

# MODEL PROTOCOL ON SCREENING PRACTICES FOR DOMESTIC VIOLENCE VICTIMS WITH DISABILITIES

Revised 2004



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## ACKNOWLEDGEMENTS

The Washington State Coalition Against Domestic Violence is indebted to the author and project co-coordinator, Cathy Hoog, for her tireless efforts and extraordinary insights in creating this document.

The Washington State Coalition Against Domestic Violence is appreciative of the critical thinking and goodwill of the members of the advisory committee who have given their time, expertise and support for this project. We would also like to thank the staff of the Washington State Coalition Against Domestic Violence and the staff of Disability Services ASAP (A Safety Awareness Program) of Safeplace in Austin, Texas for their support and expertise. Special thanks also to Christine Olah of WSCADV for formatting and editing this guide.

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This project was supported by funding from the Washington State Department of Social and Health Services, Children's Administration, Division of Program and Policy. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the Washington State Department of Social and Health Services.

This project was supported by Grant No. 2002-FW-BX0006 awarded by the Violence Against Women Office, Office of Justice Programs, U. S. Department of Justice. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

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# Model Protocol on Screening Practices for Domestic Violence Victims with Disabilities

## Introduction

The goal of this protocol is to support domestic violence agencies in the State of Washington in examining and revising their intake and screening process to include questions about disability issues. Inquiring if a victim has a disability that requires accommodation gives the program information that enables them to provide appropriate accessible services.

One in five women is limited in a major life activity by a disability, according to the US Census.<sup>1</sup> Although conflicting information exists, current research leads us to believe that the incidence rate of domestic violence against women with disabilities is about the same as any other group of women, yet victims with disabilities are more likely to stay longer in an abusive situation, and have fewer options for safety due to systemic barriers and physical barriers in the community.<sup>2</sup>

A victim's disability may not be easily noticed or easily discussed. A victim may not be comfortable in disclosing information about a disability, and may have experienced negative reactions to past disclosures. Using a screening tool for disabilities with everyone affirms that your agency is aware of the issues facing victims with disabilities.

This protocol seeks to strengthen advocates' ability to identify the issues of power and control facing a victim with disabilities, by expanding screening questions to include common tactics of abuse against people with disabilities. These tactics include: manipulation of medication; financial exploitation; destruction of or withholding of assistive devices; neglect or refusal to help with personal care (such as toileting); emotional abuse that is specifically focused on a victim's disability.

Barriers for victims with disabilities created by both society and the perpetrator could convince a victim that escape is not possible. An advocate's willingness to discuss how the perpetrator's abuse impacted the victim's disability can assist in removing identified barriers to the victim's autonomy.

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<sup>1</sup> *Americans with Disabilities: 1997*, by Jack McNeil, U.S. Census Bureau, Current Population Reports P70-73, Washington, D.C., March 2001 (revised August 2002).

<sup>2</sup> "Violence Against Women with Disabilities," a white paper for the conference *Preventing and Intervening with Violence Against Children and Adults with Disabilities*, May 2002. Prepared by Margaret A Nosek, PH.D, Rosemary B Hughes, Ph.D, Heather B Taylor, Ph.D, and Carol Howland.

Using appropriate screening practices helps your program realistically evaluate what a victim needs in order to access your services – regardless of their disability. Your program should be knowledgeable about the accessibility of services and be prepared with alternatives for providing services if a barrier exists. This process should never be used to “screen out” or deny services to a victim based on their disability.

These screening practices may help you gather information that can be used in your planning process to improve the overall access of your program.<sup>3</sup>

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<sup>3</sup> To review additional information about enhancing program and agency accessibility, see *Increasing Agency Accessibility For People With Disabilities, Domestic Violence Agency Self-Assessment Guide*, Cathy Hoog for the Washington State Coalition Against Domestic Violence, Seattle, WA, January 2003, [www.wscadv.org](http://www.wscadv.org).

## Recommended Policy

[Name of agency] shall work to ensure meaningful access for all recipients of services by developing and implementing comprehensive screening practices that:

- Inform all victims that the agency understands the need for accommodation.
- Encourage victims with disabilities to request accommodation(s).
- Respect victims with disabilities as the experts in what they need to function while receiving domestic violence services.
- Focus on the activities and services that will be provided and assist the advocate in determining the best ways to accommodate the victim.

The process for developing your agency's screening protocol should include the following steps:

- Develop policies and procedures to identify possible accommodation needs by screening at the point of initial contact and again whenever the function of these services are added or changed.
- Develop policies and procedures to allow for the provision of services even to those individuals who do not disclose a disability.
- Review policies and procedures to identify those that might inadvertently make victims ineligible for services based on their disability, and change or remove such policies or procedures. Denying services based on an individual's disability is not legal unless there is no *reasonable* accommodation available.
- Develop screening questions that identify accommodation needs and help an advocate determine what barriers the victim has experienced or fears she may have about using domestic violence services.
- Develop screening questions that identify the victim's strengths and her expertise in understanding how her disability affects her abuse experience. Develop screening questions that recognize the ways a victim's disability may have affected her abuse experience and her daily life activities.
- Develop screening questions that identify the physical environment of the abusive situation and the relationship of the abuser. For example, is the

victim living in a group home institution or private home? Is the perpetrator a personal care attendant or possibly a guardian of the victim?

