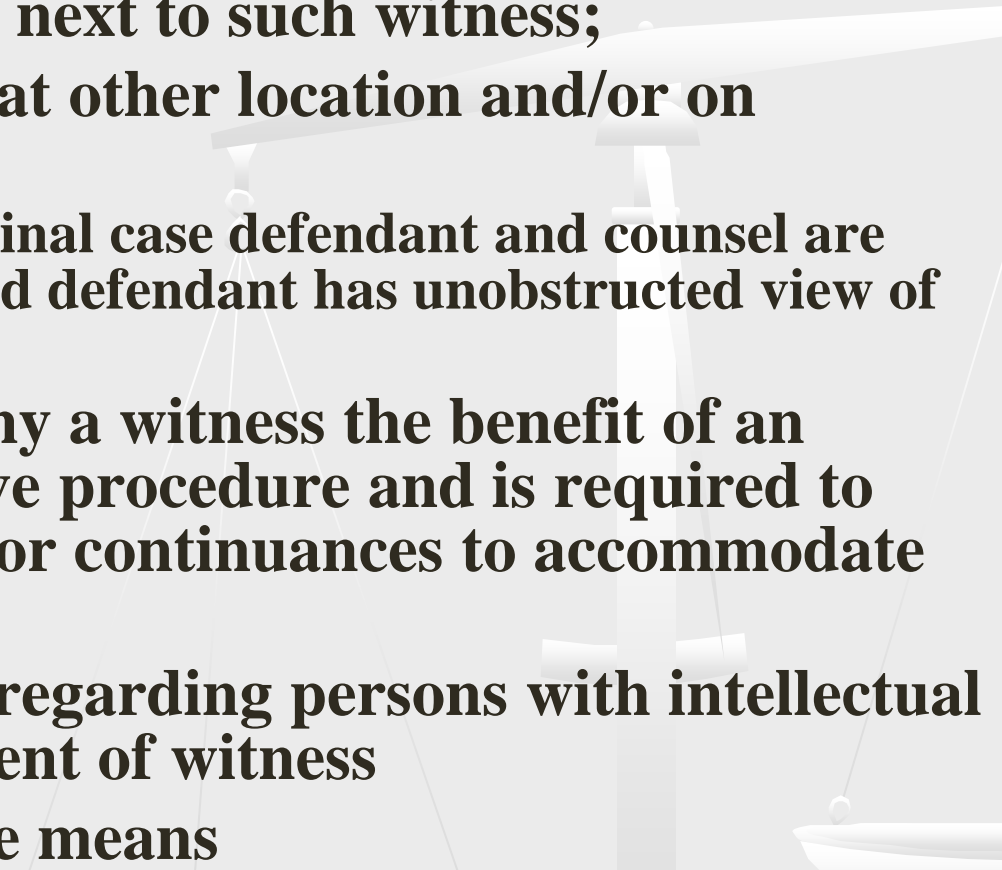
Capacity



- **Question(s) of Fact**
- **Encompasses personal characteristics of an individual that assist/deter “understanding”**
- **Defined as to purpose of legal proceeding**

*Capacity is evidentiary fact(s) produced for factfinder;
Competency is legal conclusion by factfinder from
evidentiary facts of capacity presented*

