



Alabama Disabilities Advocacy Program 2005 Annual Report





Alabama Disabilities Advocacy Program

Box 870395

Tuscaloosa, AL 35487-0395

205-348-4928 (V)

205-348-9484 (TTY)

800-826-1675 (V/TTY) (in-state only)

205-348-3909 (fax)

adap@adap.ua.edu (e-mail)

<http://www.adap.net> (web-site)

The Alabama Disabilities Advocacy Program (ADAP) is part of the nationwide federally mandated protection and advocacy (P&A) system.

It is our mission to provide quality, legally-based advocacy services to Alabamians with disabilities in order to protect, promote, and expand their rights.

ADAP's vision is one of a society where persons with disabilities are valued, exercise self-determination through meaningful choices, and have equality of opportunity.

ADAP provides legal services pursuant to seven protection and advocacy (P&A) programs that Congress requires each state and territory to implement under the federal statutes.

PROTECTION & ADVOCACY

A Brief History

The Alabama Disabilities Advocacy Program (ADAP) is part of our nation's protection and advocacy (P&A) system for persons with disabilities.

Congress created the P&A system in 1975 in response to horrific reports of abuse and neglect suffered by persons with mental retardation housed in state institutions. The P&A system was charged with protecting this vulnerable population from such treatment.

Governor George Wallace designated ADAP as Alabama's P&A in 1976.

In 1986, the mission of this nationwide network of agencies was expanded to include advocacy on behalf of persons with mental illness who lived in psychiatric facilities.

During the last twenty years, Congress further expanded the focus of the P&A system beyond its original purpose of addressing the abuse and neglect of institutionalized persons. Through seven federally-funded programs, P&As now address a broad spectrum of human and legal rights on behalf of persons with disabilities whether they live in institutions or in the community. These programs are:

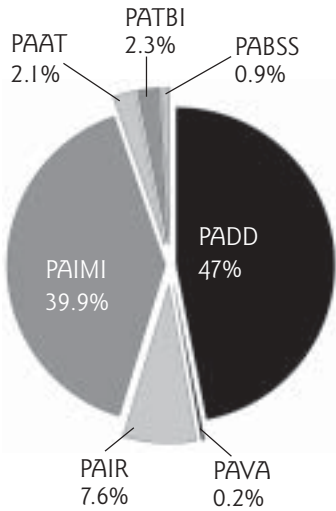
Protection and Advocacy for Persons with Developmental Disabilities (PADD)

The PADD program was created by the Developmental Disabilities Assistance and Bill of Rights (DD) Act of 1975. PADD was established to protect the legal and civil rights of individuals with developmental disabilities. The Administration on Developmental Disabilities, housed within the U.S. Department of Health and Human Services, administers the PADD program.

The DD Act also provides funds for ADAP's developmental disabilities network partners: the Alabama Council for Developmental Disabilities (ACDD) and the UAB Civitan International Research Center, Alabama's University Center for Excellence in Developmental Disabilities (UCEDD). The ACDD conducts advocacy, capacity building, and systems change activities in Alabama. The UCEDD conducts research and training on issues related to persons with disabilities.



Inhumane conditions at Alabama's own Bryce Hospital and the Searcy and Partlow Developmental Centers came under public scrutiny in the 1970's and led to the filing of the [Wyatt v. Stickney](#) lawsuit, the resolution of which created minimum standards for the care and rehabilitation of people with mental illness and mental retardation that have been emulated throughout the nation.



This chart presents ADAP's case advocacy by program for FY 2005.

Protection and Advocacy for Individuals with Mental Illness (PAIMI)

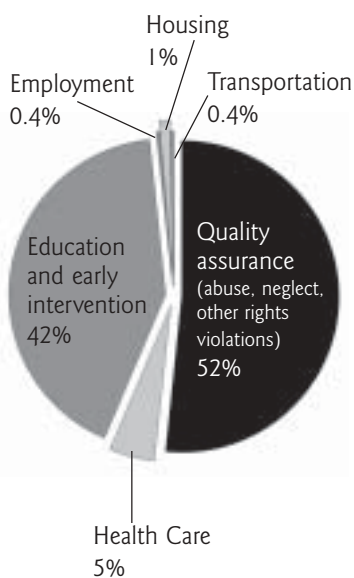
The PAIMI program was established by Congress in 1986 and receives funding from the National Center for Mental Health Services. The purpose of the PAIMI program is to protect and advocate for the rights of persons with mental illness and investigate reports of abuse and neglect.

