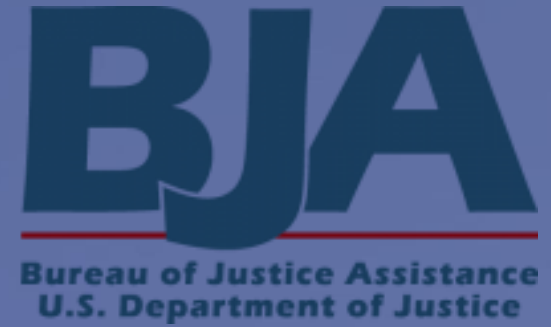




**Justice Center**

THE COUNCIL OF STATE GOVERNMENTS



# How to Respond to People with Intellectual and Developmental Disabilities in the Criminal Justice System

July 30<sup>th</sup>, 2020



*National Center on Criminal  
Justice & Disability®*

# Agenda

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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

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- 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

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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

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- 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

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## **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.*

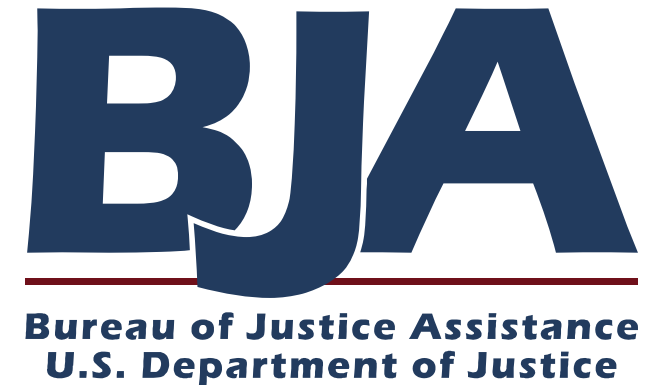
## **Expand what works to improve safety**

*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

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**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](#) to learn more.

# Justice and Mental Health Collaboration Program

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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)**

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- 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

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- 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

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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

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- *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

Source: American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition* (Washington, DC: American Psychiatric Publishing, 2013).

# Ways that BJA Supports I/DD-Related Efforts

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- 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

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- 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

Source: American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition* (Washington, DC: American Psychiatric Publishing, 2013).

# Developmental Disabilities

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- 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

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# A Note on Intersectionality

- 55% of men of color with disabilities are **arrested by age 28** compared to 40% of White men with disabilities<sup>1</sup>
- People with disabilities comprise **a third to a half** of all people killed by law enforcement<sup>2</sup>



Source: Images were purchased for use by The Arc

1 Erin J. McCauley, "The Cumulative Probability of Arrest by Age 28 Years in the United States by Disability Status, Race/Ethnicity, and Gender," *American Journal of Public Health* 107, no. 12 (2017):1977-1981. <https://doi.org/10.2105/AJPH.2017.304095>;

2 David M. Perry and Lawrence Carter-Long, *The Ruderman White Paper On Media Coverage Of Law Enforcement Use Of Force And Disability A Media Study (2013-2015) And Overview* (Massachusetts: Ruderman Family Foundation, 2016). [https://rudermanfoundation.org/wp-content/uploads/2017/08/MediaStudy-PoliceDisability\\_final-final.pdf](https://rudermanfoundation.org/wp-content/uploads/2017/08/MediaStudy-PoliceDisability_final-final.pdf)

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# Why are Intellectual and Developmental Disabilities a Growing Concern?

