



# No Way Out

## An Introduction to the Community Protection Program



**June 2021**

# Introduction

## Scope of Report

The Office of Developmental Disabilities Ombuds (DD Ombuds) is a private, independent office focused on improving the lives of persons with developmental disabilities in Washington State. RCW 43.382<sup>1</sup> provides the office with authority and identifies its scope. The Legislature authorized DD Ombuds to monitor services provided to people with developmental disabilities, review facilities and residences where services are provided, resolve complaints about services, and issue reports.

DD Ombuds focuses this report on the Developmental Disabilities Administration's (DDA) Community Protection Program (CPP). DD Ombuds hears many complaints regarding CPP. This report is not offered as a comprehensive review of the program. The report instead provides background on CPP and identifies concerns resulting from monitoring and complaint investigation. In the course of developing this report, DD Ombuds identified additional concerns to investigate further and report on in the future.

CPP is far and away the most restrictive community program administered by DDA. For the purposes of this report, DD Ombuds will focus on five areas of concern with CPP:

1. People are referred to the program at a young age before they have access to other supports and services.
2. Individuals must comply with DDA's CPP recommendations or risk losing access to other services.
3. The program has a low graduation rate.
4. DDA responded slowly to DD Ombuds's request for the information needed to produce this report.
5. The documents produced at DD Ombuds's request showed lax adherence to policies that protect the rights of people with disabilities.

To address these concerns, DDA must ensure that person-centered,<sup>2</sup> less restrictive supported living alternatives are offered instead of a referral to CPP. DDA must also ensure that entry into the program is truly voluntary and that other DDA services are not restricted if an individual declines CPP, and each participant must know and understand their path to graduation from the restrictions of their rights. Finally, DDA must be required to respond DD Ombuds's request

---

<sup>1</sup> [RCW 43.382 Developmental Disabilities Ombuds](#) | Report produced with state funds administered by WA Department of Commerce

<sup>2</sup> [CFR 441.301\(c\)\(1\) Person-Centered Planning Process](#)

for information within a set time frame, and their leadership must ensure the procedures that protect the rights of people with disabilities are followed.

These concerns and recommendations will be explored in detail at the end of the report.

## **Anti-Racism in Disability Justice**

DD Ombuds's approach to systemic advocacy is informed by the principles of the disability justice movement.<sup>3</sup> The lens of disability justice reminds us that true justice requires not just justice for people with disabilities, but also racial justice, immigration justice, gender justice, and more. While people with disabilities are subjected to discrimination, prejudice, and bias, disabled individuals who are also people of color (or who have other marginalized identities) are subjected to compounded systemic oppression. This framework is in line with the DD Ombuds's Diversity Statement.<sup>4</sup>

A later section of this report details the data DDA provided about the gender and racial composition of CPP participants. Concerns about the quality and limitations of these data prevents DD Ombuds from making final conclusions. However, some groups are overrepresented in CPP. This preliminary information, plus DD Ombuds's commitment to taking an anti-racist approach to systemic analysis, will direct any investigation of CPP going forward. Additional inquiry will hopefully shed light on whether CPP disproportionately harms communities of color and other marginalized groups.

DD Ombuds believes everyone, regardless of involvement with the criminal legal system, should have access to the services they need to thrive in the community. This principle further informs our investigation into and analysis of CPP.

## **Protecting the Identity of Complainants**

Since 2017, DD Ombuds has monitored CPP throughout the state of Washington by visiting people in their homes, listening to their concerns, attending treatment team meetings, talking to service providers, reviewing DDA files, investigating complaints, and supporting self-advocacy. As a result of the concerns expressed and observed, DD Ombuds requested demographic data from DDA and information on referrals into the program.

DD Ombuds is always mindful of the responsibility to maintain confidentiality, but this is particularly important when reporting on complaints about CPP and other residential programs for people with disabilities. Fear of retaliation for complaining is common in residential

---

<sup>3</sup> [Skin, Tooth, and Bone](#) is a disability justice primer | available at [sinsinvalid.org/disability-justice-primer](https://sinsinvalid.org/disability-justice-primer)

<sup>4</sup> [DD Ombuds's Diversity Statement](#)

programs because the support many people need for basic day-to-day living is dependent on the staff, and the system often holds control over whether they can remain in their home.

To protect these complainants, DD Ombuds will draw on examples and provide some quotes in this report, but will not provide attribution to any specific individual. All examples are accurate but non-identifiable.

## Overview of CPP

### Brief History

In 1996, a woman receiving DDA services and living in an adult family home allegedly set a house fire resulting in two deaths. DDA (Developmental Disabilities Division at the time) identified individuals who might be of risk to the community and contracted with residential service providers to deliver CPP services.

