



DISABILITY RIGHTS NEW YORK

New York's Protection & Advocacy System and Client Assistance Program

FOR IMMEDIATE RELEASE

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THE JUSTICE CENTER IS FAILING TO PROTECT PEOPLE WITH DISABILITIES

DISABILITY RIGHTS NEW YORK CALLS FOR REFORMS

Albany, NY, July 18, 2016 - In 2013, Governor Andrew M. Cuomo created the *Justice Center for the Protection of People with Special Needs* (Justice Center), with the promise that this agency would effectively investigate and prosecute abuse and neglect of people with disabilities. Over three years later, New York has failed to deliver on that promise.

During the 2012 legislative negotiations regarding the creation of the Justice Center, concerns were specifically raised by the New York State Assembly over the independence of this new entity. "Our concern is that there should be a greater independence ... so that it is not merely a substitution of one government agency's judgment for another government agency's, and being subject to the same criticism of some of the issues being swept under the rug."

<http://www.nytimes.com/2012/06/01/nyregion/assembly-speaker-presses-cuomo-on-plan-for-disabled-care.html>

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On May 21, 2012, in response to the Assembly's concerns, Governor Cuomo's office said: "The Administration has already begun the process to create the independent watchdog the Speaker is referring to by establishing a first-ever outside not-for-profit organization to monitor the system, advocate for the rights of people with special needs and disabilities and recommend future systemic reforms."

<http://www.nystateofpolitics.com/2012/05/cuomo-official-justice-center-will-be-independent>

Disability Rights New York (DRNY), is that independent not-for-profit organization designated by New York State pursuant to the laws created in 2012. Furthermore, DRNY is the federally authorized protection and advocacy agency for people with disabilities in New York. DRNY oversees those state agencies charged with investigating abuse and neglect. Inexplicably, since its inception, the Justice Center has refused to cooperate with DRNY's federal oversight authority by withholding and redacting its investigatory reports.

The Justice Center forced DRNY to sue in federal court because it refused to share its un-redacted investigation reports with DRNY. In March 2016, Judge Sharpe of the United States District Court for the Northern District of New York, agreed that DRNY was entitled to the records and denied the Justice Center's motion to dismiss the case. However, the Justice Center still refuses to produce the records and has vowed to continue to litigate and pursue an appeal, further delaying DRNY's oversight for another year or more.

In an another matter, the Justice Center has refused to provide DRNY with any records – even redacted – concerning the deaths of 25 people with intellectual and developmental disabilities. DRNY requested these records because their deaths were related to choking and falling.

The Justice Center has refused to exercise its clear state law oversight authority over abuse and neglect of people with disabilities. For example, in 2015, DRNY reviewed the Justice Center's investigation of the medical neglect and subsequent death of an 18 year old young man who had lived at a state licensed facility. DRNY found that the Justice Center directed other state agencies to stop their investigations and then took 11 months to incorrectly conclude that it lacked

jurisdiction. As a result, the Justice Center failed to remove the doctor who had grossly neglected the patient who died and did nothing to protect any of the other patients.

<http://nebula.wsimg.com/f4714cae86067f6e459498c3ac30d02c?AccessKeyId=20FDA6965F4ADC0629BA&disposition=0&alloworigin=1>

A BuzzFeed article on June 29, 2016, *A Beating at Bellevue, Then Months of Silence*, by Ben Hatttem, reported that the Justice Center failed to bring criminal charges for over two years, even though there was clear video evidence of two brutal beatings of a patient at Bellevue Hospital in New York City. Once again the Justice Center initially claimed it did not have jurisdiction over Bellevue Hospital, a facility unquestionably within its jurisdiction.

https://www.buzzfeed.com/benhattem/a-beating-at-bellevue?utm_term=.pem8AG6Qk#.whBN46jGg

In January 2016, the Executive Director of the Justice Center tragically died. However, almost seven months later, a replacement has not been nominated. The failure to nominate an Executive Director demonstrates the low priority placed on the mission of the Justice Center.

In the Justice Center's 2015 Annual Report, it reported 1,113 substantiated cases of its two most severe categories of abuse. However, only 89 arrests and prosecutions ensued. Unfortunately, there are no statistics regarding the final disposition of any of these criminal cases. The Justice Center also substantiated 28 cases of abuse where an individual with a disability died. Notably, the Justice Center did not bring criminal charges in any of those cases. These numbers, and the other problems described above, raise serious questions about whether the Justice Center lacks the resources, the will, or the leadership to be effective.

The Justice Center, like its failed predecessor agency, the New York State Commission on Quality of Care, lacks the independence needed to effectively remedy abuse and neglect in state licensed and operated facilities. The Justice Center is currently an Executive agency, under the direct control of the Governor's office. Structural reforms are needed for the Justice Center to effectively investigate and remedy abuse and neglect.

Therefore, DRNY calls on the Governor and the New York State Legislature to take the following actions:

1. The Justice Center should be placed under the authority of the Attorney General's office. The Attorney General is an independent elected official, who does not operate or license the facilities which the Justice Center oversees. The Attorney General's office has prosecutorial powers and the expertise to function as an effective independent agency.
2. The Legislature should hold joint public hearings on the effectiveness of the Justice Center. It should enact legislation moving the Justice Center out of the Executive Branch to ensure that it is independent, effective and adequately funded.
3. An Executive Director for the Justice Center should be immediately appointed and confirmed by the Senate to ensure that the agency has the leadership necessary to make it effective.

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