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- 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

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- 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



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

## Barriers

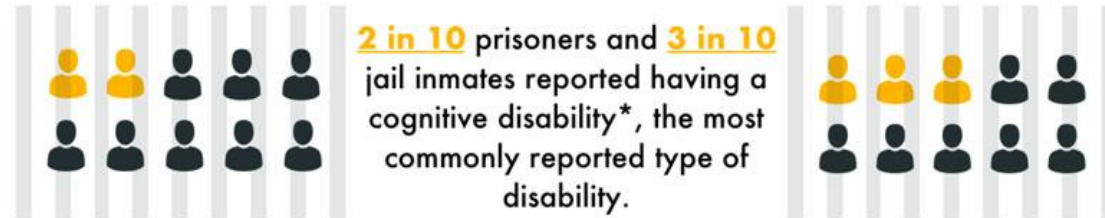


## to Justice

- 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



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

Source: Bureau of Justice Statistics



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

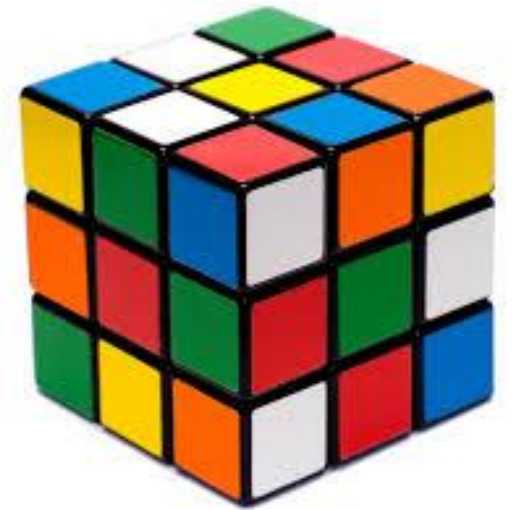
Sources: See Resources slide at the end of presentation.



# Where Do We Start?

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- 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



