Agenda

I. Introduction

II. Overview of Intellectual and Developmental Disabilities (I/DD)

III. Why is I/DD a Growing Concern?
   i. Pathways to Justice Model

IV. Addressing Challenges Faced by People with I/DD & Criminal Justice Professionals

V. Questions & Answers
Speakers

• Leigh Ann Davis, Director, National Center on Criminal Justice & Disability (NCCJD)
• Maria Fryer, Policy Advisor, Bureau of Justice Assistance, U.S. Department of Justice
• Dr. Allison Upton, Project Manager, Behavioral Health, The Council of State Governments (CSG) Justice Center
The Council of State Governments Justice Center

We are a national nonprofit, nonpartisan organization that combines the power of a membership association, representing state officials in all three branches of government, with policy and research expertise to develop strategies that increase public safety and strengthen communities.
How We Work

• We bring people together

• We drive the criminal justice field forward with original research

• We build momentum for policy change

• We provide expert assistance
Our Goals

Break the cycle of incarceration
We assist those working inside and outside of government to reduce both crime and incarceration among youth and adults in contact with the justice system.

Improve health, opportunity, and equity
We work across systems to develop collaborative approaches to improve behavioral health, expand economic mobility, and advance racial equity for people and communities affected by the justice system.

Expand what works to improve safety
We help leaders understand what works to improve public safety and what does not, and assist them to develop strategies, adopt new approaches and align resources accordingly.
The U.S. Department of Justice Bureau of Justice Assistance

**Mission:** BJA provides leadership and assistance to local criminal justice programs that improve and reinforce the nation’s criminal justice system. BJA’s goals are to reduce and prevent crime, violence, and drug abuse and to improve the way in which the criminal justice system functions. In order to achieve such goals, BJA programs illustrate the coordination and cooperation of local, state, and federal governments. BJA works closely with programs that bolster law enforcement operations, expand drug courts, and provide benefits to safety officers.

Visit the [BJA website](https://www.bja.gov) to learn more.
Justice and Mental Health Collaboration Program

The Justice and Mental Health Collaboration Program (JMHCP) supports cross-system collaboration to improve public safety responses and outcomes for individuals with mental illnesses (MI) or co-occurring mental illness and substance abuse (CMISA) who come into contact with the justice system.
The Arc’s National Center on Criminal Justice & Disability (NCCJD)

• Created in 2013 with support from the Bureau of Justice Assistance (BJA)
• Advocate at the intersection of the criminal justice system 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

• Understand intellectual and developmental disabilities and behavioral health disabilities
• Learn about the **Pathways to Justice Model** that addresses gaps in the system for this population
• Use the model to address key challenges facing victims/defendants with developmental disabilities
• Use the model to address key challenges facing criminal justice professionals
Polling Question

Under what category of disability does intellectual disability fall?
1. Behavioral health disability
2. Developmental disability
3. Mental health disability (also known as mental illness)
4. All of the above
5. None of the above
Behavioral Health Overview

- *Behavioral health* generally refers to diagnoses included in the Diagnostic and Statistical Manual Fifth Edition (DSM-5). Categories include:
  - Depressive Disorders (also: Schizophrenia Spectrum, Bipolar, or Anxiety Disorders, etc.)
  - Substance-Related and Addictive Disorders
  - Personality Disorders
  - Neurodevelopmental Disorders
  - Neurocognitive Disorders

Ways that BJA Supports I/DD-Related Efforts

- University of Cincinnati/International Association of Chiefs of Police grant – incorporating developmental disabilities into national Crisis Intervention Team curriculum; providing training and technical assistance on developmental disabilities
- Police-Mental Health Collaboration toolkit includes developmental disabilities resources
- A National Law Enforcement Support for Health and Safety Initiative
- Home Safe Program
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

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
Types of Developmental Disabilities

- Intellectual Disability
- Down Syndrome
- Fragile X Syndrome
- Epilepsy
- Fetal Alcohol Spectrum Disorders
- Autism Spectrum Disorder
- Cerebral Palsy
A Note on Intersectionality

- 55% of men of color with disabilities are arrested by age 28 compared to 40% of White men with disabilities\(^1\)

- People with disabilities comprise a third to a half of all people killed by law enforcement\(^2\)

Source: Images were purchased for use by The Arc
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Why are Intellectual and Developmental Disabilities a Growing Concern?