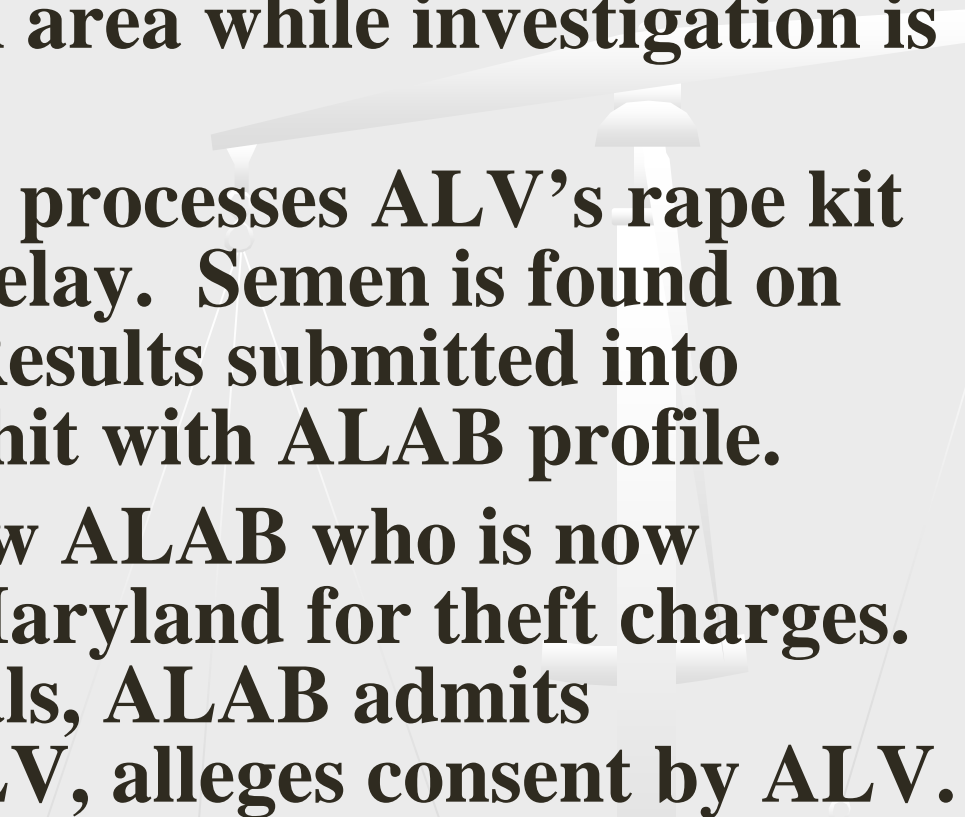
Approved Alternative Procedures

- **Family member, clinician, counselor, social worker or friend may sit near or next to such witness;**
 - **Permitting testimony at other location and/or on videotape**
 - **Provided that in criminal case defendant and counsel are present at location and defendant has unobstructed view of witness**
 - **Court SHALL not deny a witness the benefit of an appropriate alternative procedure and is required to allow additional time or continuances to accommodate these procedures**
 - **Use of expert witness regarding persons with intellectual disabilities by proponent of witness**
 - **Any other appropriate means**
- 

DPPC Referral #2

- ALV reported to his care coordinator that he had been sexually assaulted in the early morning. ALV said that he had been asleep in his bed when ALAB, whom he knew, came into his room, fondled his genitalia and anally raped him. ALV believed ALAB ejaculated on him. ALV reported his genitalia had been touched with ALAB's hands.
- ALV was a 37 year old male at time of incident. He is a person with Cerebral Palsy and is a spastic quadriplegic. His physical mobility is very limited. He communicates effectively through a device called a Dynavox, a communication board.
- ALV's Case Coordinator brings ALV to local hospital. Once there, ALV undergoes SANE during which anorectal swabs were collected.

MDT Approach

- **Police contact ALAB. He denies allegations. Moves away from area while investigation is pending.**
 - **Crime laboratory processes ALV's rape kit after prolonged delay. Semen is found on anorectal swab. Results submitted into CODIS. CODIS hit with ALAB profile.**
 - **Police re-interview ALAB who is now incarcerated in Maryland for theft charges. After initial denials, ALAB admits penetration of ALV, alleges consent by ALV.**
- 

APS/Police As Witnesses

A percipient witness may testify to what his/her senses perceived

Percipient witness: relates what he/she saw, heard, smelled, tasted, or touched. NOT what others said, unless non-hearsay use of evidence or hearsay exception applies....

Hearsay: Out of court statement(s) offered for the truth of the matter asserted.

**When we prove
declaration was
an “excited
utterance”**



What is an “Excited Utterance”? *Any statement made by a person, while under the influence of the “exciting event”, concerning the cause or circumstances surrounding the event.*

Expert(s)/Testimonial Aids

Daubert/Lanigan Challenge?

- *Daubert* “gatekeeper” obligation applies to all expert testimony, not only “scientific” testimony;
- Trial judge is not limited to enumerated factors in *Daubert* in making “gatekeeper” inquiry. Instead, standard is flexible to particular facts and expert’s particular experience and nature of issue;
- Trial judge has broad latitude of discretion when ruling on admissibility.