In 2006, the Legislature endorsed DDA's creation of CPP, providing statutory guidance and a statement of the program's purpose: "The Department of Social and Health Services (DSHS) is providing a structured, therapeutic environment for persons who are eligible for placement in the Community Protection Program in order for them to live safely and successfully in the community while minimizing the risk to public safety."<sup>5</sup>

By 2006, DDA was serving nearly 400 individuals in CPP. Advocates raised concerns<sup>6</sup> about the coercive nature of the program and that fewer than ten people had graduated the program in ten years.

Now, fifteen years later, DD Ombuds hears the same concerns voiced in 2006. People complain that they are forced to enter the program, restrictions are arbitrary, they have little to no choice of roommates or service providers, and they see a very narrow and difficult path out of the program.

### Services Available to CPP Participants

CPP is intended to allow people who have been identified as a risk to the community to live safely in the community by using specialized residential providers and individualized skill-building with a path to fewer restrictions and graduation out of the program.

---

<sup>5</sup> [RCW 71A.12.200-280 State Services](#)

<sup>6</sup> See [Protection Program to Get Federal Scrutiny](#)

The people that DDA identify for this service must accept restrictions on their freedom of movement and privacy rights to receive skill-building and therapy services from DDA. Today, CPP is one of DDA's five Home and Community Based Services waivers<sup>7</sup> approved by the Centers for Medicare and Medicaid Services.

People in CPP have access to specialized residential services with 24/7 on-site staff supervision. Services may include:

- Occupational, physical, speech, language, and hearing services beyond those covered by Medicaid
- Behavioral health stabilization services
- Positive behavior support and consultation
- Specialized psychiatric services
- Risk assessment
- Staff and family consultation
- Skilled nursing
- Environmental adaptations
- Transportation

## Entry into CPP

### Referrals and Risk Assessment

A DDA case manager may initiate a referral to CPP after learning of an individual's involvement with the criminal justice system or simply after hearing second- or even third-hand that the person may be a risk to the community. According to DDA policy,<sup>8</sup> if a case manager "learns of a client who may have community protection issues" they must meet with their supervisor within five days to determine if a referral to the Regional Community Protection Coordinator is needed. WAC 388-831-0030<sup>9</sup> defines "community protection issues" in broad and sometimes vague terms. Since there is no DDA policy guiding the interpretation of this rule, individuals can be initially identified as having possible "community protection issues" based on a single case manager's opinion. This can lead to inconsistency in what triggers the onset of the CPP referral and risk assessment process. Once the referral process begins, it is very difficult to stop, and the damage caused by the "community protection issues" label is irreversible.

---

<sup>7</sup> [DSHS Home and Community Based Waivers](#)

<sup>8</sup> [DDA Policy 15.01 Procedures](#)

<sup>9</sup> [WAC 388-831-0030 Who are Individuals with Community Protection Issues?](#)

If the case manager and supervisor determine that a referral to the Regional Community Protection Coordinator is necessary, according to DDA policy,<sup>8</sup> the case manager must complete the DSHS Form 10-258 *Individual with Possible Community Protection Issues*.<sup>10</sup> Form 10-258 documents the reason for referral, whether a risk assessment is recommended, and whether the individual qualifies for CPP. This is an important safeguard because referral or entry into CPP will impose significant restrictions on the individual's life. DDA policy does not require the case manager to notify the client that they are being referred to the Regional Community Protection Coordinator.<sup>11</sup>

DD Ombuds is concerned about the referrals of teens and young adults into CPP before they are able to access needed medical, educational, or behavioral support services. In addition, there have been individuals referred to CPP who did not have a risk assessment delivered in their own language as well as minors and others referred to the program before they provided informed consent. These examples illustrate only some of DD Ombuds's concerns about entry into CPP.

## Is CPP Voluntary?

The Washington Administrative Code (WAC) describes participation in CPP as voluntary since individuals have the right to refuse enrollment in the program.<sup>12</sup> However, the referral to the Regional Community Protection Coordinator is not voluntary. If a risk assessment is recommended as a result of referral, the individual must undergo the risk assessment or they may lose the right to access other DDA services.<sup>13</sup> Based on the risk assessment, a Community Protection Committee determines if an individual has "community protection issues" and whether they're eligible for the program. DDA has no policy or formal process for diverting individuals who have been identified as having possible "community protection issues" to less restrictive options before referring them to CPP.