Protection and Advocacy for Individual Rights (PAIR)

The PAIR program was established by Congress as a national program under the Rehabilitation Act as amended in 1993. PAIR programs were established to protect and advocate for the legal and human rights of persons with disabilities who are not eligible to be served in the PAIMI or PADD programs. The nation's PAIR programs are administered by the U.S. Department of Education.

Protection and Advocacy for Beneficiaries of Social Security (PABSS)

The PABSS Program is a federally funded program authorized by the Ticket to Work and Work Incentive Improvement Act of 1999. The Act authorizes the Social Security Administration to fund ADAP to provide work incentive assistance to Social Security Disability Insurance and Supplemental Security Insurance beneficiaries seeking vocational rehabilitation, employment and other support services or seeking to secure or regain employment.



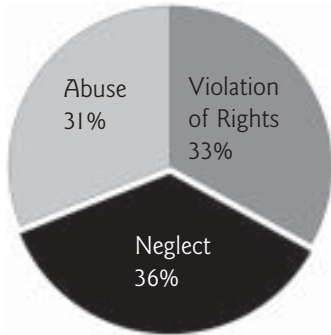
This chart reflects the percentage of individuals served by issue area under ADAP's PADD program in FY 2005.

Protection and Advocacy for Individuals with Traumatic Brain Injury (PATBI)

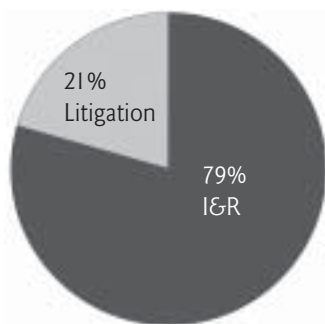
PATBI is a federally funded program authorized by the Traumatic Brain Injury(TBI) Act of 1996 and its reauthorization as part of the Children's Health Act of 2000. The PATBI program, under the guidance of the U.S. Department of Health and Human Services, ensures that individuals with TBI and their families have access to: information, referrals and advice, individual and family advocacy, legal representation, and assistance in self-advocacy.

Protection and Advocacy for Assistive Technology (PAAT)

The PAAT program provides legal and non-legal advocacy services for individuals with disabilities who are denied access to assistive technology devices and/or assistive technology services. The PAAT program is administered by the U.S. Department of Education.



This chart reflects the percentage of individuals served by issue area under ADAP's PAIMI program in FY 2005.



ADAP's advocacy services to consumers are divided into two categories.

Our information and referral (I&R) services are short term technical assistance offered to consumers regarding disability issues.

Our litigation services are provided to consumers who meet ADAP's case eligibility criteria.

This chart reflects the percentage of individuals served under each service category in FY 2005.

Protection and Advocacy for Voter Accessibility (PAVA)

The PAVA program ensures that every qualified person with a disability has the opportunity to vote. The U.S. Department of Health and Human Services oversees the nation's PAVA programs.

SPECIAL GRANT PROGRAMS

Protection and Advocacy for Recreational Access (PAAR)

Funded by a grant from the Alabama Council for Developmental Disabilities, one of Alabama's developmental disabilities network partners, this time-limited grant supports ADAP's advocacy efforts to ensure that individuals with disabilities are afforded access to recreational facilities.

Under this grant, ADAP will assess recreational facilities for disability access and train business owners and facility administrators on the needs of people with disabilities to participate in recreational activities.

Job Access and Reverse Commute (JARC)

The JARC program provides grant funds to enable ADAP to work with other entities within the state to create programs that can provide accessible transportation to individuals with disabilities. This program is administered by the U.S. Department of Transportation.

ADAP'S NATIONAL PARTNER

Like other P&As, ADAP is a member of the National Disability Rights Network (NDRN), the nonprofit membership organization for the P&A System. NDRN supports the P&A system by providing training and technical assistance (through its federally funded Training and Advocacy Support Center), legal support, and legislative advocacy. ADAP staff actively participate on its national committees and frequently make presentations at its annual conferences. Website: <http://ndrn.org>



Dr. Ellen B. Gillespie
Director,
Alabama Disabilities
Advocacy Program

MESSAGE FROM THE DIRECTOR

This report represents the first time ADAP has combined data from all our federal programs to present to consumers, families, advocacy agencies, and service providers in the state.