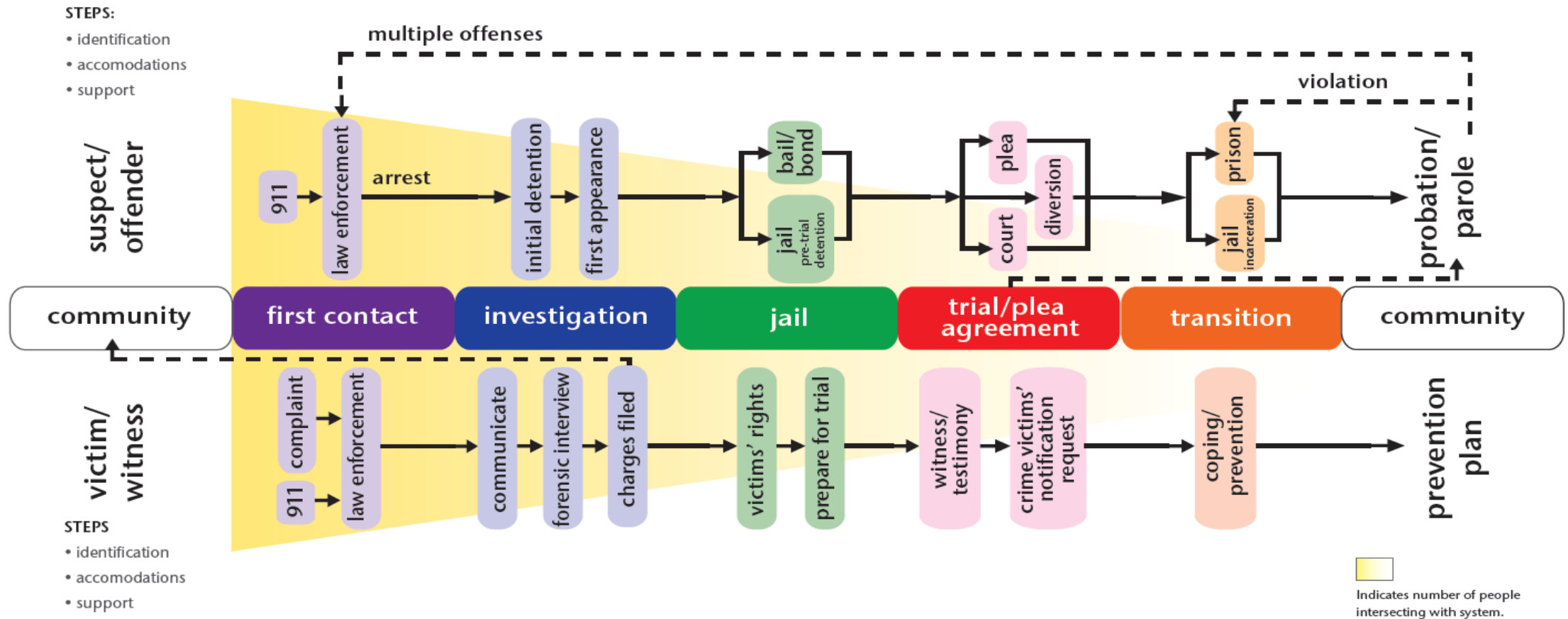


# Pathways to Justice & Disability Response Teams

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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 Interceptor 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

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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?”

#1	#2	#3	#4	#5	#6
First Contact	Investigation	Jail	Trial/Plea agreement	Transition	Community

# Polling Question

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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	#2	#3	#4	#5	#6
First Contact	Investigation	Jail	Trial/Plea agreement	Transition	Community

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# Paul Gordo's Experience

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- 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

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- 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

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- **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

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- **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

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- **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

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- **Court system:** Provide accommodations; consider appropriateness of mental health courts
- **Transition:** Consider safety of people with developmental disabilities
- **Community:** Ensure community-based supports

# James Meadours' Experience

The rate of rape and sexual assault against people with intellectual disabilities is **more than seven times** the rate against people without disabilities.



Source: Joseph Shapiro, "In Their Own Words: People With Intellectual Disabilities Talk About Rape," *NPR*, January 20, 2018, accessed May 29, 2020, <https://www.npr.org/2018/01/20/577064075/in-their-own-words-people-with-intellectual-disabilities-talk-about-rape>.

# Victim Challenges

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- **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

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- **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

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- **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

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- **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

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- 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

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- 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

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- ***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

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- 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

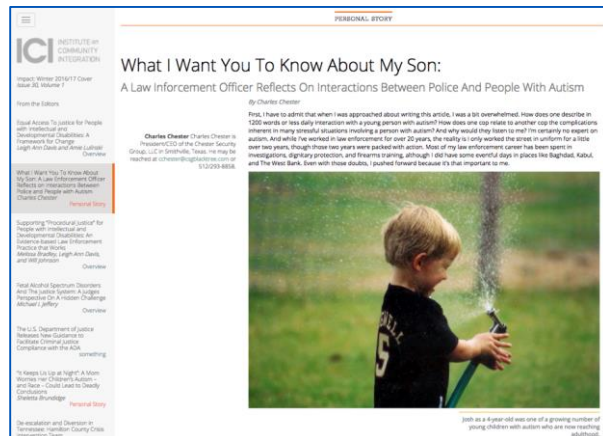
# NCCJD Resources & Projects

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- 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](http://thearc.org/nccjd) for more information

# University of Minnesota's Institute on Community Integration

## Impact: Feature Issue on Criminal Justice



### "It keeps us up at night"

A Mom Worries Her Children's Autism – and Race – Could Lead to Deadly Conclusions

By Sheletta Brundidge, as told to Vicki Gayford

Sheletta Brundidge and her husband Shawn are the parents of four young children – Andrew (10), Brandon (4), Cameron (3), and Daniel (2). The three youngest have been diagnosed with autism. In this February 2017 interview she talks about the conversations and concerns in her family around encounters between the police and young people of color who have disabilities.

Sheletta, last summer your oldest son Andrew wrote a letter to Governor Dayton that got quite a bit of media attention. Andrew was concerned that if his brothers and sister who have autism were ever stopped by the police, they might not be able to understand or do what the police tell them, and might be shot. What are the concerns and conversations you and your husband have about your children encountering the police?