• People with these disabilities are overrepresented in jails and prisons, and as victims of crime
• Often a hidden population
• Confusion or misunderstandings about mental health and intellectual and developmental disabilities and a lack of training available
• More likely to be victimized or used by others in correctional settings
• Lack of community-based alternatives
Data Regarding People with Disabilities

- People with I/DD represent 4-10% of prison population
- 65-70 percent of youth in the justice system have a disability (3x higher the rate)
- American Journal of Public Health article (2017) found that young people with disabilities are 13% more likely to be arrested than their peers without disability
- That figure jumps to 17% for Black youth with disabilities

Sources: See Resources slide at the end of presentation.
Victims

People with intellectual disability are 7x more likely to experience sexual assault than those without disabilities.

Individuals with cognitive disabilities face the highest rates of violent victimization.

*Cognitive disabilities include Down syndrome, autism, dementia, learning disabilities, intellectual disability, and traumatic brain injury.

Barriers to Justice

- Reports of victimization are not believed
- Cases may go unprosecuted, especially if there are communication challenges
- Inaccessible services and supports

Sources: See Resources slide at the end of presentation.
Suspects/Defendants/Incarcerated People

2 in 10 prisoners and 3 in 10 jail inmates reported having a cognitive disability*, the most commonly reported type of disability.

* Cognitive disabilities include Down syndrome, autism, dementia, learning disabilities, intellectual disability, and traumatic brain injury.

Source: Bureau of Justice Statistics

More than 25% of those later exonerated after giving a false confession to police had characteristics of intellectual disability.

Source: National Registry of Exonerations

Barriers to Justice

- Disability goes unrecognized or is dismissed as irrelevant
- Face higher rates of arrest, conviction, and longer sentences
- Inaccessible diversion and rehabilitation programs

Sources: See Resources slide at the end of presentation.
Where Do We Start?

• How do we comprehensively define and address the complicated myriad of problems faced by people with intellectual and developmental disabilities when caught up in the criminal justice system?

• A framework is needed to discuss the **complexity** of this issue
Pathways to Justice & Disability Response Teams

NCCJD’s **Pathways to Justice** Training Curriculum creates **Disability Response Teams (DRTs)** which are locally-based multidisciplinary teams equipped to provide training and handle criminal justice issues.
Pathways to Justice™ Model

This model is based on The Sequential Intercetor Model. SAMHSA’s GAINS Center for Behavioral Health and Justice Transformation. (2013). Developing a comprehensive plan for behavioral health and criminal justice collaboration: The Sequential Intercept Model. Delmar, NY: Author.
Polling Question

Using the Pathways to Justice model, what stage do you think poses the greatest concern for people with neurodevelopmental disorders when going through the criminal justice system as a “person accused/convicted of a crime?”

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<thead>
<tr>
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<td>Jail</td>
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<td>Transition</td>
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</tr>
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</table>
Polling Question

Using the Pathways to Justice model, what stage do you think poses the greatest concern for people with neurodevelopmental disorders when going through the criminal justice system as a “victim or witness?”

#1 First Contact
#2 Investigation
#3 Jail
#4 Trial/Plea agreement
#5 Transition
#6 Community
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Paul Gordo’s Experience

- 18-year old with autism became upset; ran into elderly woman
- Charged with felony assault
- Prone to outbursts due to sensory dysfunction
- Defense attorney: because of his disability, he did not form an intent to commit the act
Paul Gordo’s Experience

• Resulted in plea deal – reduced to a misdemeanor
• Critical needs once in the system: quality defense & treatment programs

Source: Image used with permission by The Arc and taken from Change.org: https://www.change.org/p/our-autistic-son-s-symptoms-are-not-a-crime
Challenges for People in the Criminal Justice System