Individuals may be eligible for CPP if they are eligible for DDA services, have a history of a violent or sexual crime, and if DDA determines there's a continued alleged level of risk. If an eligible individual declines enrollment in CPP, or if they do not comply with all of the rules in CPP, they risk losing access to all other DDA services except case management services and personal care services.<sup>14</sup> The potential of losing other services has the effect of coercing individuals into participation in CPP. Those who decline to participate may be on their own,

---

<sup>10</sup> [DSHS Form 10-258 Individual with Possible Community Protection Issues](#)

<sup>11</sup> [DDA Policy 15.01 Procedures](#)

<sup>12</sup> [WAC 388-831-0020\(3\) What is the Community Protection Program?](#)

<sup>13</sup> [WAC 388-831-0065 What if I Refuse to Participate in the Risk Assessment?](#)

<sup>14</sup> [WAC 388-831-0160 What Services May You Receive if You Refuse Placement in the Community Protection Program?](#)

with none of the supports, services, and therapies they depend upon to live successfully and safely in the community. If one objective of the program is to protect the community, then preventing people from accessing other necessary support services would not appear to meet that intent.

## Specialized Client Database

If an individual refuses to participate in the risk assessment or enrollment in the program, then in addition to being denied other DDA services, they will also have their name placed on the “specialized client database,” which identifies individuals who may present a danger to their communities.<sup>15</sup> Being placed on this database can have serious consequences for an individual who needs support to maintain a job or to live safely in the community. DDA can inform potential service providers that the individual may be dangerous. Those service providers can then refuse to provide services to the individual thereafter, making it difficult to obtain the necessary support to live safely in the community.

People designated as eligible for CPP have been stuck in the hospital without services and some are forced to reside in an institution because service providers have declined to serve them.

## Summary of Appeal Rights

Individuals receiving services through the community protection waiver have appeal rights outlined in RCW 71A.12.240<sup>16</sup> that include the right to appeal referral to CPP or the denial of a request for a less restrictive community residential placement.<sup>16</sup> However, an individual cannot appeal the referral for a risk assessment, and they cannot appeal their identification as a person with possible “community protection issues” or placement on the “specialized client database.”

# Restrictive Programming in CPP

## Overview of Restrictive Programming

The stated goal of the program is for everyone to be in the least restrictive environment possible with specific criteria outlined to phase out of CPP restrictions. WAC 388-831-0120 states that community protection services must be “provided in the least restrictive manner and environment that minimizes the likelihood of offending behavior.”<sup>17</sup> In addition, the

---

<sup>15</sup> [WAC 388-831-0065 What if I Refuse to Participate in the Risk Assessment?](#)

<sup>16</sup> [RCW 71A.12.240 Community protection program—Appeals—Rules—Notice](#)

<sup>17</sup> [WAC 388-831-0120 What Will my Services be Like in the Community Protection Program?](#)

regulations state that community protection intensive supported living services provide “an opportunity for you to live successfully in the community.”<sup>18</sup>

Notification of restrictions is outlined in WAC 388-831-0070.<sup>19</sup> Some of the basic restrictions for people living in these settings are laid out in DSHS Form 10-268.<sup>20</sup> Common restrictions include, but are not limited to, the following:

- All phone calls monitored
- Intimate or sexual relationships forbidden or require approval
- Not allowed to attend community activities without approved chaperone
- Use of social media and internet not allowed
- No rated R movies or rated M video games
- Must agree to random room searches
- Must live in homes with frosted windows that prevent them from seeing outside

Individuals in the program are required to have quarterly treatment team meetings where their treatment plan, compliance with the program, violations, current media, visitor privacy restrictions, and graduation progress are discussed.

## **Inconsistent Connection between Restrictions and Reason for Referral**

Treatment plans must include recommendations for additional or fewer restrictions. However, DD Ombuds receives complaints about the excessive length of time restrictions stay in place and that restrictions that don’t appear to be related to the individual’s reason for referral to CPP.

For example, DD Ombuds has observed that many people in the program are prohibited from using the internet regardless of their reason for referral to CPP and are not allowed to make or receive phone calls privately. DD Ombuds hears participants ask for opportunities to use the internet and phone, even with supervision; however, there appear to be blanket denials of access. In addition to being an arbitrary restriction of an individual’s privacy and preventing them from learning skills to live safely, this systemic practice prevents individuals from seeking help in cases of abuse or neglect or from complaining about their services. They risk retaliation if they are caught making a private phone call or if they ask permission to use the phone and staff hear them complaining.

---

<sup>18</sup> [WAC 388-831-0130 What Services May I Receive in the Community Protection Program?](#)

<sup>19</sup> [WAC 388-831-0070 What Type of Information Will I Receive from the Division When I am Considered for Placement in the Community Protection Program?](#)

<sup>20</sup> [DSHS Form 10-268 Pre-Placement Agreement](#)



In review, DD Ombuds found examples where there was no clear relationship between restrictions in place and the behavior that triggered the referral to CPP. This problem warrants further investigation.

## Voices of CPP Participants about Restrictions

DD Ombuds has heard hundreds of comments from individuals about the problematic restrictions in CPP. Please note that some of these comments are directly quoted, while others are modified to ensure they are non-identifiable.