We hope that this information - outlining the range and impact of our services - helps you better understand ADAP's advocacy work. Each fiscal year, we use information like this to plan the agency's growth and direction. By sharing these data with you, we invite you to provide us your thoughts and recommendations about our services on behalf of persons with disabilities.

Overall, 2005 was one of the most successful years in ADAP history. Despite ever-tightening federal fiscal constraints, ADAP increased its advocacy efforts and initiated several quality improvement activities. Several systemic pieces of work resulted in enhanced mechanisms for providing critically needed services and supports. For example, after reviewing our 2004 intake numbers, we realized that we receive few calls from the state's Black Belt area. Committed to ensuring that we are fulfilling our mandate to serve the whole state, we undertook a special outreach project in 2005 that took us into twelve Black Belt counties, doing presentations to community groups and consumers on the services that ADAP provides. As a result of this work, our intakes from these areas are increasing.

Many challenges remain for Alabamians with disabilities. ADAP is committed to confronting these challenges, and striving to be one of the best protection and advocacy agencies in the country.

One can't look back on 2005 without thinking about the tragedy brought by Hurricanes Katrina and Rita. During the last few months, ADAP staffers have responded to the needs of persons with disabilities who were affected by both calamities. Alabama was the state with the fourth largest number of persons affected, both through the loss of their property and livelihood on the coast and by being displaced to temporary settings across the state. We have begun to work with state and national partners to develop a better emergency response system for persons with disabilities so that their safety and well-being are ensured in the event such calamities strike the state again.

A handwritten signature in cursive script that reads "Ellen B. Gillespie".



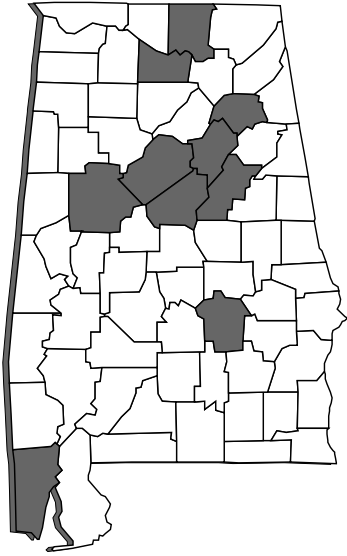
Dr. Judy Bonner
Provost and
Vice President for
Academic Affairs

ADAP AND THE UNIVERSITY OF ALABAMA COMMUNITY

ADAP marked the beginning of the 2004-05 fiscal year with a shift in organizational structure within The University of Alabama. As of October 1, 2004, ADAP became a part of the Office for Academic Affairs, reporting to Dr. Judy Bonner, Provost and Vice-President for Academic Affairs at the University. Dr. Bonner is deeply committed to ADAP's mission and made this organizational change smooth for all of us.

Through our affiliation with the University, we are able to strengthen our advocacy work by partnering with a variety of academic programs. For instance, during the summer of 2005, ADAP advocacy staff collaborated with the University's School of Social Work to develop a disability practice clinic. Each year, undergraduate and graduate students in social work will be placed at ADAP where they will be introduced to our work and, under the supervision of experienced advocates, will carry their own caseload and help us with our systemic advocacy and outreach efforts. For the first time in 2005, undergraduate students enrolled in the University's Honors Program completed part of their service learning at ADAP. Also, as it has for many years, ADAP continued to employ law students, drawing from several schools in the Southeast, including, of course, The University of Alabama School of Law. We welcome the opportunity to expose University students to disability issues and hope they carry what they learn into their personal and professional lives.

With our expertise in disability related issues, ADAP staff assisted many University departments in their own work. ADAP staff appeared as classroom guest lecturers, took referrals from University-based programs, and offered technical assistance on such issues as physical accessibility, special education and child welfare.



