

June 21, 2018



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Uncovering Hidden Disabilities in Today's Criminal Justice System:

Understanding Intellectual and Developmental Disabilities



Speakers

- Leigh Ann Davis
 - Director, National Center on Criminal Justice & Disability
- Maria Fryer
 - Policy Advisor for Substance Abuse and Mental Health, Bureau of Justice Assistance, U.S. Department of Justice
- Karyn Harvey, PhD
 - Director of Clinical Services, The Arc Baltimore
- Deirdra Assey
 - Policy Analyst, CSC Justice Center



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Bureau of Justice Assistance

The Bureau of Justice Assistance (BJA), a component of the Department of Justice's Office of Justice Programs, provides leadership and services in grants administration and criminal justice policy development to state, local, and tribal jurisdictions. Specifically, BJA provides funding to support law enforcement, combat violent and drug-related crime, and combat victimization. Through the development and implementation of policy, services, and sound grants management, BJA strengthens the nation's criminal justice system and restores security in communities.

To learn more, visit <https://www.bja.gov> or follow us on Facebook (<https://www.facebook.com/DOJBIA/>) and Twitter (@DOJBIA).





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National **nonprofit, nonpartisan** membership association of state government officials

Represents **all three** branches of state government

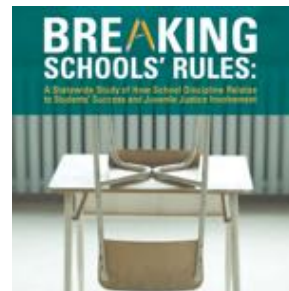
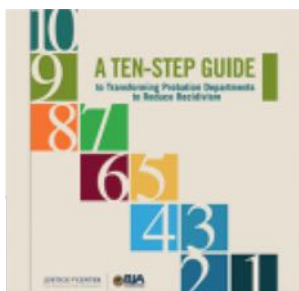
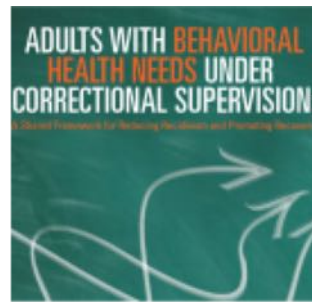
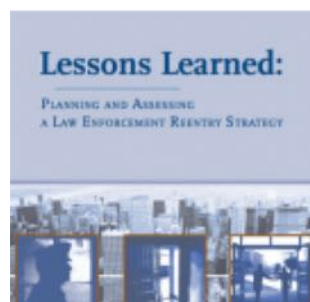
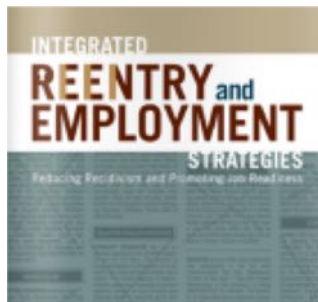
Provides **practical** advice informed by **the best available evidence**





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About The Arc

- Largest disability rights organization in the country
- 650+ state and local chapters
- Advocate for people with intellectual and developmental disabilities (I/DD)
- Long history of advocacy in policy and legal arenas



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About NCCJD

- Created in 2013 – grant from Bureau of Justice Assistance (BJA)
- Advocate at the intersection of criminal justice reform and the advancement of disability rights
 - Work on both victim/witness issues and on issues facing those who are charged with crimes



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Learning Objectives

- Know the differences and similarities between behavioral health diagnoses and I/DD
- Learn how to identify someone with I/DD
- Learn interaction and de-escalation tips
- Know the law that provides protections (ADA)
- Consider potential partners for next steps

Behavioral Health Overview

- *Behavioral health* generally refers to diagnoses included in the Diagnostic and Statistical Manual Fifth Edition (DSM-5)
- Categories of disorders
 - Mental illnesses
 - Substance use disorders
 - Personality disorders
 - Intellectual and Development Disabilities
 - Dementias



Behavioral Health Overview

- Behavioral considerations that may be seen in each category of disorder
 - Poor impulse control
 - Agitation
 - Low tolerance for frustration
 - Unstable relationships
- Dual Diagnosis
 - In behavioral health, this typically refers to people with co-occurring mental and substance use disorders
 - Any two or more may be comorbid, along with medical diagnoses



Behavioral Health Overview

- How are the issues experienced by people with BH dx different or similar to the issues faced by people with I/DD?
 - Problem behaviors
 - Referrals to crisis systems
 - Not enough service providers
 - Siloed systems of care



Case Scenario

- Domestic violence
 - Jail staff responding to detainees with I/DDs



Why Learn About I/DD?

