



Tackling Violence against Women with Disabilities

By **Cathy McPherson**

A frantic call buzzes across the telephone lines. "There's a disabled woman coming to our program covered with bruises. She's competent — but needs a lot of care. We've tried to talk her into leaving her (husband, family, lover, etc.), but she won't do it and she won't talk to the police. What do we do?"

Anyone who has worked in the area of violence against women has come up against the problem of the woman who refuses to leave despite being injured by someone in her close circle. What makes this situation different is the individual involved is labeled "developmentally-disabled."

Does this mean we should rush in like storm troopers and get her out? As a competent person with disabilities, she has the right to make her own decisions. What complicates this scenario is that there are few, if any, alternatives once she leaves the relationship. There may be a way to move heaven and earth to get her out, but where will she end up? In an institutional setting with people she doesn't know, where she stands an estimated ten times the likelihood of being abused again?

Disabled women are where non-disabled women were 40 years ago. Back then, if a "battered" woman wanted to leave her husband with her kids, there was no place to go. Chances are, she would have no way to support her children if she did break away.

Shelters for battered women still remain virtually inaccessible to most women with disabilities and the few community support care services available have waiting lists a mile long. Women with disabilities who wish to seek counseling to help them come to terms with incest, rape or assault find it next to impossible to find a counselor who is: a) affordable; b) accessible and accommodates the special needs of women with disabilities; c) is willing to make an effort to understand disability issues and the restrictions many women with disabilities face.

People advising disabled victims of violence face the difficult

issue of whether the advice they give will throw women with disabilities from the frying pan into the fire. If the police are called in to investigate, will the disabled woman be protected from retaliation from the abuser after they leave?

Why are women with disabilities more vulnerable to assault and rape than non-disabled women? Although the nature of the disability *may* make it difficult for some women to fight back, there are many other reasons why women with disabilities are victims of abuse.

Families with disabled members may unwittingly begin to abuse because they have few respite or support care services to fall back on. They may take out their frustration on the individual with disabilities. Very little sex education is provided to women with disabilities, which makes it difficult for them to distinguish between appropriate and inappropriate touching and other types of behaviour.

Another major problem is that women with disabilities are often taught to do as they are told. They don't learn when they should speak up. And if they do speak up they stand to lose a great deal — their services or their accommodation or housing.

Finally, some people deliberately assault women with disabilities, particularly non-verbal individuals or those with a mental handicap, because they know they will either have difficulty reporting it to the police and/or have little credibility as witnesses in the justice system.

It's easy to shrug and say, "I give up!" but violence against women with disabilities can be tackled if we work at the problem systematically in the same way our feminist sisters struggled to establish alternatives for battered non-disabled women.

Below are some of the issues and solutions that you and your organization can use to respond to violence against disabled women.

Access:

If there is no place better for victims of violence to go than where they are now, they will not be motivated to leave an abusive situation. It is important for us to recognize that women with disabilities are *entitled* to live in a safe environment.

Solutions:

a) Shelters, rape crisis centres and counseling programs for women who are victims of violence *must* be made physically and attitudinally accessible to women with disabilities. Equal access by disabled people to goods and services is a right under *The Charter of Rights and Freedoms* and the Human Rights codes in our country. Access is *not* an add-on.

b) Community living alternatives for disabled victims of violence must be provided on a permanent and emergency basis. Being moved back into an institution is *not* a good alternative.

c) Emergency accessible transportation must be provided to physically-disabled women to permit them to leave a violent situation. Signers and telephone devices for deaf women must be provided to ensure that deaf and hard-of-hearing women can get access to services they need.

d) Many of the components of "women-friendly" design offer built-in safety features that benefit disabled women. Positioning ramps at the *front* of buildings rather than the back not only benefits moms with children in strollers and elderly women using walkers, but also ensures women with disabilities will not be vulnerable to assault in a dark entrance at the back of a building.

e) It goes without saying that disabled women should *not* be left by themselves to wait in an isolated spot for transportation where they might be vulnerable to assault.

f) Work closely with disability groups and consumer organizations of the disabled (like the DisAbled Women's Network) to develop accessible services. You will find them to be a good source of common sense knowledge on these issues.