Their comments help illuminate the impact of those restrictions:

- If I don't tell a lie for a year they said I can maybe I can play my favorite video game again.
- I just want to have my cell phone back. They took it last year and said until my behavior is appropriate, I won't ever get it back.
- When I complained, they handed me a paper and said if you don't like it, the program is voluntary and I can sign myself out.
- My case manager searched my room and took my movies and video games. They didn't ask my permission and said I have no choice if I'm in CPP.
- I am not allowed to answer the phone in my own house. Why not? Staff are right here supervising me all the time.
- They keep making me talk about the mistake I made when I was 18. I haven't made that mistake again, but I have to talk about it again next week. I'm now 37 years old.
- If my staff don't supervise me like they are supposed to, I get in trouble. Why?
- They don't let me come to the first part of my own treatment team meeting. I have to sit outside and wait while my counselor, DDA, and the CPP staff are inside talking about me.
- Staff tell me they get to play video games all the time. I'm not allowed to play any games or talk to my friends online.
- Sometimes staff tell me I'm not allowed to watch my favorite show because it amps me up, but sometimes they let me watch it anyway.
- In the treatment team meeting, everyone has a copy of the plan except for me.

# Who is in CPP?

## DDA Records Requests

DD Ombuds has the specific authority to access documents in the possession of DSHS that are considered necessary to an investigation according to RCW 43.382.090.<sup>21</sup> DD Ombuds asked for information to answer broad questions regarding who participates in CPP and how decisions are made about who ends up referred to the program.

In late 2019, DD Ombuds requested the following information from DDA:

- Number of people who exited CPP, including entry date, exit date, region, race, gender, and age upon entry.

After seeing more concerns around the referral process, in May 2020, DD Ombuds requested additional information from DDA:

- Copies of DSHS Form 10-258 *Individual with Possible Community Protection Issues*<sup>22</sup> submitted since January 1, 2015; this is the form that DDA case managers must complete before referring to CPP
- Of the people currently in CPP, age at time of admission/date of admission cross-referenced with race, gender, and region

Some of the data requested was received within a couple of months; however, when DD Ombuds asked for copies of the DSHS 10-258 forms for the approximately 400 participants in CPP, DDA reported that office closures and COVID-related restrictions prevented them from completing the information request. It took considerable effort from DD Ombuds with numerous emails, phone calls, and meetings with DDA, then many follow-ups and missed deadlines before all of the requested information was received. DD Ombuds received the DSHS 10-258 forms in October 2020, over five months after the request.

Of the over 400 DSHS 10-258 forms that DDA sent to DD Ombuds, most did not include dates or signatures or lacked documentation of the risk assessment and eligibility processes. Although these forms are required to be filled out during the referral process, many were dated in June 2020, which was after DD Ombuds requested the forms from DDA and after the individual was already in CPP.

---

<sup>21</sup> [RCW 43.382.090 Department of Social and Health Services—Department of Health—Duties](#)

<sup>22</sup> [DSHS 10-258 Individual with Possible Community Protection Issues](#)

After reviewing these forms, DD Ombuds is concerned that one of the few critical safeguards designed to ensure that only people who meet eligibility criteria for CPP are referred does not appear to be followed consistently by DDA. This process is described by DDA Policy 15.01.<sup>23</sup> It is particularly important that this process is followed because basic human rights are restricted in CPP, such as choice of relationships, choice of roommates, use of the phone and internet, right to privacy, and access to other necessary services because of a perceived risk.

## Demographic Data

The following sections show demographic data of individuals currently in CPP, as provided by DDA in response to the records requests. DD Ombuds also accessed the data that DDA provides to the Arc of Washington State on an annual basis.<sup>24</sup> DD Ombuds's analysis is limited by the scope and quality of the data received.

The demographic data collected reflects gender, race, and age. DD Ombuds acknowledges that an individual's experience in CPP may differ depending on these identities.

In addition to collecting data, DD Ombuds put together graphs of the following:

- The racial breakdown of individuals in CPP compared to the racial breakdown of all DDA clients and all Washington State residents in 2019
- The age when an individual entered CPP since the beginning of the program
- The reason individuals exited the program since the beginning of CPP

## Gender of Participants

DD Ombuds received information regarding the gender of CPP participants as of 2019. 411 DDA clients were enrolled in CPP at the end of 2019. 380 (92%) individuals identified as male. 31 (8%) individuals identified as female. This is how clients self-identified. Male and female were the only gender options given. It is possible that individuals in the program would have identified as a gender other than male or female, such as non-binary or gender non-conforming, if given the option.<sup>25</sup>

Compared to the population in Washington, men are significantly overrepresented in CPP.