Canavan’s Case, 432 Mass. 304, 313-316 (2000) citing Kumho Tire Co., Ltd. v. Carmichael (1999) (Extending holding of Lanigan to apply to expert opinions based on personal observation and clinical experience, concluding diagnosis and causation could be subject to Lanigan analysis)

RESULT

**ALAB charged with Rape and
Indecent Assault and Battery on a
Person Over Fourteen Years Old**

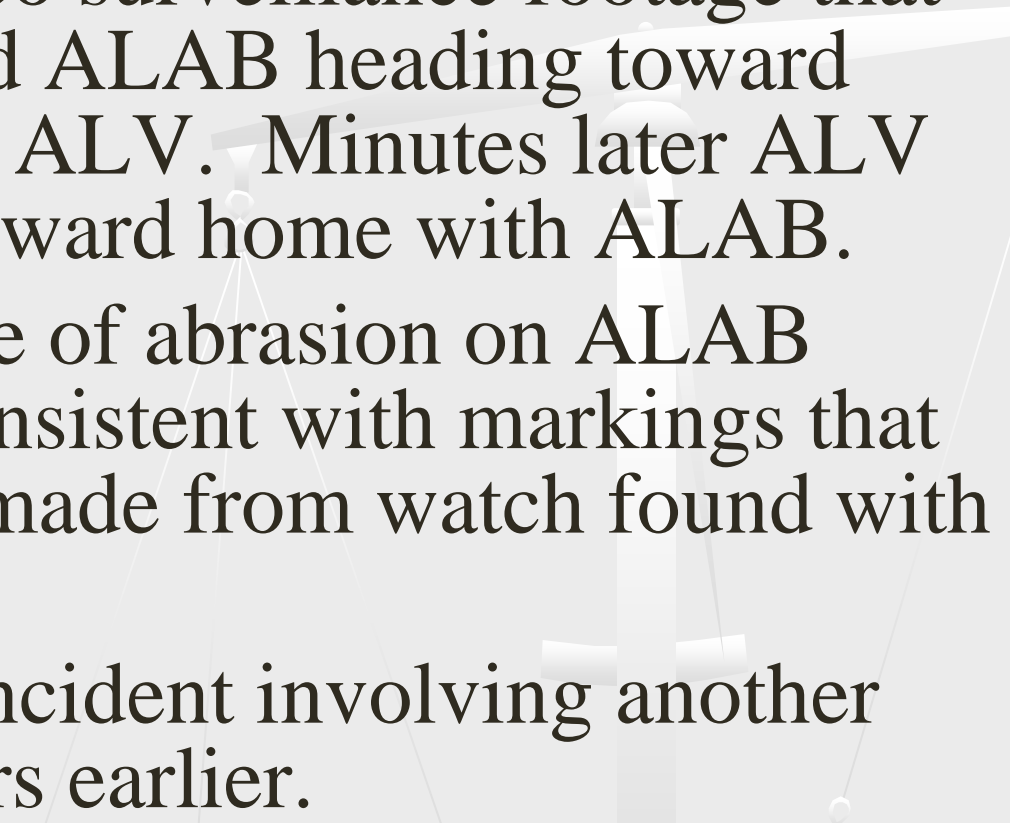
**Pleas of guilty. State Prison
sentence imposed.**



DPPC REFERRAL #3

- ALV's mother reported to police that the ALV, her 19 year old son, was assaulted while taking out the trash. Police arrive at scene, speak with ALV who is then transported to a local hospital for a sexual assault examination.
- ALV is a teenager with developmental disabilities. A forensic interview is conducted with ALV. There, he reports that while taking out the trash, he noticed a man, ALAB, following him. ALAB pulls ALV into an alleyway, removes his clothing and anally penetrates him. ALV escapes and goes home. ALAB follows ALV to his home. ALV immediately reports incident to his mother. Reporter approached ALAB, who denies assault. ALAB flees area.