Protocol:

Given the high rates of assault and rape of people with all types of disabilities, it is unlikely that a facility or program will not be faced with a situation of abuse at some

time in its existence. No matter how well you screen people, there will always be someone who slips through the net.

A researcher for the Badgley report on *Sexual Offences Against Children and Youth* (1984) told me that the way many institutions used to deal with sexual assault was to sterilize all the female residents so they wouldn't get pregnant. Sterilization is no longer viewed as an appropriate way to deal with rape or assault.

It is essential that organizations develop protocol to deal with abuse that might happen within their facility, or situations that come to their attention when a client abused outside of their facility uses their services. Abuse should be defined; it can include rape and assault, but can also include the misuse of behaviour modification techniques and restraint, overuse and inappropriate use of drugs, neglect, and the breach of trust relationships to coerce women with disabilities into giving consent to sexual practices.

The protocol should also provide a mechanism to screen out potential abusers when hiring new staff for specific tasks or engaging volunteers.

Without protocol, panic can ensue when abuse occurs. People may either try to cover it up or react in ways that can be damaging to the disabled individual as well as the accused, who may be rightly or wrongly accused of abuse. If it can be proved that an organization knew about the abuse but did nothing, the organization may be liable to a lawsuit by the victims of the abuse and/or their families.

Provincial governments should look seriously at establishing uniform protocol for police forces investigating abuse and violence. Most provinces do not have guidelines to assist investigating officers and to advise them on how to deal with non-verbal or disabled individuals.

Protocol *must* be taken seriously. Women with disabilities have died as a result of abuse both inside and outside of institutional settings.

Advocacy:

A good protocol can only work if it is followed. Staff cannot be expected to report abuse or violence if they run the risk of losing their jobs over it. It is essential that outside advocates are available to monitor protocol to make sure it is carried out, and to investigate abuse in institutional or community settings.

One of the things that surprised me

when I first started working on the abuse project at ARCH (Advocacy Resource Centre for the Handicapped) was the large number of people with developmental disabilities, in comparison to people with other types of disabilities, who brought abuse cases to the attention of our legal clinic. I realized that the abuse cases we saw were most often brought forth by advocates of the person with a developmental disability — either a family member or in many cases, an Adult Service Protection Worker (APSW, an Ontario program). People with disabilities often face overwhelming obstacles in having their abuse taken seriously, and in receiving assistance after they have experienced abuse. Not surprisingly, in the face of these obstacles, only about 20 per cent of people with disabilities complain. Having advocates really makes a difference when an abuse situation takes place.

Unfortunately, the people most likely to be abused, those in institutional settings, who are often profound — and multiply — disabled, are usually the least capable of bringing an abuse situation to people's attention. And unfortunately, APSWs do not generally serve people in institutional settings, although with the proposed introduction of advocacy legislation in Ontario, this may change.

Quebec is also looking at establishing an advocacy system for vulnerable adults after a successful human rights case for a group of developmentally-disabled adults was won against an institution in that province. In December 1990, the home's license was revoked and the residents were relocated into smaller group homes.

Institutional Issues and Community Living Alternatives:

I don't want to paint advocates as the perfect solution. Sometimes advocates abuse disabled people too, which is why it is so important to make sure advocates, whether they are paid or volunteer, have some accountability and training. Also, violent and abusive residents in facilities must be prevented from assaulting other residents in the facility.

Institutions encourage abuse by putting large numbers of people with disabilities in environments with little supervision or assistance. Institutions also encourage compliance. This cannot be changed no matter how much you tinker with their structure. The only answer is to ultimately get rid of the institutions.

Many people with disabilities are fighting for the right to "individualized funding" or "direct funding" for support care services. What this means is putting the money for hiring and firing support care workers into the hands of the disabled individual herself. It is not a new concept, people with disabilities on Worker's Compensation or Veteran's pensions have been doing this for years. Many disabled women have been denied this opportunity, however, because the recipients of these two other programs are primarily disabled men.

