

KENTUCKY



**P R O T E C T I O N
& A D V O C A C Y**

2017 ANNUAL REPORT

Protecting and promoting the rights of Kentuckians with disabilities

Kentucky Protection and Advocacy

Kentucky Protection and Advocacy (P&A) is a client-directed legal rights agency that protects and promotes the rights of persons with disabilities. Kentucky P&A is an independent state agency that derives its authority from both federal and state law; specifically the Developmental Disabilities Assistance and Bill of Rights Act (DD Act) 42 U.S.C. § 6000 et. seq.; the Protection and Advocacy for Individuals with Mental Illness Act (PAIMI Act) 42 U.S.C. §10801 et. seq.; and Kentucky Revised Statute 31.010 (2).

Kentucky P&A receives funding from the Administration on Intellectual and Developmental Disabilities, the Center for Substance Abuse and Mental Health Services Administration, the Rehabilitation Services Administration, the Health Resources and Services Administration, the Social Security Administration, and State General funds.

Congress gave the protection and advocacy system the authority to access individuals with disabilities, their records, and the locations where they receive services and supports to investigate abuse and neglect, monitor facilities, provide information and referral services, and pursue legal and other remedies on their behalf.

From the Director

Dear Friends,

In May of 2017, the Protection and Advocacy for Individuals with Developmental Disabilities (PADD) and the Protection and Advocacy for Individuals with Mental Illness (PAIMI) celebrated P&A's 40th anniversary of protecting and promoting the rights of Kentuckians with disabilities. Kelly Knoop of Louisville, Kentucky was honored with the Billy Cox/Victoria Scott Self-Advocacy Award and the late Jim Chesser of Lexington, Kentucky was recognized with the Jean Gossick Advocacy Award. Both of these advocates worked tirelessly to change systems, hearts and minds. Unfortunately, the celebration was tempered by the uncertainty of the future.

There are thousands of Kentuckians with disabilities who have not ever known a world without education services, Medicaid waivers, services in their home, community based services, accessible businesses and buildings. But, there are just as many that remember being isolated due to a lack of opportunities, being told they were "uneducable", denied access to medical services, denied employment and suffered innumerable acts of humiliation. Threats to the ADA, combined with a lack of affordable housing, meaningful employment, and community services demonstrate the tenuousness of the systems that supports Kentuckians with disabilities today.

The father of the Independent Living Movement, Bob Roberts told us, "*The greatest lesson of the civil rights movement is that the moment you let others speak for you, you lose.*"

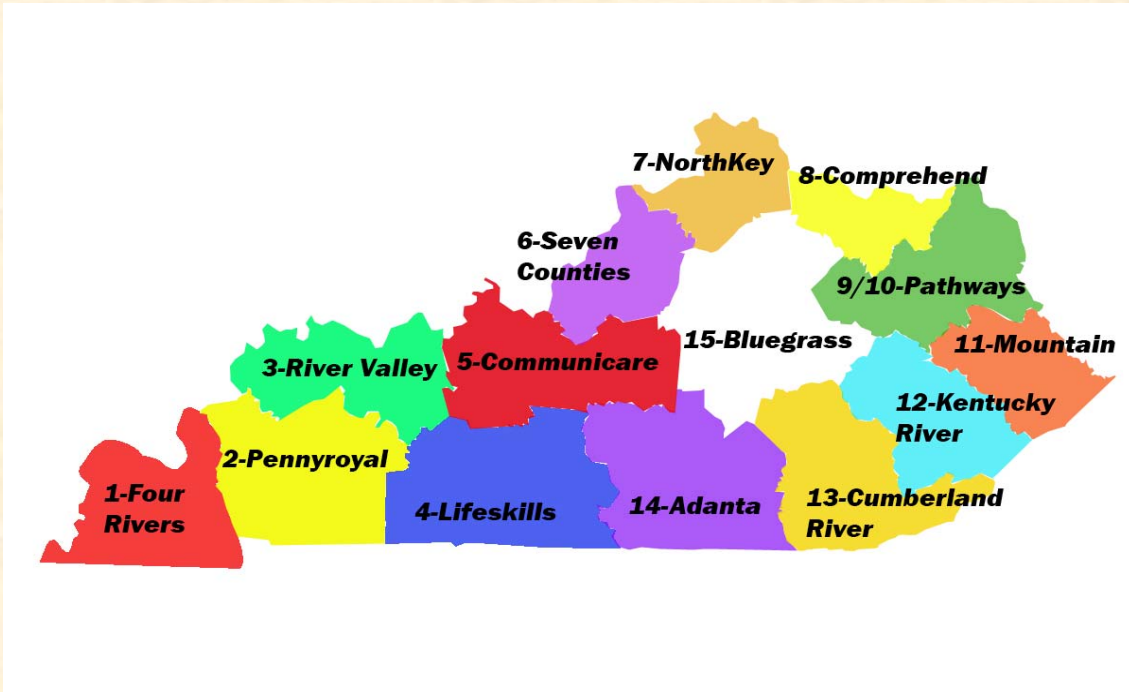
Now, more than ever, is the time for Kentuckians with disabilities to follow the paths blazed by Kelly Knoop and Jim Chesser. Be an American. Be a citizen. Believe in yourself. Be seen and heard. Educate yourself about the issues. Demand services and supports when and where you need them. Speak truth to power and take your place at the table.