---

<sup>23</sup> [DDA Policy 15.01 Procedures](#)

<sup>24</sup> [Data from the Arc of Washington State's 2020 Legislative Notebook](#)

<sup>25</sup> DD Ombuds received the data from DDA in 2020

## Race of Participants

DDA provided information regarding the racial makeup of individuals in CPP as of 2019. 85.1% were white, 6% were Black or African American, 5.3% were American or Alaskan Native, 1.7% were Asian, .5% were American or Alaskan Native and white, .49% were Native Hawaiian/Other Pacific Islander, .49% were unreported, .24% were Asian and white.

This table compares the differences in racial makeup of individuals in CPP with the racial makeup of all DDA clients on the 2019 caseload as well as the racial makeup of Washington State residents in 2019.<sup>26</sup>

	CPP %	DDA %	Washington State %
<b>American or Alaska Native</b>	5.3	2.2	1.9
<b>Asian</b>	1.7	6	8.8
<b>Black or African American</b>	6	5.8	4
<b>Native Hawaiian/Other Pacific Islander</b>	.49	1.3	.8
<b>Two or More Races</b>	.74	4.6	5.1
<b>Unreported/Other</b>	.49	6.7	0
<b>White</b>	85.1	72.4	79.4

---

<sup>26</sup> [Data from the Arc of Washington State's 2020 Legislative Notebook](#)

## Racial Breakdown by Gender

We also compared the racial breakdown of individuals in the program who identified as female with individuals in the program who identified as male.<sup>27</sup>

Just 8% of CPP participants identify as female. Of those, 72.4% were white, 9.7% were Black or African American, 6.5% were Asian, 6.5% were American or Alaska Native, 3.2% were two or more races. There is a higher percentage of Black women in CCP (9.7%) than there is on the 2019 DDA caseload (5.4%).

Among males in 2019, 86.1% were white, 5.85% were Black or African American, 5.3% were American or Alaskan Native, 1.3% were Asian, .5% were two or more races, .5% were Native Hawaiian/Other Pacific Islander, .5% were unreported.

American or Alaskan Native men are overrepresented in CPP (5.3%) compared to all American Native or Alaskan Native men clients on the DDA 2019 caseload (2.1%).

This data reflects a relatively small sample size, about 400 people who were in the program as of the end of 2019. With this limitation in mind, DD Ombuds is concerned about emerging trends in the demographic breakdown of CPP participants. DDA has a responsibility to carefully collect data on the identities of CPP participants in order to track whether the program disproportionately affects communities of color and other marginalized groups. DD Ombuds's disability justice framework will inform further investigation and recommendations.

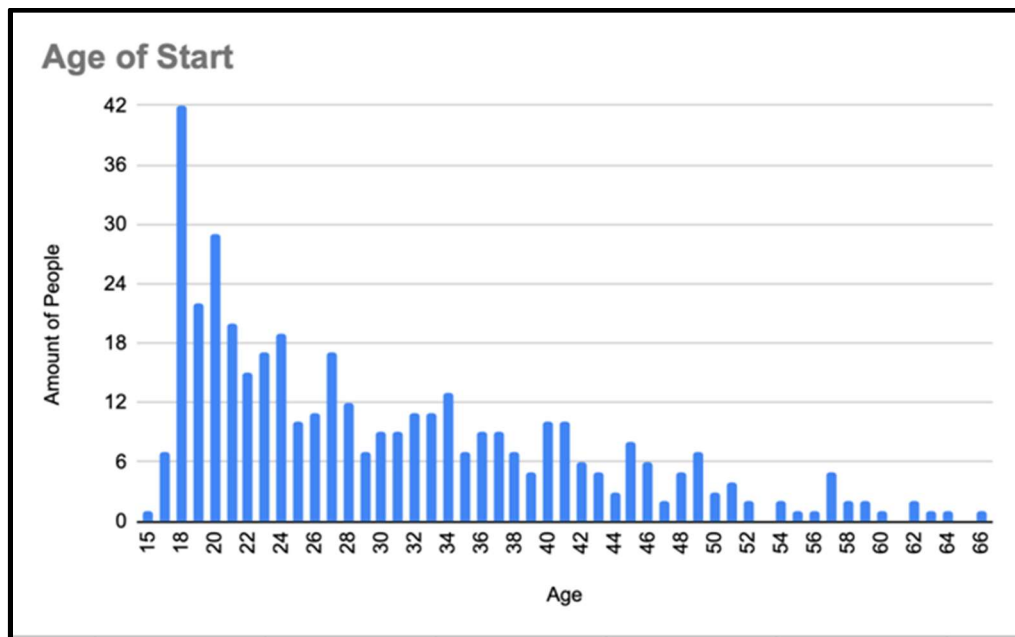
---

<sup>27</sup> DD Ombuds received the data from DDA in 2020

## Age at Entry

The bar graph below shows the age of the individual when they entered CPP. The X axis shows age, and the Y axis shows the number of individuals who entered the program at that age. The most common age at start of the program is 18.<sup>28</sup> The graph shows fewer people entering the program as age increases.