MDT Approach

- Police obtain video surveillance footage that captures ALV and ALAB heading toward area described by ALV. Minutes later ALV is seen running toward home with ALAB.
 - SANE makes note of abrasion on ALAB backside. It is consistent with markings that could have been made from watch found with ALAB.
 - ALAB had past incident involving another assault seven years earlier.
- 

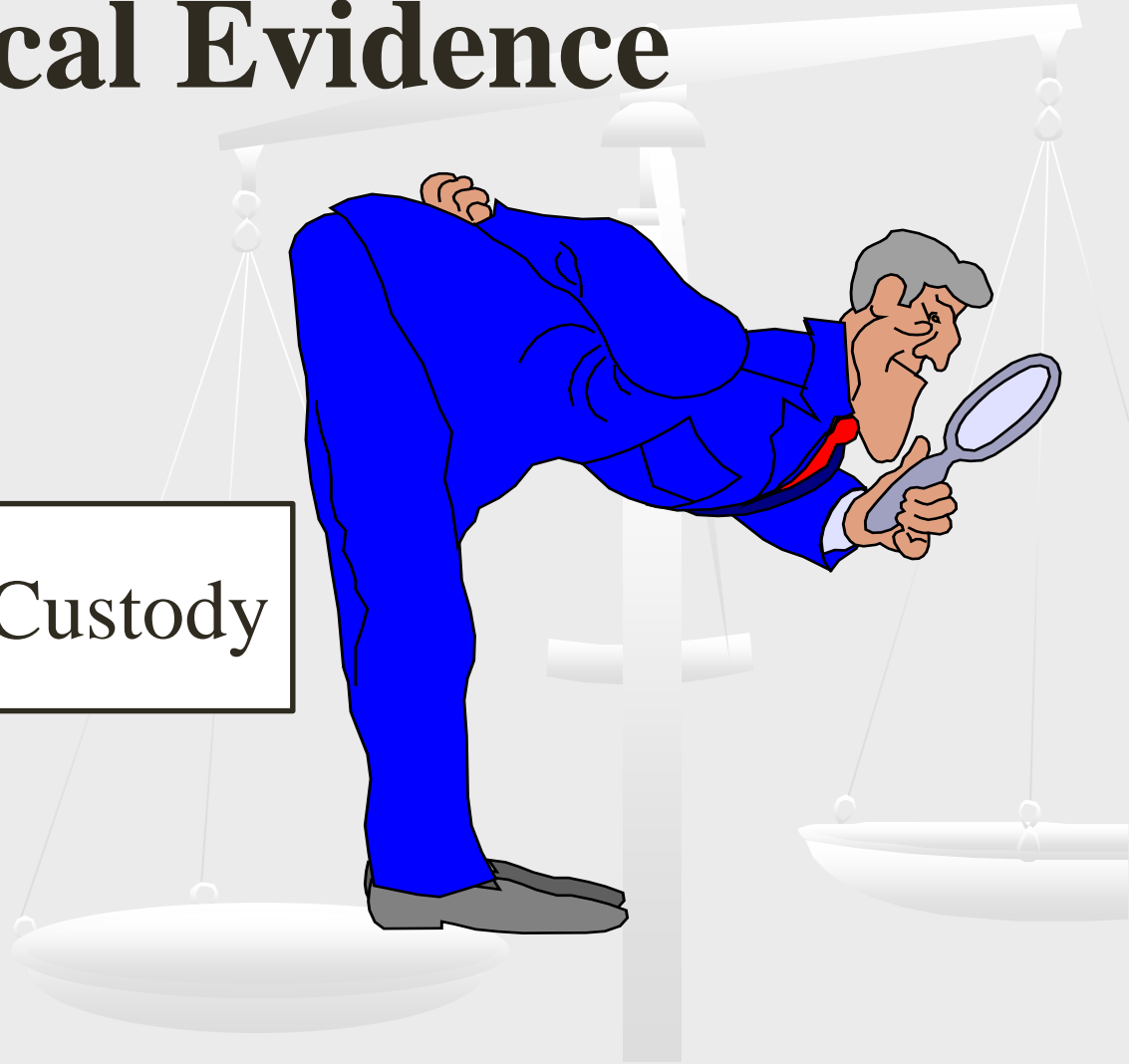
RESULT

**ALAB charged with Rape and
Indecent Assault and Battery on a
Person Over Fourteen Years Old [c.
265 §22 and c. 265, §13H]**