Jeff Edwards

Jeff Edwards

Director- Kentucky Protection & Advocacy

Clients Served by Region



Total Information & Referral Services Per CMHC Region

1. Four Rivers	72
2. Pennyroyal	70
3. River Valley	70
4. LifeSkills	77
5. Communicare	77
6. Seven Counties	432
7. NorthKey	92
8. Comprehend	13
9. Pathways	69
10. Mountain	46
11. Kentucky River	53
12. Cumberland	36
13. Adanta	59
14. Bluegrass	715

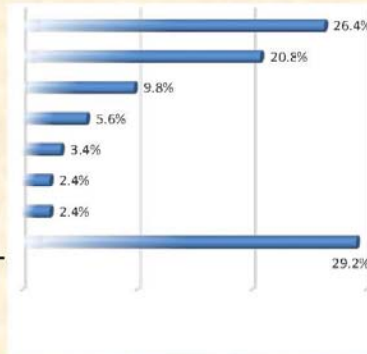
Total Service Request Cases per CMHC Region

1. Four Rivers	36
2. Pennyroyal	50
3. River Valley	40
4. LifeSkills	49
5. Communicare	36
6. Seven Counties	212
7. NorthKey	57
8. Comprehend	2
9. Pathways	37
10. Mountain	26
11. Kentucky River	13
12. Cumberland	26
13. Adanta	33
14. Bluegrass	308

2017 Financial Information

Revenue

PADD	543,142
PAIMI	428,000
PAIR	201,461
PABSS	115,761
PAVA	70,000
PAAT	50,000
PATBI	50,000
State General Funds	601,000
TOTAL	\$ 2,059,364



Expenditures

Salaries	1,017,008
Benefits	771,698
Occupancy	122,115
COT* & Phone Service	51,362
Travel & Training	42,097
Legal Fees	4,635
Consultant	7,000
Other	24,957
Total	\$ 2,040,873

*COT- Commonwealth Office of Technology

Salaries and Benefits used to average 80% of the budget, but within the last 5 years employer retirement contribution has more than doubled from 23.61% to 48.59% in fiscal year 2017.

Protection and Advocacy receives funding from the U.S. Department of Education, the Social Security Administration, U.S. Department of Health and Human Services, and State General Funds.

SETTLEMENT AGREEMENT

Kentucky P&A and the Cabinet for Health and Family Services (CHFS) amended the Interim Settlement Agreement (ISA) signed in August 2013. The ISA called for CHFS to provide community based supported housing assistance and services, including Assertive Community Treatment, Peer Support Services, Crisis Services and Supportive Employment to 600 individuals with Serious Mental Illness (SMI) over a three-year period. Kentucky P&A has been involved in the ISA implementation of these services by attending monthly Cabinet Level Transition Meetings, Regional Transition Meetings, Person Centered Recovery Planning Meetings, attending trainings about these services and Supported Employment.