COUNTY	# OF INTAKES
Tuscaloosa.....	715
Jefferson.....	476
Mobile.....	237
Madison.....	131
Montgomery.....	109
Saint Clair.....	87
Talladega.....	59
Morgan.....	58
Shelby.....	55
Etowah.....	51

ADAP serves Alabamians across the state. This map shows those counties from which we received the greatest numbers of intakes in FY 2005.

AGENCY STRUCTURE

This year brought a new team structure to ADAP. Previously, ADAP had been organized in four workgroups divided along functional lines. This year, the workgroups combined to form two teams, the Children’s Advocacy Team and the Community Access Team. Both teams balance individual casework, systemic advocacy and outreach.

In 2005, the **Children’s Advocacy Team** undertook major new advocacy work on behalf of youth with disabilities involved in the juvenile justice system (it’s estimated that up to about 35% of youth involved in the juvenile justice system have a learning disability and about 50% have an emotional disorder). This work was in addition to the Team’s growing Medicaid advocacy for children, its ongoing child welfare advocacy, and continued efforts in its single largest issue area - special education. Almost 70% of the intakes that the Team receives involve special education matters.

The **Community Access Team** continues to monitor abuse and neglect issues in a wide variety of settings including the state’s remaining mental health and mental retardation facilities as well as various community settings. The Team has worked to preserve Medicaid benefits for persons at risk of losing those benefits. The Team vigorously advocates for ADA physical and program accessibility in a range of settings and circumstances, including Alabama’s prisons and voting precincts. The Community Team also will spearhead a new initiative at ADAP that revolves around recreation access. This work is being partly funded by a grant from the Alabama Council for Developmental Disabilities, one of our partners in the state’s developmental disabilities network.

LEGAL INITIATIVES

In addition to many successful individual cases resolved during the year, ADAP’s major legal initiatives were very active.

ADAP was involved in intensive settlement negotiations in Susan J., the now six-year-old waiting list case for persons with mental retardation. Unfortunately, as this report went to press, the outcome of these negotiations is in doubt. Despite a promising start, it appears that the State’s Attorney General, Troy King, will soon ask the federal court to throw out the case. With more than 1400 persons now on the official waiting list for services, and more names being added every month, advocates throughout the state are demanding that this issue must be resolved.

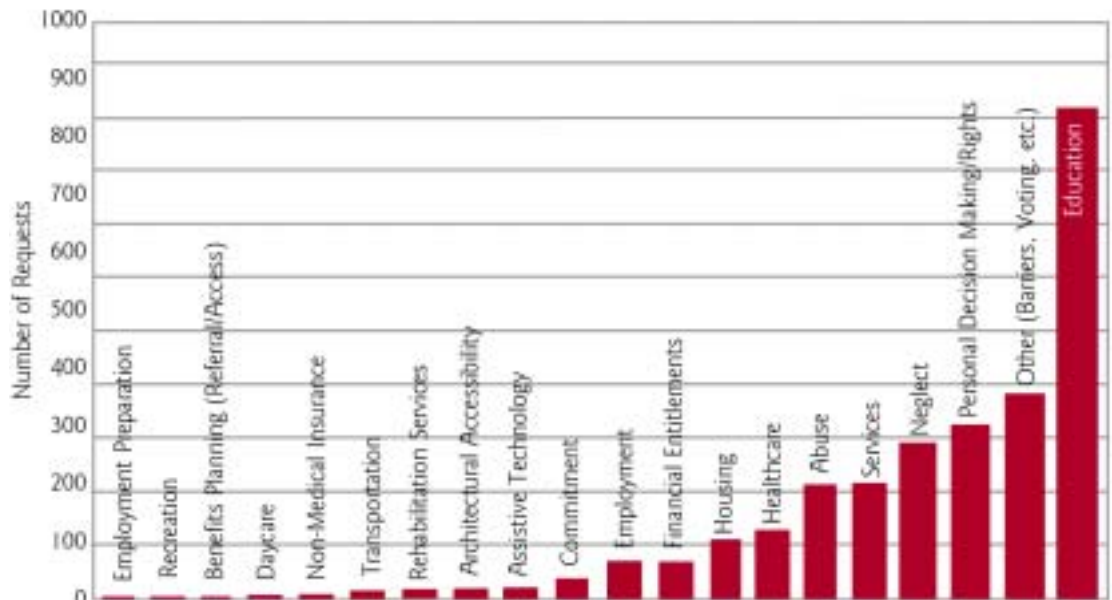
In R.C. v. Walley, the state's foster care case, the Alabama Department of Human Resources twice filed motions to terminate the 1991 Consent Decree that overhauled the state's child welfare system. While acknowledging the Department's many accomplishments, ADAP objected to both of its motions, asserting that the Department has not demonstrated yet that it has achieved substantial compliance with the principles of the Consent Decree and that it would remain in substantial compliance after its termination. The case is still active in federal court.