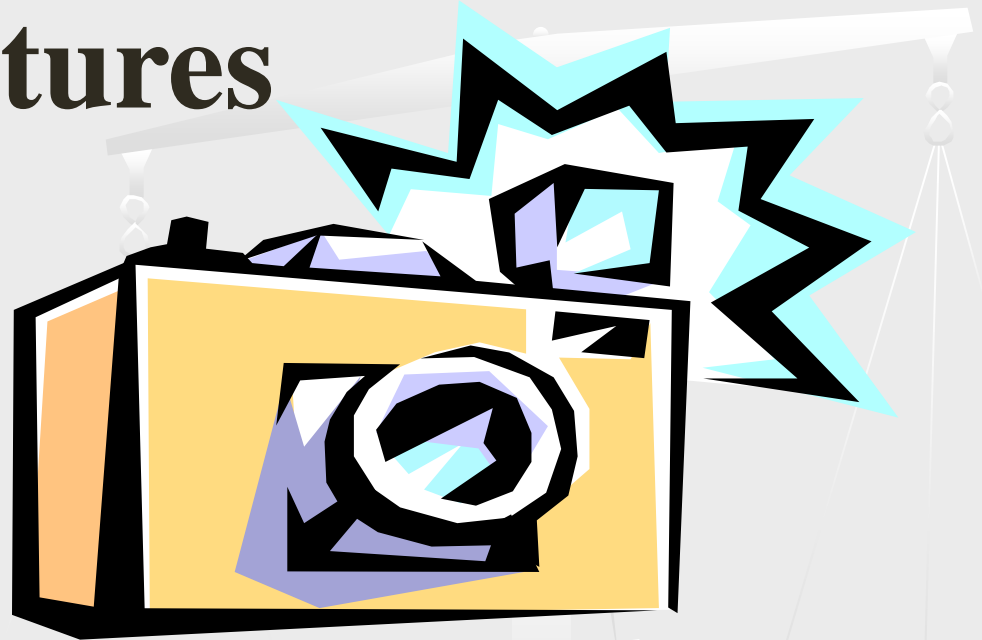
**Jury Trial. Verdicts of Guilty. State
Prison sentence imposed.**