It became apparent that the CHFS was not going to reach the benchmark of providing services to 600 individuals in three years. By September 30, 2015, only 225 individuals with SMI had received housing assistance and services as described in the ISA. Negotiations occurred between Kentucky P&A and the CHFS to amend the ISA.

The current Amended Settlement Agreement (ASA) states that within 5 years, over 675 individuals residing in Personal Care Homes or who have previously resided will receive services outlined in the ASA. As of September 30, 2017, 450 individuals have received services under the ASA. The ASA has provided much needed community supports and services to Kentuckians with SMI, however there continues to be a lack of providers, opportunities or choices for the majority of those with SMI who want to receive services in their home communities.

Casa de la Jesse– Barren County

After living in a personal care home for 10 years, Jesse Heacock is enjoying living in the community. He calls his home “Casa de la Jesse”. The Amended Settlement Agreement made it possible for Jesse to regain his independence.

Jesse enlisted in the army one week prior to his eighteenth birthday. He was stationed at Fort Hood, Texas. Not long after his enlistment, Jesse married his girlfriend from Kentucky, who relocated to Fort Hood, Texas. Within a year of their marriage, they had one son.

Jesse was a member of the Fort Hood Boxing Team and had won a gold medal in the Texas Amateur Athletic Federations Games. Jesse’s boxing career ended when a punch to the head resulted in a 10 percent chance of survival and three months in a coma. Jesse went through years of rehabilitation and eventually moved back to Kentucky.

The injury took a toll on his marriage. Jesse found himself in a state psychiatric hospital and an eventual placement at a personal care home at age 29. He remembers the date, April 2, 2007 and said it felt like a prison sentence.

His feelings are not a reflection of the staff who worked at the personal care home or the residents who resided at the personal care home, but more about his limited freedom of movement and opportunity, his lack of choice about meals, roommates and when to shower.

Jesse expressed to Lifeskills, Inc., the community mental health center, that he wanted to move back to Glasgow, Kentucky where his mother resides. The Assertive Community Treatment (ACT) team, along with Jesse, created a plan to make this happen and an apartment was located in Glasgow, Kentucky. Jesse loves his apartment and the fact that he was able to furnish his apartment with assistance from the Olmstead Housing Voucher.

Lifeskills ACT team visits Jesse three to four times a week to assist Jesse with appointments, grocery shopping, and other support he needs to be successful maintaining his independence.

Jesse has met his neighbors, enjoys cooking his meals and enjoys keeping in touch with a few friends who still reside at the personal care home. Jesse would like them to experience the happiness from living independently, also.

Jesse is most appreciative of being able to visit his mother two times a week. Before moving back to Glasgow, Kentucky he had not seen her in over 7 years. Although they lived 20 miles from each other, transportation was not available for visits.

ABLE Act and STABLE Accounts

Kentucky P&A assisted in the implementation of the Kentucky Achieving a Better Life Experience (ABLE) Act that is now called STABLE. P&A is part of that work group along with the Commonwealth Council on Developmental Disabilities (CCDD), Arc of Kentucky, self-advocacy groups and the Department for Aging and Independent Living within the Cabinet for Health and Family Services and Kentucky's Treasurer, Allison Ball. The program launched on December 13, 2016. In addition to assisting with the implementation meetings, P&A provided training on STABLE accounts and is contracted by CCDD to provide further trainings and develop educational materials. There are currently 146 STABLE accounts.

Follow this link for more information on the Able Act and Stable Accounts:

<https://www.stablekentucky.com/>

Bottom Dollars, a documentary by Rooted In Rights

Kentucky P&A with assistance from Kentucky's Developmental Disability Network hosted a screening of the Rooted in Rights Documentary *Bottom Dollars*, which exposes segregated workplaces and low wages paid to people with disabilities. The screening took place at The Center for Rural Development in Somerset, Kentucky. Following the screening, a panel discussion was held that included: Jordon Melograna, Director of *Bottom Dollars*; Cheryl Bates-Harris, National Disability Rights Network; Katie Wolf-Whaley, KY APSE; Jeff Edwards, Director of KY P&A, and Lisette Johnson, KY P&A advisory board member and Self-Advocate. State Senator Girdler made the introductions and Bev Harp a self-advocate and employee of KY's University Centers on Excellence on Developmental Disabilities facilitated the panel. There were over 50 attendees including self-advocates, family members, providers of Developmental Disabilities services, local public officials, and employers.