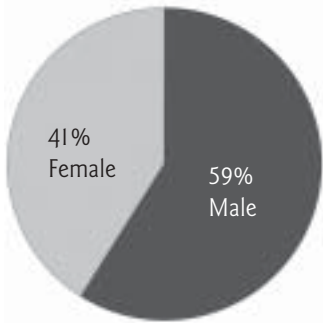
OUTREACH AND TRAINING

ADAP continues to focus on training and outreach, bringing educational opportunities to consumers and family members in order to strengthen their self-advocacy skills. ADAP staff conducted over 65 trainings on a wide range of topics including the following:

- The history of the disability rights movement
- People First language
- Conflict resolution skills
- Special education rights and advocacy
- Transition from school-to-work for youth with disabilities
- Children's rights under the R.C. Consent Decree
- Transition from Early Intervention to the public school system
- Transportation issues for persons with disabilities
- Criminal justice issues
- Commitment process
- Discipline rights and due process for children with special needs

This chart reflects the number of individuals served by problem area across all of ADAP's programs in FY 2005.





This chart reflects the gender of individuals who contacted ADAP for advocacy services in FY 2005.

EXAMPLES OF ADAP'S IMPACT ON ALABAMA

Ensuring access to schools

In January 2005, ADAP filed a complaint with the Office for Civil Rights (OCR) against one of the state's county school systems. The complaint alleged that the school district illegally shortened the school day of children with disabilities who rode the district's buses - not because of an individualized determination that the children needed a shortened school day, but for the administrative and financial convenience of the district and its transportation system. OCR investigated the complaint and determined that the district violated both the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973. Among other findings, OCR determined that, on average, these children were losing almost one hour of instructional time per day. In addition to having to ensure that this situation will not occur again, the district had to provide compensatory education to the children whose rights it violated. The average compensatory award, based on an hour of missed services per day, was calculated to be the equivalent of more than a month of full time schooling.

Ensuring appropriate treatment and rehabilitation

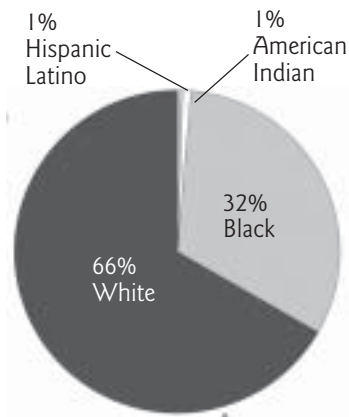
Tony* is 12 years old and has significant cognitive and behavioral disabilities. He receives services from the Alabama Department of Mental Health/Mental Retardation (DMH/MR). Due to his increasingly dangerous behavior, DMH/MR referred Tony to a behavioral crisis unit for stabilization and treatment. After two days, the crisis unit referred Tony to an inpatient psychiatric unit, saying it could not handle his behaviors. Tony's guardian frantically contacted ADAP when this inpatient facility was preparing to discharge the child back home without any treatment or follow-up care plan. As a result of ADAP's advocacy with DMH/MR, Tony was placed in a group home that could successfully meet his needs and keep him safe, and he was provided an appropriate treatment plan.

Ensuring the right to work

Robin, a recipient of Social Security Disability Insurance (SSDI), was enrolled in a nursing program at a local community college. Robin was told that because she was taking a prescription painkiller that was on a list that contained drugs for which nursing students were tested, she would automatically be dismissed from the nursing program. ADAP collaborated with the Birmingham Independent Living Center to address the issue with the Community College, Office of Disability Services. ADAP argued that a student with a disability could not be dismissed from the nursing

* All names have been changed





This chart reflects the ethnicity of individuals who contacted ADAP for advocacy services in FY 2005.