□ Introduction of Physical Evidence

Establish: Chain of Custody

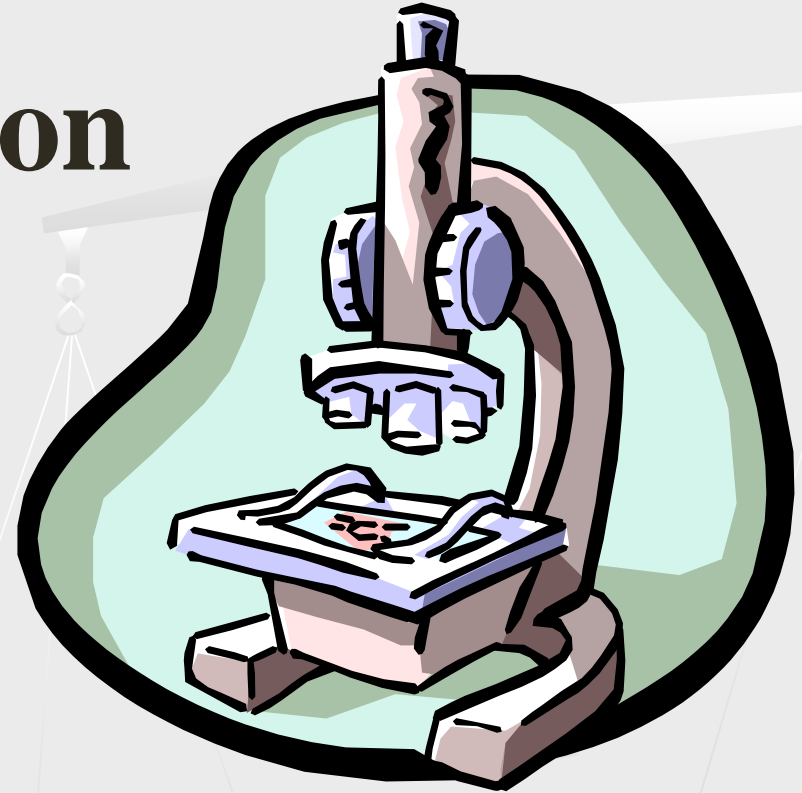


□ Introduction of Pictures



Foundation: Fair and accurate representation

□ Introduction of Opinion

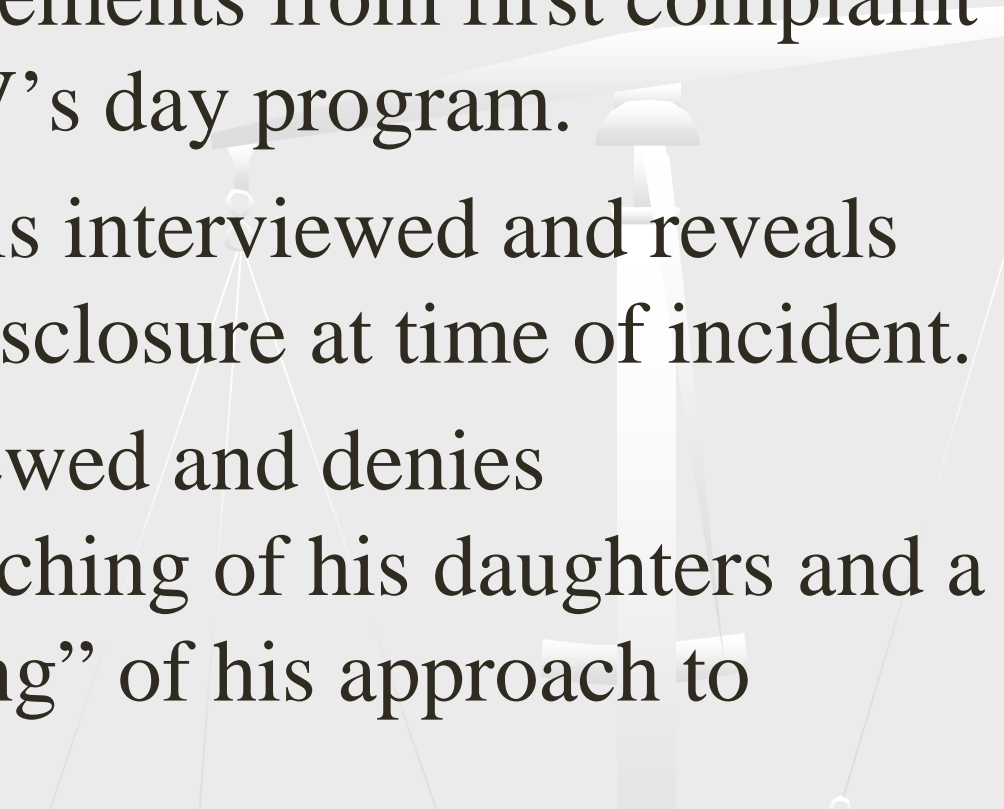


Foundation: Training and experience in field

DPPC REFERRAL #4

- ALV, a twenty-three year old woman with intellectual disabilities, reported to her supervisor at her day program that the ALAB, her biological father, had sexually assaulted her six months previously and tried to molest her sister.
- Police are notified and a forensic interview of ALV is conducted. ALV reports that on three separate occasions she had been sexually assaulted by her father starting when she was sixteen years old. Her disclosure was made due to a telephone call from ALAB requesting that she move back to his home. Upset still at her day program the next day, she confided in a supervisor.
- ALV's younger sister, a twenty-one year old woman with intellectual disabilities is interviewed and reports that, when she was seventeen or eighteen, ALAB asked her to perform oral sex on him and to have sexual intercourse with him.

MDT Approach

- Police obtain statements from first complaint witnesses at ALV's day program.
 - Biological mom is interviewed and reveals ALV's sister's disclosure at time of incident.
 - ALAB is interviewed and denies inappropriate touching of his daughters and a "misunderstanding" of his approach to ALV's sister.
- 

RESULT

***ALAB* charged with Incest, Rape and
Indecent Assault & Battery on Person
with an Intellectual Disability**

Jury Trial. Verdicts of Not Guilty.