- **First contact**: Disability is unidentified, misidentified or misunderstood

- **Initial detention**: Screening of intellectual and development disabilities is not universally provided

- **Pre-trial/jail**: Lack of pre-trial services; trained attorneys
Challenges for People in the Criminal Justice System

• **Trial/plea agreements**: Provision of accommodations; appropriateness of mental health courts for developmental disabilities

• **Transition**: Held in general population or placed in other housing classification/area

• **Community**: Lack of support during probation/parole
Solutions for People in the Criminal Justice System

- **First contact:** Provide ongoing training for professionals

- **Investigation:** Ensure effective communication through accommodations, like assistive technology, use of best practice in interview and interrogation

- **Pre-trial/jail:** Provide screening; attorney training
Solutions for People in the Criminal Justice System

- **Court system**: Provide accommodations; consider appropriateness of mental health courts

- **Transition**: Consider safety of people with developmental disabilities

- **Community**: Ensure community-based supports
The rate of rape and sexual assault against people with intellectual disabilities is more than seven times the rate against people without disabilities.

Victim Challenges

• **First contact**: Need outreach to the disability community as many do not report victimization

• **Investigation**: Interviewers lack training

• **Jail**: Victims don’t know their rights; not prepared for trial
Victim Challenges

• **Court system**: Lack of courtroom accommodations

• **Transition**: Lack of experienced therapists and healing services

• **Community**: No safety planning for response to future victimizations
Victim Solutions

- **First contact**: More outreach to this community overall, including training of victim advocates/agencies

- **Investigation**: Use skilled interviewers

- **Jail**: Make sure victims know their rights and are adequately prepared for trial
Victim Solutions

• **Court system**: Provide accommodations

• **Transition**: Seek qualified counselors or peer support

• **Community**: Create a safety plan to minimize the risk of future victimization
Key Takeaways for People in the Criminal Justice System

• Provide effective and on-going training for dispatchers, law enforcement, legal professionals, and criminal justice professionals

• Know how to use accommodations to ensure all people can access the criminal justice system

• Use a multi-disciplinary approach (consider Disability Response Teams to focus on developmental disability-specific issues)
Victims: Key Takeaways

- Increase awareness about the higher risk of victimization and problem of underreporting
- Cross-train victim and disability advocates to better serve crime victims with developmental disabilities, as well as improve outreach
- Ensure accommodations are provided; ask often as victims move through the criminal justice process
Criminal Justice Professionals: Key Takeaways

- You are not expected to become an expert on neurodevelopmental disorders!
- Ensure people with I/DD assist with training efforts
- No one can do this alone; everyone has a key role to play to improve outcomes for all
- There are tools currently being used in the field and now in development to address this topic
Examples of Technical Assistance available through NCCJD

- Provide Pathways to Justice training that includes outlining an action plan for the community’s next steps
- Provide profession-specific training on intellectual and developmental disabilities (e.g., law enforcement, legal professionals, victim advocates)
- Identify people with disabilities as co-trainers
- Assist communities to create Disability Response Teams or address issue-specific challenges
NCCJD Resources & Projects

• Pathways to Justice Training
• Coming: Online Toolkit funded by Office for Victims of Crime (OVC)
• Talk About Sexual Violence
• People with Disabilities Foundation project
• Access to Justice International Hub
• See: thearc.org/nccjd for more information
How to Respond to People with Intellectual and Developmental Disabilities in the Criminal Justice System

Polling Question

Given what you have learned about neurodevelopmental disorders and the resources available today, how likely are you to reach out for technical assistance regarding this topic?

1. Certainly, can we call you tomorrow?
2. Very likely, when the need arises
3. Somewhat likely, if and when the need arises
4. Not likely, it doesn’t seem to be an issue
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Questions & Answers
Contact Information

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For More Information

• Learn More About Pathways to Justice: www.nccjdpathwaystojustice.org

• Visit NCCJD online: www.thearc.org/NCCJD
Resources: Slide 21


Resources: Slide 22


Thank You!

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For more information please contact Allison Upton at aupton@csg.org

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