- Overrepresented in jails and prisons
- Often a hidden population
- Confusion or misunderstandings about mental illness and I/DD
- More likely to be victimized or used by others in correctional settings
- Avoid liability



Pathways to Justice®

FOUR STEPS

- **Identify**
- **Communicate**
- **Assess (de-escalate)**
- **Support (resources)**



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Pathways to Justice Model*

Steps:

1. Identify
2. Communicate
3. Assess
4. Support



*This model is based on The Sequential Intercept Model. SMHRSA's Caring Center for Behavioral Health and Justice Transformation, (2011). Developing a comprehensive plan for behavioral health and criminal justice collaboration: The Sequential Intercept Model. Delmar, NY: Author.

Step One: Identification



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Developmental Disabilities

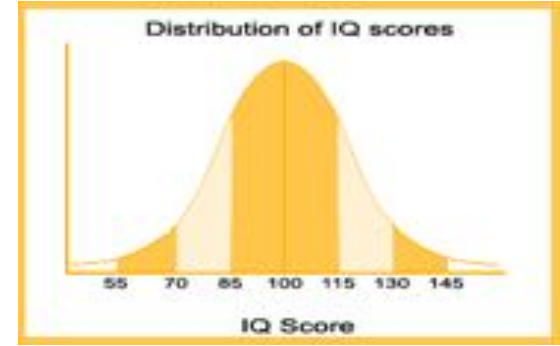
- Physical and/or mental impairments that begin before age 22
- Substantial functional limitations in at least 3 of these:
 - Self care
 - Learning
 - Walking/moving around
 - Self-direction
 - Independent living
 - Economic self-sufficiency





Intellectual Disabilities

- Intellectual disability is a type of developmental disability
- Three prongs of ID:
 - Intellectual functioning (IQ)
 - Adaptive behavior (social and practical skills)
 - Originates before 18 years of age



Why I/DD = Hidden Disability

- Most people have a “mild” form of I/DD and look no different from others
- While some people with I/DD do have physical characteristics (ex: Down syndrome), most do not
- Due to fear of rejection, don't want to disclose disability and over time learn how to fake understanding and “get by”



Psychiatric Disabilities

- Disrupts thinking, feeling, mood, ability to relate to others
- Example diagnoses/labels: major depression, schizophrenia, bipolar disorder

Fact

In the mental health community, there is no single accepted term to describe psychiatric disabilities. Some prefer “psychosocial” or “mental” disability.



Developmental Disabilities

- Before age 22
- Significant lifetime impairment
- May include intellectual deficit

Psychiatric Disabilities

- Onset at any age
- Typically no intellectual deficit
- Difficulties in regulating mood and thought



Dual Diagnosis

- I/DD and a psychiatric disability (“mental illness”)
- About 34% of people with I/DD also have a psychiatric disability
 - Behavioral challenges
 - Diminished intellectual functioning



Challenges in the Criminal Justice System

- False confessions common due to desire to please officer/investigator
- Placed in institutions to “regain” competency
- Often unable to assist in own defense
- Rights are waived unknowingly
- Denied right to speak when testimony deemed not credible



Suspects/Inmates

- Represent 4-10% of prison population, even more in juvenile facilities and jails
- 32% of prisoners and 40% of jail inmates have at least one disability
 - Compared to 11% of the general population
- 2 in 10 prisoners and 3 in 10 jail inmates report having a cognitive disability



Suspects/Inmates

- Between 1/3 and 1/2 of those killed by law enforcement are persons with disabilities
 - People with psychiatric disabilities make up the majority
- 70% of prisoners with a psychiatric disability are serving time for nonviolent offenses



Victims

- Rate of violent victimization is not only double, but triple
- Cognitive disabilities = greatest risk
- Children are more likely to be abused and are 2-3 times more likely to be bullied
- One of the most at risk groups of being trafficked



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Identification TIPS

- Difficulty communicating and expressing themselves
- Easily influenced by and eager to please others
- Desire to hide disability (making serious efforts to cover it up)
- Unresponsiveness or does not understand verbal commands
- Become overwhelmed by the officer's presence
- Try to run away or become upset if being detained
- Have trouble making eye contact



Step Two: Communication



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Autism

- Do not touch the person, touch may actually cause the person pain
- Do not approach the person from behind
- The person may not respond to verbal questions or requests. Be reassuring, try again
- Be prepared for sudden outbursts or impulsive behavior. If no one is at risk of harm, wait for the behavior to subside and then calmly continue.