Corroborating Evidence

In the Matter of a Grand Jury Investigation,
427 Mass. 221, (1998)

- Grand jury may order blood/buccal samples from individuals
- Standard: **Reasonable basis for believing** that blood sample will provide test results that will significantly aid grand jury in their investigation of circumstances in which there is good reason to believe a crime has been committed

Admissibility of evidence

Legality of Search(es)/Seizure(s)

➤ Warrant obtained?

No crime scene exception to warrant requirement, so if police become involved

- *Flippo v. West Virginia*, 528 U.S. 11 (1999)

➤ Valid warrantless exception available?

No search

Abandonment

- No reasonable expectation of privacy

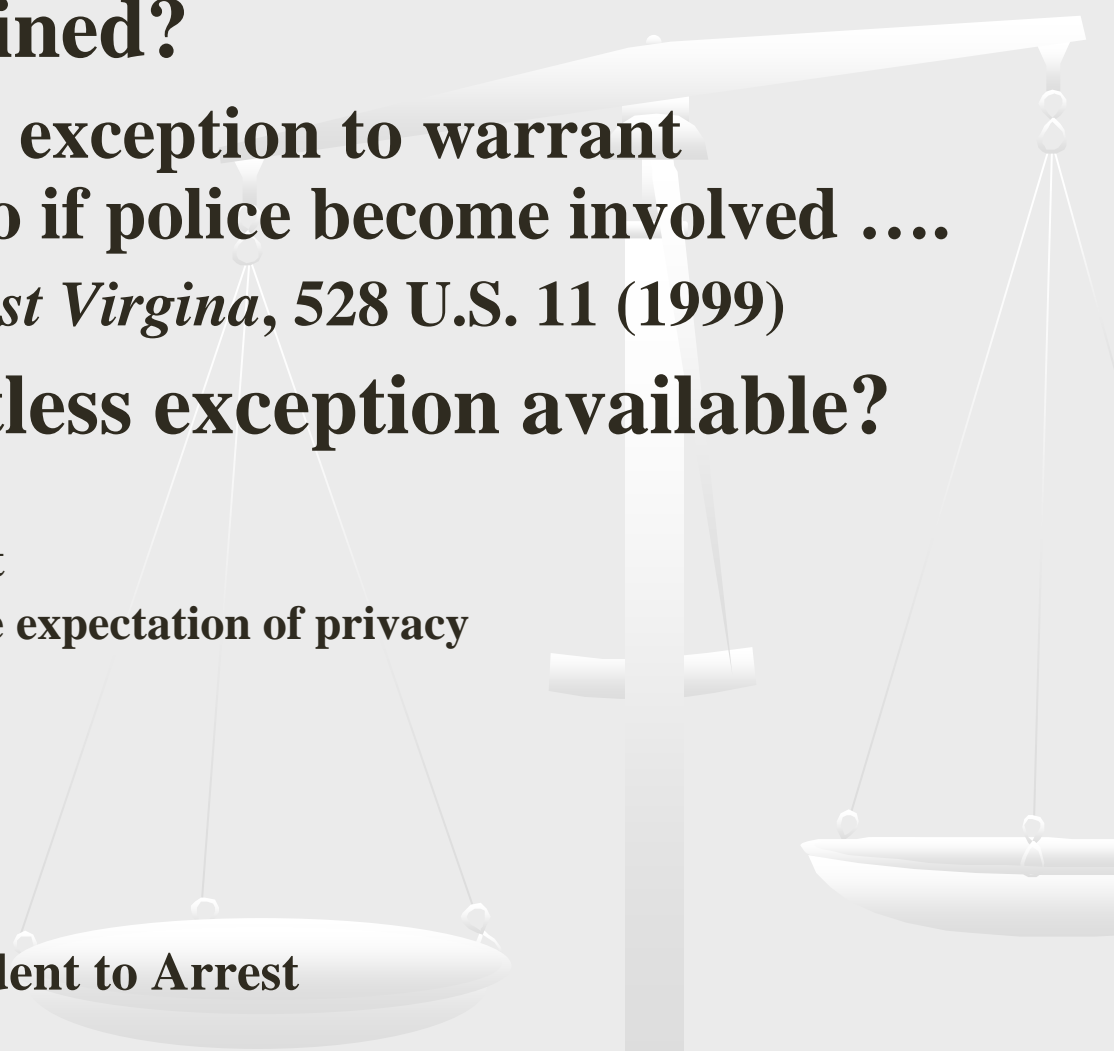
Consent

Plain view

Emergency

Exigency

Search Incident to Arrest



“Lost”/Missing Evidence

Arizona v. Youngblood (1988):