We are just terrified, absolutely terrified. It actually keeps us up at night because we're raising young Black boys and there's already a disconnect between police across the country and young African American men who are able bodied, in their right mind, and have no special needs. You add in some language barriers or some comprehension issues like our youngest children have, and you're talking about something that worries us to no end. Right now they're young enough that we can always keep an eye on them, but what happens when they're older and, say, want to go to a store, and someone thinks they're stealing because they have their hands in their pockets. And they're not stealing, but they have their hands in their pockets, and security tells them, "Take your hands out of your pockets." They don't know how to follow complex commands. Things that may be simple for other children – like following the direction, "Put the napkin in the trash" for these children you have to tell them, "Open the trash, put the napkin in the trash, and then close the trash." So if a police officer walks up to them and tells them, "Clasp your hands behind your head, walk backward, and kneel on the ground," they're not going to be able to do that. And police don't take the time to talk with young Black men. If you look at the police shootings across the country these Black men are dead in 30 seconds or less. Black men do not get the benefit of the doubt. A lot of times they're presumed to be guilty, they're presumed to be a threat, the moment police arrive. My children won't have a chance to say, "Excuse me sir, I have autism and I don't really know what you're talking about." And this is something that keeps us up at night.

advocates. That's our job. So what you do is comply with their request, and if they want to speak with you, you say, "I'm sorry, I can't speak with you. Would you please call my parents."

Have you had that same conversation with your other three children?

No, because they can't understand that yet. With Brandon, which I've shown him pictures of police and he understands what a police officer is, but we have to help him understand that the way a police officer may deal with our neighbors, or with his friends, may not be the same way that the police may deal with him in a similar situation.

I recall that there are some things that you're telling your daughter, Cameron, as well, including do not throw litter on the ground because it may draw police attention. Am I remembering that right?

Yes. You don't do anything to draw attention to yourself with regard to giving anybody a reason to call the police on you. You don't yell and scream, you don't put your hand in your pocket, you don't litter. If you see litter around you pick it up and throw it away so nobody will think it is you doing the littering. Even with the limited capabilities they have they still know to be honest, they still know to be obedient to authority. You can still teach them that this is a police officer, if he asks you to do something, you just do what he asks you to do, and you be respectful. You say "Yes ma'am, no ma'am, yes sir, no sir."

We are not part of the resistance." I'm trying to make sure that my children get to be the age where they can marry, and they can have children, and become grandparents. I don't want them to die because they can't understand, "Clasp your hands behind your head, walk backward, get down on your knees." Whatever command they give them. You know, I could outfit them with 25 shirts – winter, spring, summer and fall – that say "I have autism. Please don't shoot," and a lot of officers won't understand what that means, and how the child is different. They won't understand that if they ask my child a question they may not get an answer. They may view that as defiance, and then there goes my baby.

Right now what we're teaching is a spirit of integrity. What we're teaching is obedience to authority. And that will be the foundation for any decision they make. Ultimately they need to be wise. No matter what capabilities or limits you have in your life, you can always have an ounce of wisdom. And if they have that foundation of wisdom and knowledge that we're trying to give them, then our children can make the right choice even with limited capability.

My job is to keep my kids alive. For instance, Andrew wanted to go up to the convenience store by himself.



On any given day, law enforcement officers across the country are called to engage with people experiencing a wide array of crises. Since then there has been a historic lack of investment from the human services sector in community-based crisis services, police officers are often responsible to calls involving more can be done to improve police-community relations, particularly in regard to the treatment of people with disabilities who are experiencing a crisis.