Prior to 2006, DDA did enroll those younger than age 18. Currently individuals must be at least 18 years old to enter the program.



The number of young people that DDA has referred to CCP is a major concern of DD Ombuds. DD Ombuds has encountered situations where young people are struggling to get access to behavioral health services, lacking educational services, denied support and services in their parents' homes, referred to the police or sent to hospital emergency rooms for behavior difficulties. Sometimes in those situations, DDA case managers refer the person to CPP. DD Ombuds has received complaints about individuals referred to CPP who have ended up stuck in hospitals waiting for a placement for months. Others have ended up institutionalized in Washington's state psychiatric hospitals or Residential Habilitation Centers.

<sup>28</sup> DD Ombuds received the data from DDA in 2020

# How Does an Individual Get Out of CPP?

## Overview of Exit Process

An individual could exit CPP by graduating, refusing services, having services terminated for noncompliance, or going to the hospital or jail.

RCW 71A.12.260 describes in part that “a participant who demonstrates success in complying with reduced restrictions and remains free of offenses that may indicate a relapse for at least twelve months, may be considered for placement in a less restrictive community residential setting.”<sup>29</sup>

Plans developed by the treatment team outline what goals an individual must meet to graduate. The individual and their treatment team meet quarterly to discuss the individual’s progress towards their goals.<sup>30</sup>

The treatment team should be reviewing progress, evaluating less restrictive programming, and recommending reductions.

## Unclear Path to Graduation

DD Ombuds continues to receive complaints regarding arbitrary restrictions, difficulties removing restrictions, and no clear path to graduation. DD Ombuds has observed inconsistencies in whether treatment plans contain measurable and attainable goals that could illuminate a path towards graduation.

There is a process for moving to a less restrictive residential setting, as there is a process for reducing or removing restrictions. However this process can be long, difficult, and is often unclear to participants. In the conversations DD Ombuds has had with CPP clients, almost no one understood the process for removing restrictions in their programs, and few could describe how they could graduate from CPP to a program without restrictions. Some paraphrased examples:

- I was convicted of a sex offense when I was 18 and served time in prison. When I was released, DDA told me that I would have to be in CPP for 7 years. Even though I never re-offended during my entire time in CPP, it still took me 20 years to get out.

---

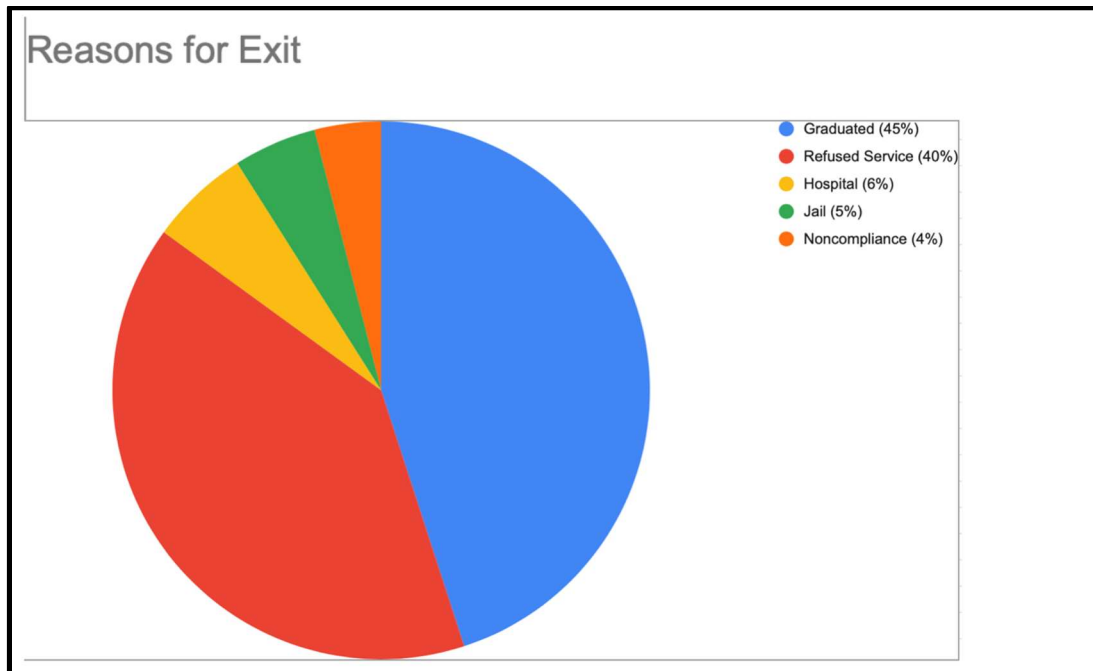
<sup>29</sup> [RCW 71A.12.260 Community Protection Program—Less Restrictive Residential Placement](#)

<sup>30</sup> [WAC 388-831-0200 How Often Will My Progress be Reviewed?](#)

- I was accused of sexually touching a neighbor when I was a teenager, and they told me I needed to go to CPP. I have not been accused of inappropriate sexual behavior since I've been in CPP for over 15 years. I still am not allowed to go to a public restroom without staff or watch rated R movies or movies that feature children.