**Alabama Population 2004
(U.S. Census)**

American Indian.....	0.5%
Hispanic.....	2%
Black.....	26%
White.....	71%



program because she was taking a prescription drug if the drug did not interfere or negatively affect the student's work. As a result of ADAP's advocacy, the Community College implemented a protocol for informing students who were taking prescription drugs of how to request a waiver from the state nursing board — a reasonable accommodation for persons with disabilities who require certain drugs to manage their pain.

Ensuring safety and health

ADAP participated on a committee to review internal investigative findings involving a patient who reported an allegation of physical abuse against an employee at a state-operated facility. The investigation revealed that the patient was bitten by an employee during an altercation. Data supported that the patient was not provoked but was in a position to cause the staff member bodily harm. However, the committee determined that there was sufficient evidence to support the allegation of physical abuse and the employee was subsequently terminated.

Ensuring treatment in the least restrictive environment

Silvey contacted ADAP because she felt she was being wrongfully held in a state-operated mental health facility. ADAP conducted a preliminary review and learned that Silvey suffered from an eating disorder, which contributed to her presenting problems. These issues were not properly addressed and prolonged her stay at the hospital. Although she met the discharge criteria outlined in her plan of care, the treatment team was not taking necessary steps to ensure her timely discharge. As a result of ADAP's involvement, Silvey was discharged to her family with supports, including in-home adult mental health services provided by the local mental health center and therapy for her eating disorder.

Ensuring fair treatment from the criminal justice system

Aaron, a person with mental illness, had been arrested, was in jail, and receiving no medication or services. He had requested help from the local Mental Health Center, but still received no services. ADAP staff was notified and contacted the local Mental Health Center as well as the law enforcement officials and Aaron received services within two days.

Ensuring the use of appropriate school disciplinary procedures

Michael is a high school student with a talent for drawing and a desire to work with his uncle in construction. He is diagnosed with a mental illness and specific learning disabilities. Despite repeatedly suspending him, his school took no steps to address



his behavioral needs. In addition, his individualized education plan (IEP) did not appropriately address his transition needs — he was receiving minimal vocational and independent living skills training. After Michael's mother contacted ADAP for help, we represented the child in numerous IEP meetings, helping to craft an IEP that addressed his transition needs. ADAP also addressed the suspension and disciplinary issues. As a result of ADAP's intervention, district administrators were trained in the correct application of federal and state special education due process protections and the development of effective behavior plans.

Ensuring appropriate mental health services for children and youth

Summer is 17 years old and is diagnosed with mental illness and a personality disorder. Her father contacted us regarding the services Summer was receiving through a voluntary placement with the Alabama Department of Human Resources (DHR). Summer had been in a private psychiatric facility for one year, until the facility claimed it could no longer meet her needs. She was committed to the state psychiatric hospital for evaluation. In its advocacy on behalf of Summer, ADAP worked with DHR and the State Department of Mental Health to find an appropriate, less restrictive placement. ADAP attended numerous treatment team meetings on Summer's behalf. State agency officials became involved in Summer's case and, after an evaluation at the state psychiatric facility, she was placed in a new residential treatment facility that had the expertise to deal with her diagnosis. In addition, because of ADAP's intervention, Summer is now under the care of local county multiple needs facilitation team.

Ensuring a free appropriate public education

Dante is 11 years old and is diagnosed with autism, mental retardation and epilepsy. The young boy had recently transferred from a segregated school setting back to his community public school. His mother feared that if he were not supported well, this placement would fail. ADAP represented Dante at several IEP meetings, advocating for the implementation of supports necessary to maintain him in school, including occupational therapy, a behavioral assessment, and instruction to improve his communication skills. ADAP also advocated for extended school year services and the training of school staff to accommodate the child's needs. As a result of ADAP's intervention, Dante was able to remain in his community school.

ADAP is required by federal law to develop priorities for case selection and other legal activities, with input from the community, on an annual basis.