I/DD Specific Accommodations

- Take extra time to ask more questions to determine presence of disability
- Speak slowly, clearly; check for understanding
- Use simple language, pictures, symbols, communication boards
- Call on local disability agencies
- Assist filling out forms as needed



Tips for Interviews/Interrogations

- Do not interpret lack of eye contact and strange actions or responses as indications of deceit, deception, or evasion of questions
- Use simple, straightforward questions; avoid yes or no questions
- Do not use common interrogation techniques, suggest answers, attempt to complete thoughts of persons slow to respond, or pose hypothetical conclusions



Step 3: Assess the Situation



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Officer & Citizen Safety

- Do not take risks
- Do SLOW DOWN and assess
- Do not shout orders or quickly move in too close
- Do continue trying to establish communications and rapport



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Adapted from Virginia Crisis Intervention Team available on-line:
<http://vacitcoalition.org/>

Understanding Triggers

- Sensory issues

Crowds, sounds/noise, space (too large, crowded, bright or loud) smells, food, clothing (too tight/scratchy)

- Social situations

Unplanned events, changes in plans, large gatherings



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What Triggers Anxiety for People with ASD. Indiana Resource Center for Autism.
Available on-line: <http://www.iidc.indiana.edu/index.php?pageId=3562>

Taking People with I/DD Into Custody

- Do not incarcerate person in a lockup or other holding cell if possible
- Do not incarcerate the person with others.
- It should be noted during the booking process that the person has an I/DD and should be classified and assigned to the appropriate housing unit.
- No person with a disability is to be housed in a medical unit unless treatment is needed.
- Use calming and reassuring language and de-escalation protocols



How to Spot *Hidden* Disabilities

Three Steps That Can Save A Life

1. Look deeper

Hidden disabilities are identified by behaviors, not appearance

2. Slow down

Call your supervisor/support staff to the scene

Call the person's family member/support staff/advocate

3. Ask yourself

What is really going on here? How could disability be playing a role? Who can I call for support or assistance?



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Americans with Disabilities

Title	Subject	Who's affected?
Title I	Employment	Private employers with 15+ employees; all public employers
Title II	Public Programs and Activities	State and local governments
Title III	Public Accommodations	Hotels, restaurants, merchants, doctor's offices, private schools, day care centers, health clubs, sports stadiums, movie theaters, etc.
Title IV	Telecommunications (closed captioning)	Telephone and internet companies
Title V	Miscellaneous Provisions	Various entities



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Applying the ADA

- ADA urges officers to identify disability and respond appropriately
- More lenient treatment is not requested, but effective accommodations
- Title II of ADA prohibits discrimination by state and local governments and impacts virtually everything officers do



Crisis Prevention vs Crisis Intervention

par·a·digm shift: *noun*
a fundamental change
in approach or underlying
assumptions

- CIT focuses on psychiatric disabilities (not I/DD)
- Definition of “crisis” is different for different professionals
- Creates false assumptions and stereotypes
- Redirect focus to relationship building first, then crisis response
- Goal: proactively create safeguard against *potential* crisis



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Procedural Justice



- How people regard the justice system is tied to their belief of how fair the process is, not the outcome
- Citizens can explain the situation before officers make decisions on what to do
- Officers stay neutral, rely on facts and not personal opinions or biases
- Citizens believe they should be treated with respect, dignity and politeness (not demeaning or dismissive treatment)
- Citizens respond positively when authorities are benevolent, caring and sincerely trying to do what is best for those they are assisting



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See NCCJD's article in IACP's Police Chief magazine:

http://www.policechiefmagazine.org/wpcontent/uploads/PoliceChief_March_2017_WEB.pdf

Step 4: Enlist Support



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Work with Others to:

- Develop screening tools to help identify how many people with I/DD are in your correctional facility
- Write a protocol for correctional officers on effective communication and accommodations
- Developing guidelines with local disability advocacy agencies to define “crisis” situations and effective responses
- Request training on I/DD from people with disabilities themselves and related organizations



Questions and Answers



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Contact Information

- Leigh Ann Davis,
Director, NCCJD
Ldavis@thearc.org
(202) 534-3727
- Learn More About
Pathways to Justice®
www.nccjdpathwaystojustice.org
- Visit NCCJD® online
www.thearc.org/NCCJD
- Deirdra Assey, Policy
Analyst, the Council of
State Governments
Justice Center
dassey@csg.org



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