Follow this link for more information on Rooted in Rights and Bottom Dollars:

<http://www.rootedinrights.org/videos/employment/bottom-dollars/>

Collaboration with Kentucky Commission on The Deaf and Hard of Hearing

Last year, Kentucky P&A and the Kentucky Commission on the Deaf and Hard of Hearing and the Department of Behavioral Health began collaborations regarding access to legal advocacy services for the Deaf and Hard of Hearing (DHH) community through Kentucky P&A. The collaborative effort was designed to eliminate barriers, share resources, and increase the understanding of and access to Kentucky P&A services.

In addition to training staff on our mission, services and intake process, Kentucky P&A has worked with these agencies to create a series of informative videos (that are both captioned and have ASL translation) to increase awareness of P&A within the DHH community. To date, video presentations include; An introduction to Kentucky P&A; Education; Advocating for Youth; and Senior Care Facilities. Staff from the three agencies communicate on a regular basis to share scenarios and legal remedies that may impact the DHH community.

Other positive outcomes from these collaborative efforts have included client referrals for representation at Admission and Release Committee (ARC) meetings for children who are deaf or hard of hearing. We are also extending the video series in 2018 to include other areas where Kentucky P&A can provide guidance and support to the DHH community.

Follow this link to view to video collaborations between P&A, The Department of Behavioral Health and The Commission for the Deaf and Hard of Hearing:
<https://www.kcdhh.ky.gov/index.html>

Near-Death of Brennan Long– Jefferson County

On November 11, 2014, Sherman Williams, an aide at Brennan Long’s school, broke Brennan’s femur bones. Brennan, who was 16 years old and has autism, suffered severe injuries—he spent eight days in the Pediatric Intensive Care Unit at Kosair Children’s Hospitalⁱ where doctors surgically implanted titanium rods in each of his legs. He suffered multiple complications, including a partially collapsed lung and massive blood loss. After his discharge from Kosair, he spent the next 25 days in a rehabilitation facility. Brennan’s injuries were so severe that Kosair’s Forensic Medical Team and Child Protective Services both classified his case as a near-fatality.

Kentucky P&A learned of Brennan’s injuries during a May 16, 2016 meeting of the Kentucky Child Fatality and Near-Fatality External Review Panel. The Panel is a statutorily created oversight committee that conducts comprehensive reviews of all deaths and near-deaths of children where abuse or neglect is suspected.ⁱⁱ The Panel expressed grave concerns that—despite the “horrific” nature of Brennan’s injuries—Child Protective Services declined to substantiate abuse because they could not determine the mechanism of Brennan’s injuries and the Commonwealth Attorney’s office declined to prosecute.

The Panel learned Brennan was injured at school and the only witness accounts taken were those of school staff members. Brennan attended The Binet School, a specialized school in the Jefferson County Public School system that serves students in elementary through high school with significant learning, developmental, or behavioral problems and whose “learning is frequently obstructed by the inability to process and receive information.”ⁱⁱⁱ Brennan, who is verbal but has limited communication skills, was never interviewed. Brennan’s seven classmates, who have varying levels of verbal impairments, were never interviewed. Williams, in a written statement provided to the school, stated he placed Brennan in a “cradle hold” when he could not de-escalate Brennan’s aggressive behavior. Staff corroborate this story, although a witness has since come forward and claims Brennan was having no unusual or aggressive behaviors that day and she saw Williams positioned on top of Brennan during the restraint.

The type of hold described by Williams and staff, however, does not place any pressure on the student's legs and could not have caused Brennan's injuries.^{iv} Williams retained an attorney and has declined to make any further statements or provide further information. Without an adequate explanation of *how* Brennan was injured, investigative agencies declined to substantiate abuse. Williams returned to his position as an aide at Binet.