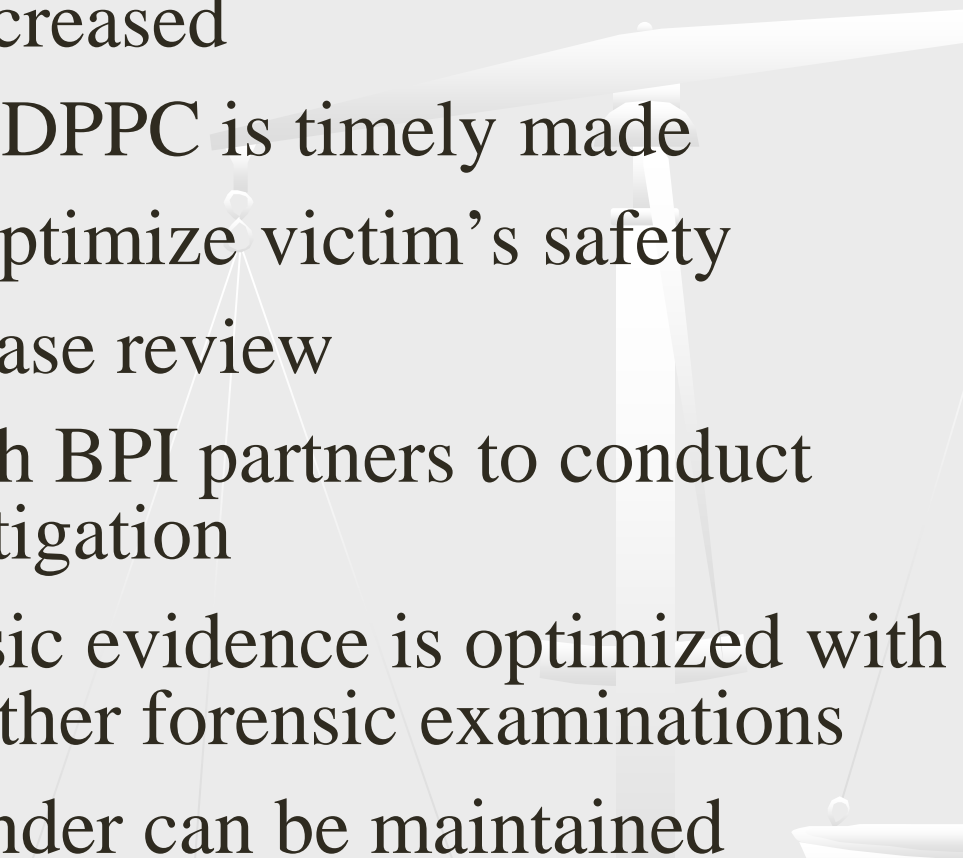
- Due Process Clause of the U.S. Constitution does not require police and other law enforcement agencies to collect all “evidence”
- Failure to preserve evidence that may be “potentially useful” for a defendant will not violate due process unless the failure to collect/preserve is based upon “bad faith” on the part of the police or other law enforcement agencies

Lessons Learned



- No one person or agency possesses all of the skill, knowledge and resources necessary to respond to the complex problems of mistreatment and abuse;
- Each agency brings a different perspective and different information to the table; and
- In working together, crimes committed against persons with disabilities are being recognized, reported, investigated and prosecuted.

Measures of Success

- Trained staff has increased
 - Mandated report to DPPC is timely made
 - APS is notified to optimize victim's safety
 - DA is notified for case review
 - DA coordinates with BPI partners to conduct criminal/civil investigation
 - Collection of forensic evidence is optimized with timely SANE and other forensic examinations
 - Prosecution of offender can be maintained
- 

Contact Information



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Questions?



THE END.