## Data of Reasons for Exit

The chart below shows the reasons all past individuals exited CPP until the end of 2019. 191 participants have exited the program. Since the program began in 1996, only 45% (86 people) of individuals who exited the program graduated to less restrictive services. 40% refused services. 6% exited the program when they were admitted to the hospital, 5% when they went to jail, and 4% left the program due to noncompliance.



This data identifies and quantifies the reasons individuals exit the program. Unfortunately, because in the 25 years that CPP has existed only 191 of about 600 total participants have exited the program for any reason, it's clear that most people who have entered the program are still in it.



# Concerns and Recommendations

Based on observations and complaints received from CPP participants, DD Ombuds has many concerns about CPP. For the purposes of this report, DD Ombuds will highlight five of the concerns identified and recommended changes to address each.

## **Concern 1: People are entering the program at a young age before they have access to necessary supports and services.**

Nearly half of the individuals currently enrolled in CPP entered the program when they were under age 27. Some were referred for risk assessments and required to enter CPP before they finished high school. 42 individuals were enrolled at age 18.

The policies and procedures that could prevent the over-identification of young people referred to CPP are followed inconsistently by DDA. DD Ombuds is concerned about how many young people have been swept into the restrictive confines of CPP.

## **Recommendation 1: DDA should provide resources to meet the needs of young people with developmental disabilities who are identified as having possible “community protection issues,” diverting them from the restrictive CPP.**

DDA must follow DDA Policy 15.01<sup>31</sup> about identification and eligibility of participants consistently and in its entirety. This can begin to ensure that the limited safeguards that do exist are abided by. The case manager has the duty to look at services available under the state plan to meet the person’s assessed needs. If the person still has unmet needs, the case manager has the duty to look for additional resources to meet those needs, including access to other waiver services outside of CPP and other, non-DDA services.<sup>32</sup>

DDA Policy 4.24<sup>33</sup> requires implementation of the Critical Case Protocol prior to a residential provider terminating services. This requirement ensures other alternatives have been explored using a person-centered planning process.<sup>34</sup> Completing the same Critical Case Protocol before referring an individual to the Community Protection Regional Coordinator or for a risk assessment could make certain that case managers consider alternate services and that there is a person-centered planning process<sup>37</sup> implemented prior to a referral to a restrictive program like CPP.

---

<sup>31</sup> [DDA Policy 15.01 Community Protection Program Identification and Eligibility](#)

<sup>32</sup> [42 CFR 440.169 Case Management Services](#)

<sup>33</sup> [DDA Policy 4.24 Supported Living Critical Case Protocol](#)

<sup>34</sup> [42 CFR 441.301\(c\)\(1\) Person-Centered Planning Process](#)

At a minimum, DDA case managers must ensure their clients have access to the resources they need to succeed based on their assessed needs. Case managers must inform clients of what programs and support is available and provide the planning and coordination necessary to obtain those resources and services.<sup>35</sup> This includes the following:

- Educational services
- Comprehensive sex education
- Medical services
- Behavioral health services
- Occupational and physical therapy
- Speech and language pathology services

Comprehensive sex education, healthy relationship resources, and other specialized habilitation services are of particular relevance to individuals who are often referred to CPP, and all are available through other DDA programs besides CPP.

## **Concern 2: Individuals lack choice, and the program restricts rights to access other services.**

If identified as a person with possible “community protection issues,” the person must agree to a risk assessment. If determined eligible for CPP, they must agree to enroll in the program or be denied access to other DDA services. WAC 388-831-0250 says in part that “your participation in the Community Protection Program is voluntary. However, if you leave the Community Protection Program and DDD (now DDA) determines that you require the Community Protection Program to meet your health and safety needs and those of the community, you will not be eligible for other DD residential services or employment/day program services.”<sup>36</sup>

## **Recommendation 2: Individuals should not be restricted from services or hours if they choose not to be in CPP.**

DD Ombuds recommends a change to the WACs so an individual who refuses a risk assessment or enrollment in CPP still retains access to other DDA waiver services.

Individuals with developmental disabilities should have access to necessary supports and services that they want and need to thrive in their community instead of being required to enter a program that limits their choices and restricts their rights.