- Develop screening questions that assist an advocate in determining what resources are available to the victim because of her disability, and if the victim has any concerns about that support system's possible alignment with the abuser or inability to maintain confidentiality.
- Develop screening practices that maintain a victim's autonomy and privacy, keeping confidentiality in mind at all times. Lack of privacy and confidentiality is often a crucial piece of the abuse dynamic for a victim with a disability.
- Develop screening practices that include preparation in advance of alternate formats of materials that are used during the screening process.
- Develop a budget plan to implement the screening practices and accommodations at all levels of service.
- Provide periodic staff training on how to implement the screening protocol.
- Periodically monitor implementation of the screening protocol.

## Recommended Procedures

### Initial Contact and Crisis Intervention

Identify and use appropriate language for screening that recognizes personal caregivers, or other specialized support personnel, as potential abusers and accepts them under your program's definition of "intimate partner" or "abuser." Until you know the relationship of the abuser to the victim, avoid words like "husband" or "boyfriend" that predetermine the gender and role of the abuser in the victim's life.

If the victim has a disability, determine how your program can best deliver services and avoid making assumptions about what accommodation each particular victim would prefer. There are a wide variety of people with disabilities – each with their own individual preferences and varied needs. What works for one person might not be acceptable for the next person you serve, even if they have the same disability.

Ensure that advocates have knowledge and training to identify how power and control issues may differ depending on the victim's disability, or a perpetrator's disability, or a child's disability, or even another family member's disability.

Ensure that discussions about a person's disability take place in a private setting, preferably one-on-one. If a third party is present to accommodate the needs of the victim (perhaps as a caregiver), advocates should try at the soonest possible time to be alone with the victim long enough to ask her if she feels comfortable talking with the third party present.

Accept the challenge of taking more time and using a variety of communication techniques that allow for the clearest discussion possible. In a crisis situation, time is often limited, but proceeding with incorrect information could be more costly than taking the time to communicate accurately. Avoid a patronizing attitude, always treating adults like adults regardless of their communication needs or comprehension skills.

Document accommodation requests and share information among appropriate staff (e.g., between shift changes) to ensure that the requested accommodation is provided for the entire period that the victim is using your services. Victims should not be made to request the same accommodation to each new staff person providing service. As service needs change, additional discussion with the victim may be needed. Think about the normal flow of services for a victim and try to identify areas where service delivery may need to be altered. For example,

if the shelter residents usually participate in a support group off-site after their shelter stay, the accommodations you provide for group might be very different from those provided at the shelter facility.

Have the forms you use available in alternate formats, such as having intake forms available in large print, on computer disk and on audiotape. Additionally, maintain a list of interpreters (for example, American Sign Language and Deaf-Blind) willing to come to your facility when needed.

## **Ongoing Provision of Domestic Violence Services**

Persons with disabilities vary significantly in their comfort level for disclosing information about their disability. Just like other victims, they may be afraid that disclosing information to you will prevent them from getting help. A victim may grow comfortable enough to request accommodation only after building trust. Plan for some flexibility to allow the victim to make a request for accommodation at any time during her participation in your program.

If a staff person becomes aware of a possible disability issue during service delivery, they should ask the victim how they prefer to handle the situation and then determine what accommodation can be offered.

Questions about a victim's disability should relate directly to advocacy and service provision. Focus on providing or advocating for appropriate services that fit the individual's needs and life experiences. What to ask and at what point is an ongoing, dynamic process.

Advocates should be thoughtful when providing general referral information to victims and always consider the accessibility of the referral agency. For example, if a victim who uses a wheelchair needs resource information on food banks, an advocate should call the food bank to determine which locations are accessible before giving the referral information to the victim.

When making referrals, advocates should ask victims about their disability to help determine appropriate potential resources such as funding for emergency caregivers or necessary technology for independence.

## APPENDIX

### Sample Screening Questions

Is there anything I need to know about you to be able to provide the best services possible?

Does anyone control your communication with others or change what you are trying to say?

Has anyone taken or broken something that you need to be independent? For example, your cane, walker, wheelchair, respirator or TTY?

Does anyone have legal control over your money or your decisions? What happens if you disagree with them about their decisions?

Does anyone prevent you from using resources and support you need to be independent? For example, resources such as vocational services, personal care attendants, disability agency support person, specialized support personnel for Deaf-Blind, readers or interpreters?

Has anyone refused to give you your medication, kept you from taking your medication or given you too much or too little medication?<sup>4</sup>

Do you have any health issues that can become dangerous if neglected, such as diabetes, epilepsy, skin sores, cancer or heart disease?<sup>5</sup>

If you depend on caregivers, does your caregiver use your need for assistance to keep control over you? Do you have emergency back-up caregivers?<sup>6</sup>

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<sup>4</sup> M.A. Curry, DNSC, *Development of An Abuse Screening Tool for Women with Disabilities*, Oregon University School of Nursing, Portland, OR, 2002.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

# Signing Documents When Physically Unable

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## Introduction

Sometimes a person wants to sign a document such as a power of attorney, will or deed, but is physically unable to write her/his name. As long as the person is mentally competent to understand what she/he is signing, the fact that she/he cannot actually sign does not prevent the person from executing the document as long as the following procedures are followed. The laws discussed in this publication are attached at the end of the information for your reference.