P&A opened an investigation after the Panel meeting. In November 2016, we concluded Brennan's injuries were the result of physical abuse as defined under our federal statutes. We concluded Brennan was restrained when he did not present an imminent risk of harm to anyone when he was restrained; rather, Williams restrained Brennan to force him to comply with his directions. Williams failed to use appropriate behavioral supports and less restrictive interventions. Williams used excessive force to restrain Brennan.

Almost one year after P&A released its findings of abuse and three years after Brennan was nearly killed at school, Child Protective Services substantiated neglect. Child Protective Services found Williams' misuse of an upper torso hold on a nonverbal child and misuse of the cradle hold both constituted neglect.^v Williams has appealed. LMPD has re-opened its investigation, but the Commonwealth Attorney's Office has not made a determination whether any charges will be filed.

i Kosair Children's Hospital has since been renamed Norton Children's Hospital.

ii KRS 620.055

iii Kentucky Department of Education School Report Card, 2014-15 School Year, Binet School, <https://applications.education.ky.gov/src/Profile.aspx>, visited November 15, 2016

iv March 23, 2015 Forensic Medicine Consult Report, Addendum #1; December 23, 2015 Report of Dr. Michael Voor, Ph.D.

v November 14, 2017 Cabinet of Health and Family Services, Investigative Unit Child Protective Services (CPS) Substantiated Investigation Letter.

Follow this link to read the full report and Press Release regarding the Brennan Long Investigation:

<http://www.kypa.net/current-events.html>

Supported Decision Making– Fayette County

Susie Heck wanted her rights back. Susie is a 22-year-old woman with a developmental disability. Shortly after reaching adulthood, a Kentucky court took away her right to decide where she lived, what she did with her money, and what happened to her body. At the age of 18, Susie became a ward of the state. March 2017, Susie and her support team contacted Kentucky P&A and requested help with restoring her rights through using Supported Decision-Making (SDM).

Susie's team consists of both paid caregivers through Kentucky's Intellectual and Developmental Disability Medicaid Waiver called Supports for Community Living and friends. She attends day services at an Adult Day Training facility in Lexington, Kentucky.

When Kentucky P&A became involved in Susie's case, her team had already begun functioning as a SDM team. Her team members and psychologist submitted a psychological report with a petition to modify or terminate guardianship in Fayette County District Court. Her psychologist emphasized all of her abilities and the fact that she works with her team when making decisions regarding her medical, personal, and financial needs.

“Ms. Heck does a wonderful job of seeking out her team and asking for their input on her current life decisions.” It was the opinion of the psychologist, that with Susie working with her SDM team, she would not need a legal guardian.

In April of 2017, Susie attended her hearing to modify or terminate her guardianship order. Her state guardian was present at this hearing and supported her to have her rights partially restored. The county attorney was not comfortable with the restoration and Kentucky P&A requested that she have an attorney appointed and have the hearing postponed, the judge agreed. The judge, with the agreement of the county attorney, fully restored Susie's rights. She is now able to make personal, medical, and financial decisions.

Currently in Kentucky, there are over 4,300 adults in the state guardianship system. This system is underfunded and severely over-burdened. There are many adults like Susie that could make decisions for themselves with the support of a team.

Senate Bill 200 Juvenile Justice Reform

Senate Bill 200 seeks to improve outcomes in the juvenile justice system by expanding access to quality treatment and supervision in the community, focusing the most intensive resources on serious offenders. This legislation affects youth who have a status offenseⁱ, misdemeanor, or Class D felony complaint against them. It has been in effect since July 2015 and Kentucky P&A has been concerned about the impact of the legislation on children with disabilities.