---

<sup>35</sup> [42 CFR 440.169 Case Management Services](#)

<sup>36</sup> [WAC 388-831-0250 Can I Leave the Community Protection Program at Any Time?](#)

### **Concern 3: The program has a low graduation rate.**

DD Ombuds received complaints regarding no path to graduation from people in CPP, arbitrary restrictions, and difficulties removing restrictions. DD Ombuds found inconsistencies in whether treatment plan goals illuminate a path towards graduation.

Since the program began in 1996 and as of the end of 2019, only 86 individuals graduated the program of the almost 200 people who left. More people have signed themselves out or had DDA terminate their services than those who graduated to a less restrictive residential setting.

### **Recommendation 3: Create a clear path to graduation using a person-centered planning process.**

Individuals in CPP have quarterly treatment meetings to discuss goals towards lessening restrictions. Among individuals enrolled in CPP, this process is commonly known as working on “reductions.” During treatment team meetings, the steps to graduation must be clearly outlined using a person-centered planning process.<sup>37</sup> There must be measurable goals, and individuals must always have access to their treatment plan.

### **Concern 4: DDA responded slowly to DD Ombuds request for the information needed to produce this report.**

As noted in the section above, “DDA Records Requests,” DD Ombuds did not receive the forms requested from DDA for five months—during which time DD Ombuds made further requests by email and phone—after missed deadlines and delays.

### **Recommendation 4: DDA should be required to respond to DD Ombuds’s requests for documents within a set time frame, and DD Ombuds should have the ability to directly obtain information through electronic access.**

DD Ombuds should be provided with documents needed to perform its duties in a timely manner. One solution is to establish a clear deadline for responding to DD Ombuds’s requests. This might be done by adoption of DDA policy, rule, or statutory change. The Department of Corrections Ombuds statute provides an example of such a requirement: “Following notification from the ombuds with a written demand for access to agency records, the delegated department staff must provide the ombuds with access to the requested documentation not later than twenty business days after the ombuds’ written request for the records.”<sup>38</sup>

---

<sup>37</sup> [CFR 441.301\(c\)\(1\) Person-Centered Planning Process](#)

<sup>38</sup> [RCW 43.06C.050\(5\) Access to Facilities, Inmates, Records](#)

Another change that could ensure timely production of documents and information needed by DD Ombuds to fulfill its duties would be to allow DD Ombuds direct access to electronic records. This is also a change that would lead to cost saving and efficiency because direct access by DD Ombuds would reduce the time DDA staff expend in retrieving requested documents. The Office of the Family and Children’s Ombuds currently has immediate access to electronic records.<sup>39</sup>

Direct access to electronic records by DD Ombuds would have a secondary benefit in that it would ensure the privacy of clients who are seeking information or have a concern related to their DDA services. Numerous complainants have told us they do not want DDA to know they have called us with a concern. Currently, when DD Ombuds seeks client records from DDA, they must identify that person. A long chain of DDA staff are involved in processing these requests, which makes for inefficiency, delay, and risk that retaliation will follow if a provider or DDA staff discovers that the person is expressing a concern about their treatment or services.

With direct access, DD Ombuds could help the client resolve their concerns confidentially and ensure their protection from retaliation.

### **Concern 5: The documents produced at DD Ombuds’s request showed lax adherence to policies that protect the rights of people with disabilities.**

Most of the documents DD Ombuds requested in preparing this report were incomplete and missing critical information. The documents requested included DSHS Form 10-258, which records why the person is being identified as a person with “possible community protection issues,” whether a risk assessment is recommended, and whether the person is eligible for CPP. Many forms appeared to be filled out after DD Ombuds requested them from DDA: They are dated in June, 2020, well after the request was made.

### **Recommendation 5: DDA Leadership should set clear expectations regarding CPP documentation and assure that requirements are met and rights are protected.**

Being referred for a risk assessment or enrolled in CPP can result in significant restrictions of basic human rights. It is critical that DDA leadership ensure that existing policies regarding referral to CPP are followed and that the documentation is complete and accurate.

---

<sup>39</sup> [RCW 43.06A.100\(D\) Access to Information in Possession or Control of Department of Children, Youth, and Families or State Institutions](#)

# Dedication

This report is dedicated to Tony Hall. Tony was an active member of People First,<sup>40</sup> a leader in the self-advocacy movement, and a member of the DD Ombuds Advisory Committee. Tony died of complications from COVID-19. Tony advocated for changes to CPP, especially for himself and others to have a path out of the program.

---

**Contact:** Lisa Robbe, Office of Developmental Disabilities Ombuds  
Email: [lisa@ddombuds.org](mailto:lisa@ddombuds.org) Phone: (833) 727.8900 ext. 270

---

<sup>40</sup> [People First of Washington](#)