## Using a Notary Public

The Revised Code of Washington, RCW 42.44.080(2), and RCW 64.08.100 authorizes a notary to sign on behalf of a disabled person who is unable to sign a document under the following conditions:

1. The notary must have satisfactory evidence that the person is physically unable to sign her name and is otherwise mentally competent.
2. The notary's statement should state that the signature was obtained under the provision of RCW 64.08.100.
3. The person appearing before a notary must orally direct (tell) the notary to sign the person's name on her/his behalf.

**IMPORTANT:** If a physical impairment has affected the quality of penmanship, but the person can still sign with a mark that she considers to be her/his signature, no notary is required. The mark considered to be one's signature is legally sufficient, no matter how inelegant its appearance. It may be a good idea, however, to have a mark notarized or witnessed if it is difficult to read in case an argument arises about whether or not the disabled person really signed.

## Signing A Will

There is a specific statute dealing with how to sign a will when an individual is unable to sign. This statute is RCW 11.12.030. Suppose that May Jones is mentally competent but paralyzed by a stroke. May can tell her friend, Sue Smith, to sign May's name on her will. Sue Smith would sign May Jones' name and then her own name and state that she signed May Jones' name at May's request. (The will would look like this: "May Jones, signed by Sue Smith at May Jones' request.")

Or, May could just make a mark, such as an "X," on the signature line, and it would be considered the same as an actual signature. The requirement that the signing of a will be witnessed by two people would still apply when the will is being signed by a mark or at the direction of a person unable to sign.

## **If the Person Signing is Incompetent**

A person is considered competent until a court rules that she or he is not. However, if a person is actually not able to understand what she is signing, or the consequences of signing, the signature may later be declared to be invalid. To avoid this result, the document should be signed, when possible, by the legal guardian or by someone with a valid, durable power of attorney. If there is no guardian or durable power of attorney, it may be necessary to file a court action to declare the person incompetent and appoint a guardian to sign documents for them. It is a good idea for all adults to give someone trustworthy a durable power of attorney to prevent the need for court proceedings. Northwest Justice Project has a do-it-yourself packet with the forms and instructions needed to sign a power of attorney. See our publication *About Powers of Attorney* [available at [http://www.nwjustice.org/law\\_center/index.html](http://www.nwjustice.org/law_center/index.html)]. Like any other document, the person signing a power of attorney must understand what she is signing for the document to be valid.

## **The Laws**

### **RCW 64.08.100 - Acknowledgments by persons unable to sign name**

Any person who is otherwise competent but is physically unable to sign his or her name or make a mark may make an acknowledgment authorized under this chapter by orally directing the notary public or other authorized officer taking the acknowledgment to sign the person's name on his or her behalf. In taking an acknowledgment under this section, the notary public or other authorized officer shall, in addition to stating his or her name and place of residence state that the signature in the acknowledgment was obtained under the authority of this section.

Enacted by Laws 1987, ch. 76, p2.

### **RCW 42.44.080 - Standards for notarial acts**

A notary public is authorized to perform notarial acts in this state. Notarial acts shall be performed in accordance with the following, as applicable:

1. In taking an acknowledgment, a notary public must determine and certify, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary public and making the acknowledgment is the person whose true signature is on the document.

2. In taking an acknowledgment authorized by RCW 64.08.100 from a person physically unable to sign his or her name or make a mark, a notary public shall, in addition to other requirements for taking an acknowledgment, determine and certify from personal knowledge or satisfactory evidence that the person appearing before the notary public is physically unable to sign his or her name or make a mark and is otherwise competent. The notary public shall include in the acknowledgment a statement that the signature in the acknowledgment was obtained under the authority of RCW 64.08.100.
3. In taking a verification upon oath or affirmation, a notary public must determine, either from personal knowledge or from satisfactory evidence, that the person appearing before the notary public and making the verification is the person whose true signature is on the statement verified.
4. In witnessing or attesting a signature, a notary public must determine, either from personal knowledge or from satisfactory evidence, that the signature is that of the person appearing before the notary public and named in the document.
5. In certifying or attesting a copy of a document or other item, a notary public must determine that the proffered copy is a full, true, and accurate transcription or reproduction of that which was copied.

**RCW 11.12.030 - Signature of testator at his or her direction - Signature by mark**

Every person who shall sign the testator's or testatrix's name to any will by his or her direction shall subscribe his or her own name to such will and state that he or she subscribed the testator's name at his request: *Provided*, that such signing and statement shall not be required if the testator shall evidence the approval of the signature so made at his or her request by making his or her mark on the will.

Enacted by Law 1965, ch. 145, § 11.12.030, eff. July 1, 1967.

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