Kentucky P&A staff attends legislative, oversight council, and other stakeholder meetings concerning the implementation of SB200. Of particular concern is how this legislation affects children and youth with disabilities. Kentucky P&A educated interested stakeholders about the disproportionality that exists concerning the number of children and youth with disabilities in the juvenile justice system and provided training to staff to the Administrative Office of the Court on Special Education law. Kentucky's governmental agencies have started to look at existing data concerning children and youth with disabilities who are involved in the juvenile justice system and the impact of implicit bias on juvenile justice.

i A status offense is a noncriminal act that is considered a law violation only because of a youth's status as a minor. Typical status offenses include truancy, running away from home, violating curfew, underage use of alcohol, and general ungovernability.

Crisis Intervention Training (CIT)

Crisis Intervention Team (CIT), an intensive 40-hour training, provides police officers necessary knowledge and skills when interacting with individuals with disabilities who are experiencing crises. On day four of CIT, officers are required to demonstrate their newly gained knowledge in role-play scenarios based upon true life events. A panel of instructors who represent law enforcement, mental health, and advocacy provide feedback about each role-play so that the officers may hear from a variety of perspectives. Kentucky P&A advocates have been involved as panel instructors for both Louisville-Metro Police Department and Kentucky CIT that trains officers statewide. During 2017, Kentucky P&A assisted in training 313 officers throughout the Commonwealth.

Protection & Advocacy Staff

Jeff Edwards– Director

Heidi Schissler– Legal Director

Susan Abbott– PAIMI/PABBS/PAIR Coordinator

Camille Collins– PADD/PAAT/PAVA Coordinator

Administrative

Melissa Barlow Bowman– Administrative Section Leader

Mirna Stone– Administrative Specialist/Intake

Teresa Cochran– Administrative Specialist/Intake

Necole Newton– Fiscal Officer

Adult Team

Bill Dolan– Adult Team Attorney/Leader

Leslie Jones– Senior Attorney

Rachel Petit– Adult Team Advocate

Kevin Sharkey– Adult Team Attorney/Advocate

Children & Youth

Lucy Heskins– Children/Youth Team Attorney/Leader

Whitney Hayse– Child/Youth Team Attorney/Advocate

Angela Winkfield– Children/Youth Team Advocate

Robbin Richie– Children./Youth Team Advocate

Information & Technology

Kevin McManis– ITO Team Attorney/Leader

Beth Metzger– ITO Advocate

Casey Philpot– ITO Advocate, Adult Team Advocate

Mission

Kentucky Protection and Advocacy will protect and promote the rights of Kentuckians with disabilities through legally based individual and systemic advocacy and education.

Vision

Kentucky Protection and Advocacy has a vision of a just society where all people are treated with dignity and respect for their expressed choices and have equal opportunities to participate in an integrated and inclusive society where different abilities are values.

Values

Kentuckians with disabilities have a right to self-determination including, but not limited to, the right to refuse, the right to participate, and the right to choose.

Kentuckians with disabilities have the same inherent rights as Kentuckians without disabilities.

Kentuckians with disabilities will live and receive services in integrated and inclusive settings.

Kentucky Protection and Advocacy values and accepts differences and diversity.

PADD Advisory Board

Ashley Layne– Madison County
Chair

Mark Newton– Taylor County
Co-Chair

Kelly Knoop– Jefferson County
Arthur Campbell– Jefferson County
Lissette Johnson– Wayne County
Daniel Hathaway– Metcalfe County
Tom Malone– Daviess County
Cathy Edwards– Montgomery County
Nyketa Williams– Fayette County
Grant Logsdon– Jefferson County
Amanda Stahl– Jefferson County
Frank Huffman– Pendleton County
Kevin Webb– Barren County
Jeremy Hughes– Jefferson County
Jay Tyner-Wilson– Fayette County
Katie Bentley– Montgomery County
Bobbi Gipson– Scott County

PAIMI Advisory Council

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Chair

Robert Johnson– Carter County
Co-Chair

Reggie Gentry– Scott County
Parliamentarian

Angela Childress– Fayette County
Becky Clark– Fleming County
Lukas Saint-Clair– Owsley County
Gayla Lockhart– Simpson County
Jackie May– Franklin County
Melissa Mays– Jefferson County
Shannon McPherson– Warren County
Lisa Paxton– Pike County
Sarah Whitledge– Warren County
SuAnn Williams– Clark County



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