ADAP's PRIORITIES FOR 2006

Children's Advocacy Team

- Children with disabilities will be educated in their least restrictive environment (LRE) with appropriate support and services.
- A state special education monitoring and complaint system that will ensure state and district compliance with the Individuals with Disabilities Education Act (IDEA) will be utilized by the State of Alabama.
- Children with disabilities will receive appropriate behavioral and mental health services.
- Appropriate practices, procedures and policies with respect to the discipline of children with disabilities will be utilized by Alabama school districts.
- Transition programs utilized by Alabama school districts will ensure successful movement from school to post-high school/work and independent living for children with disabilities.
- Children with emotional or behavioral disorders who are placed in or who are at imminent risk of being placed in foster care and/or DHR custody will receive appropriate treatment and services.
- Effective behavior interventions will be used in schools and other settings to support children with disabilities to eliminate seclusion and restraint usage and to promote the safety of children.
- Children with disabilities will receive necessary medical screening and treatment as required under Title XIX's Early and Periodic Screening Diagnostic and Treatment (EPSDT) program.
- ADAP will increase its outreach and advocacy services to children with disabilities and their families residing in Alabama's Black Belt.



ADAP's PRIORITIES FOR 2006

Community Access Team

- Ensure that individuals residing in mental health facilities, developmental centers and community placements are safe and that residents are free from abuse and neglect.
- Ensure that individuals residing in mental health facilities, developmental centers and community placements are free from personal decision-making and rights violations.
- Ensure that people with disabilities are free from abuse and neglect in designated criminal detention or correctional facilities.
- ADAP will represent individuals with developmental disabilities, mental illness and their families and work with advocates and providers to challenge state policies and practices that limit access to Medicaid and community services.
- ADAP will increase its outreach and advocacy services to adults with disabilities and their families residing in Alabama's Black Belt counties.
- Inform individuals and service providers on advocacy strategies and disability issues that affect people with disabilities who have become victims of crime.
- Ensure that people with disabilities who are involved in the criminal justice process have full access to programs and services available for alternative sentencing.
- Work with people with disabilities to ensure that they have full access to the voting process.
- Investigate and review any complaint of improper or inadequate services provided to a beneficiary with a service provider, employer or other entity involved in the person's return to work effort.
- Ensure that people with disabilities have access to services and programs free of discrimination.
- Assess recreational facilities for disability access and train business owners and facility administrators on the need of people with disabilities to participate in recreational activities.
- Work with other entities within the state to create programs that can provide accessible transportation to individuals with disabilities.



2005 PADD ADVISORY COUNCIL MEMBERS

Willodean Ash	Cathy Burke
Andrew Carr	Amanda Cobb
Myra Jones	Lisa Manly
Julie Oetting Miller	George Neal
Lecell Lane	Diane Roberts
Rebecca Roberts	Jim Sears

2005 PAIMI ADVISORY COUNCIL MEMBERS

Don Baker	Jeff Baxter
Richard Craig	Angela Golden
James Hickman	Madeline Hollingsworth
Jeffrey McDaniel	Steve Pickett
Susan Spencer	Sara-Ellen Thompson
Mary Watkins	Shannon West

2005 PAIR ADVISORY COUNCIL MEMBERS

Gayle Benson	Toni Franklin
Mike Hamilton	Dan Kessler
Jimmy Osmore	Mike Smith

2006 ADAP STAFF

Angie Allen, Case Advocate
Nancy Anderson, Senior Staff Attorney
Rosemary Beck, Information Systems Administrator
Lauren Carr, Senior Staff Attorney
Mary Durrett, Legal Assistant
Elaine Gallien, Case Advocate
Ellen Gillespie, Director
Vickie Hubbard, Legal Assistant
Christy Johnson, Senior Case Advocate
Barbara Lawrence, Senior Staff Attorney
Robin Lunceford, Marketing Coordinator
Shelby Manley, Office Associate II
Tuwana McGee, Senior Case Advocate
Andrea Mixson, Staff Attorney
Janet Owens, Administrative Specialist
Alethea Pittman, Staff Attorney
Denise Smith, Interim Associate Director
Rick Thorpe, Volunteer
Rica Trone, Office Associate II
James Tucker, Director of Litigation
Lonnie Williams, Staff Attorney





The University of Alabama
Alabama Disabilities Advocacy Program
Box 870395
Tuscaloosa, AL 35487-0395

Non-Profit Organization
U.S. Postage paid
Tuscaloosa, AL 35401
Permit No. 16