This is a question that the Committee of Advocacy and Leadership (COAL), a disability self-advocacy group based out of the nonprofit organization Opportunity Partners in Minneapolis, Minnesota, has also been discussing, and a few self-advocates have taken it upon themselves to build on this work. The group believes that communities need to dig even deeper into the problem in order to create real systemic changes and to develop the partnerships necessary to lead the divide. In the spring of 2016, COAL sent two self-advocates to the Minnesota Olmsted Academy, an intensive educational institute that is designed to help self-advocates develop and implement community inclusion projects. Daniel Guerin, the staff member who supported the academy attendees from Opportunity Partners, volunteered to continue supporting the advocates in brainstorming and setting into motion a new relationship-building initiative named Coffee with Cops. The underlying philosophy of this grassroots project hinges on the notion that unless a person without disabilities has direct experience interacting with

Sheletta and Shawn Brundidge with three of their four children—Andrew (left), Brandon, and Cameron. (Daniel was not yet born.)

Source: "Impact," University of Minnesota, Institute on Community Integration, accessed on May 29, 2020, <https://ici.umn.edu/series/14>.



# Polling Question

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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

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# Contact Information

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- Leigh Ann Davis, *Director, National Center on Criminal Justice & Disability* [Ldavis@thearc.org](mailto:Ldavis@thearc.org)
- Maria Fryer, *Policy Advisor, Bureau of Justice Assistance, U.S. Department of Justice* [Maria.Fryer@usdoj.gov](mailto:Maria.Fryer@usdoj.gov)
- Dr. Allison Upton, *Project Manager, Behavioral Health, The CSG Justice Center* [aupton@csjg.org](mailto:aupton@csjg.org)

# For More Information

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- Learn More About Pathways to Justice:  
[www.nccjdpathwaystojustice.org](http://www.nccjdpathwaystojustice.org)
- Visit NCCJD online: [www.thearc.org/NCCJD](http://www.thearc.org/NCCJD)

# Resources: Slide 21

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- Joan Petersilia, *Doing justice? Criminal Offenders with Developmental Disabilities, Detailed Research Findings* (California: California Policy Research Center, 2000).
- National Disability Rights Network, *Orphanages, Training Schools, Reform Schools and Now This? Recommendations to Prevent the Disproportionate Placement and Inadequate Treatment of Children with Disabilities in the Juvenile Justice System* (Washington, DC, 2015),  
[https://www.ndrn.org/images/Documents/Issues/Juvenile\\_Justice/NDRN -  
\\_Juvenile Justice Report.pdf](https://www.ndrn.org/images/Documents/Issues/Juvenile_Justice/NDRN_-_Juvenile_Justice_Report.pdf).
- Erin J. McCauley, "The Cumulative Probability of Arrest by Age 28 Years in the United States by Disability Status, Race/Ethnicity, and Gender," *American Journal of Public Health* 107, no. 12 (2017):1977-1981,  
<https://doi.org/10.2105/AJPH.2017.304095>.

# Resources: Slide 22

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- Joseph Shapiro, “NPR Abused and Betrayed Series: The Sexual Assault Epidemic No One Talks About,” *NPR*, January 8, 2018, accessed June 25, 2020, <https://www.npr.org/2018/01/08/570224090/the-sexual-assault-epidemic-no-one-talks-about>.
- Erika Harrell, *Crime Against Persons with Disabilities, 2009–2013-Statistical Tables* (Washington, DC: Bureau of Justice Statistics, 2015), <https://www.bjs.gov/content/pub/pdf/capd0913st.pdf>.

# Resources: Slide 23

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- Jennifer Bronson, Laura M. Maruschak, and Marcus Berzofsky, *Disabilities Among Prison and Jail Inmates: Special Report, 2011–12* (Washington, DC: Bureau of Justice Statistics, 2015),  
<https://www.bjs.gov/content/pub/pdf/dpji1112.pdf>.
- Samson Schatz, “Interrogated with Intellectual Disabilities: The Risks of False Confession” (JD diss., Stanford Law Review 70, 2018),  
<https://law.stanford.edu/wp-content/uploads/2018/11/Samson-Schatz-Interrogated-with-Intellectual-Disabilities-The-Risks-of-False-Confession.pdf>.

# Thank You!

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For more information please contact Allison Upton at  
[aupton@csg.org](mailto:aupton@csg.org)

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