Putting money into the hands of the user gives a disabled woman the power to decide who *she* wants to assist her. It helps to correct the power imbalance between consumers and service providers by giving the disabled woman greater leverage in an abusive situation. As we all know, money *is* power.

Self-esteem:

Sex education courses and teaching disabled women to be more assertive and to take control of their lives where possible, are essential in any effort to reduce the level of violence or abuse in disabled women's lives.

Self-defence courses for women with disabilities have been particularly effective in enhancing disabled women's confidence. Self-help groups and role models of other women with disabilities can also be effective in inspiring women with disabilities to reject the violence in their lives.

Reforming the Justice System:

I guess by now you have probably caught on that I think the justice system should be reformed to make it more responsive to disabled victims of violence.

One of my favourite true stories is a conversation I had with someone in our Attorney General's office while attempting to have a preliminary hearing held in an accessible courtroom. The victim, a woman who was a wheelchair user, was unable to get into the facility that had been booked.

When I asked this individual, a man, to talk to the local Crown Attorney about having the location changed, he informed me that the victim was really "just an interested member of the public" so we did not have to accommodate her. The accused party, however, *did* have to be accommodated!

This story encapsulates the role victims

have in our justice system — peripheral at best. Our justice system is based on the fundamental principle that the accused has more to lose than the victim because the accused could end up in jail. It comes as quite a shock to most victims that they are not directly represented in the criminal justice system, whether or not they have their own lawyer.

Increasingly, we are hearing from advocates representing victims of violence that victims must have "equal protection" of the law, as entrenched by *The Charter*. We do not want to undercut the rights of the accused, but rather, enhance the victim's rights. A victim should not have to sit in the corridors of justice while plea bargaining takes place; where violent offenders are released from prison to track her down without any protection or awareness on her part; where she receives virtually no protection from continued attacks by her abuser while she waits for her day in court.

We need to look at compensation plans within the criminal justice system or parallel to the criminal justice system that help pay for the counseling and medical costs of recovering from assault.

Although the civil system is expensive and does not leave the accused with a criminal record, victims have the advantage of being in control of the process and the recipients of financial compensation (should they win their case), which is not provided in the criminal justice system.

In the future we will see an increasing number of lawsuits launched under the civil system unless the criminal justice system begins to recognize victim's rights, particularly those of disabled women who are ill-equipped to struggle through its process.

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This is part two of an article, "Violence Against Women with Disabilities: Out of Sight, Out of Mind," that appeared in the "Violence Against Women" issue of CWS/ cf, Summer 1991 (Vol. 11, No. 4).

People with Disabilities Demand Change in the Criminal Justice System

People with disabilities in Canada are lobbying the Federal Government for much needed changes to the Canada Evidence Act and Criminal Code of Canada. These changes will be part of a larger reform package ("Omnibus Bill") which will be presented to the government this fall.

Disability rights activists argue that under the present criteria, people labelled mentally handicapped, or those who have difficulty communicating without assistance, are being prevented from giving evidence as victims of violence. They are calling for reforms in the Canada Evidence Act that would allow victims to give evidence after serving an oath or promising to tell the truth. Individuals unable to do either would still be permitted to give evidence but their testimony would be weighted.

People with disabilities are also demanding that their right to an interpreter, guaranteed under the *Charter of Rights and Freedoms*, be respected and enforced. In cases where the victim has cerebral palsy or a mental handicap, and is understood only by those who have spent a significant amount of time with her/him, the courts often decide that such witnesses are unable to communicate and may not take the stand. Assistance from support people or people known to the witness is assumed to be biased and so is not allowed. Disability groups are proposing that if a witness has difficulty communicating, her or his special needs should be accommodated in any way possible. This should include access to an interpreter, support person, or any other kinds of assistance which the witness needs to ensure that the evidence is heard.

Other issues that are being looked at include the admission of hearsay evidence and the criminalization of sexual exploitation in situations of dependency or trust. Considering the high rate of abuse in this population and the low rate of convictions, a review of the entire justice system as it affects people with disabilities is called for. People with disabilities are determined to have their voices heard in the fight for equality. We have an obligation to listen.

— By Cathy McPherson and Jennifer Woollcombe