



Addressing Intellectual Disability in the Justice System

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Intellectual and Developmental Disability must be Included in Criminal Justice Reform

In January 2019, a [woman filed a lawsuit on behalf of her daughter](#), who has Rett syndrome and does not speak or walk, after she was raped, impregnated, and injured at a healthcare facility. In 1989, [Joe Sullivan](#), a 13-year-old with intellectual disabilities, was sentenced to life without parole for burglary. These cases demonstrate two ways the justice system fails people with intellectual and developmental disabilities.

Although there is little research, scholars generally agree with criminal justice and forensic mental health professionals that people with disabilities are overrepresented in the criminal justice system. Despite that, intellectual and developmental disabilities are rarely part of discussions about criminal justice reform. People with these disabilities are among the most vulnerable in society and yet are ignored, disregarded, and left unprotected by those who are dedicated to public safety.

Stigma has embedded inaccurate beliefs about intellectual and developmental disabilities deep in U.S. society and culture. These misperceptions lead to dangerous consequences for many people with disabilities, particularly for people who are also from racial or ethnic minority groups. Whether people with these disabilities encounter the justice system as victims or as the accused, these broadly held misunderstandings about disability means these people often do not get the justice they deserve. Police officers, judges, and lawyers too often fail to believe people with disabilities -- or listen to them in the first place. Lobbyists, law enforcement, policy makers, and funding agencies should bear the following in mind when working with this community.

People with Intellectual Disabilities and the Justice System

From the 1950s to the 1970s, advocates led a movement to shut down large institutions and get people with intellectual, developmental, and psychiatric disabilities into communities where they could access help and support at community mental health centers. This move was instigated by growing public awareness of the inhumane treatment of residents at these institutions. Children and adults with these disabilities were often left unclothed, underfed, isolated in stark cells, abused, and provided no enrichment activities.

Closing these institutions was a remarkable move, but it did not solve the problem. Today, many adults with disabilities reside in residential facilities or nursing homes. Though these facilities are smaller, widespread abuse and neglect continues.

These crimes are rarely reported and, when they are reported, they are rarely prosecuted. Police officers and investigators do not know how to get evidence from a person with an intellectual or developmental disability, even when they are fully verbal. Often, these justice officials deem people with a disability an 'unreliable' witness. These officials then call for additional witnesses to support their accounts, despite research showing that people with these disabilities have reliable autobiographical narratives. The situation is even more dire for people who do not communicate verbally.

People with intellectual and developmental disabilities are particularly vulnerable when they are accused of a crime. Often, these disabilities do not have any visually apparent indicators so if people act unusually in public, they may be brought to police attention. If officers are unable to identify a person as disabled, rather than intoxicated or simply noncompliant, situations can escalate, [sometimes with fatal outcomes](#). These situations are particularly dangerous for people of color who are already more likely to get police attention and lack

access to services that would help avoid these situations in the first place.

If arrested, people with these disabilities are more easily coerced into confessing for crimes they did not commit. [Recent research](#) found that of 245 people who were exonerated based on faulty confessions, over a quarter likely had an intellectual or developmental disability. Pressure to confess can come from those who actually committed the crime and officers attempting to get a prosecution.

When convicted, people with intellectual and developmental disabilities have poorer outcomes in prisons and jails. Often, they have difficulty following multi-step directions, so may appear noncompliant to staff. This perceived noncompliance can lead to disciplinary actions that extend their sentences. Additionally, early release programs may be difficult for people with disabilities to access because the programs are not designed to adapt for people with disabilities. Finally, people with disabilities are more often victims of bullying and exploitation in prison and jail settings. All this means that people with these disabilities are likely to serve longer, harder sentences than those without disabilities.

Recommendations

Flexible interviewing techniques and policies are key. These policies should aim to help officials understand people with disabilities via behavioral indicators, such as a sudden change in mood or reactions to certain staff members. Professionals throughout the justice system need to be trained on how to read and respect nonverbal communication.

Criminal justice professionals should undergo training to better understand these disabilities overall. The content of this training must include input from people with intellectual and developmental disabilities who have had interactions with police, judges, lawyers, jails, and prisons. Training should include information about how and when to ask about disability, how to discern disability from suspicious behavior or intoxication, how to avoid escalation, and how to deescalate if interactions intensify. Further, jails and prisons should screen everyone entering the system for these disabilities using short intelligence and adaptive behavior screens so all staff are aware of the need to employ this training.