

ISSUE BRIEF

Justice and People with IDD

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Access to justice is a significant component of protecting the human and civil rights of all people, including people with intellectual and developmental disabilities (IDD). That access includes the right to participate in, and be treated fairly by, the criminal justice system, including receiving supports guaranteed under Title II of the Americans with Disabilities Act and the Crime Victims' Rights Act of 2004. Despite these laws, people with IDD continue to face significant barriers in our criminal justice system

► Introduction

This brief describes the research goals identified by the invited participants of a strand charged with addressing justice for people with IDD at the *National Goals Conference* in Washington, DC on August 6-7, 2015. The goals described here are guided by a vision of a criminal justice system that assures that people with IDD are treated with equality, respect, and fairness, and are provided with appropriate supports to fully access the justice system.

According to the latest report by the Bureau of Justice Statistics (BJS), the National Crime Victimization Survey revealed that people with disabilities in the US experienced about 1.3 million violent victimizations in 2013 (Harrell, 2015). Rates of serious violent victimization—rape, sexual assault, robbery, or aggravated assault—were more than three times higher for those with disabilities than for those without. Among violent crime victims with disabilities, about a quarter believed they were targeted because of their disability, which was more than twice the rate reported in 2009. People with cognitive limitations had the highest rate of violent victimization. When people with IDD are victimized, it is well-documented that there are lower rates of police follow-up, prosecution, and conviction of perpetrators than for victims without disabilities.

In addition, offenders with IDD also frequently are ill-served by our justice system. It is estimated that less than 4% of the US population has IDD, yet up to 10% of the prison and jail population have been identified as having such disabilities. People with IDD are more likely than their similarly situated non-disabled peers to be arrested, convicted, incarcerated, and serve longer sentences. In part this may be due to an increasing tendency of service providers to call in police to address disability-related behaviors that would ordinarily be addressed as a service issue rather than a crime.

► Need for Research

People with IDD come in contact with the criminal justice system every day as victims, suspects, and offenders. As our criminal justice system comes under increasing scrutiny for possible discriminatory practices and policies, research is needed to monitor and evaluate the extent to which the rights of people with IDD are being protected.

► Victimization Research Goals

To ensure that the criminal justice system is prepared to investigate and prosecute crimes against people with IDD, research is crucial to identify effective personnel preparation and professional development practices for law enforcement, prosecutors, and judges, concerning the condition of intellectual disability and strategies for effective communication. To ensure that crime victims with IDD are optimally prepared to participate in investigations and prosecutions, research is necessary to identify the most effective strategies that can be implemented by individuals, educators, community service providers, and families (The

IMPACT

Sam, a nationally-known self-advocate, never let his significant disability and reliance on augmentative communication stop him from advocating for people with disabilities at the local, state, and national levels. Despite all his work on empowering individuals with disabilities, he had an issue, one that he was too afraid to share. He had been sexually assaulted by an attendant when the two had traveled together to a national event. When Sam finally did tell another person about the abuse, his disclosure was met with a dismissive response: "Bob would never do that, he loves you." While Sam was silenced, he continued his advocacy work. Eventually he told another self-advocate about the abuse and was heard.

Unfortunately, the emotional trauma contributed to Sam's declining health, and Bob was never held accountable for his actions. Before Sam passed away, though, he knew that his story had inspired other self-advocates to refuse to be silenced and to keep telling their stories for justice until someone listens.

Arc's National Center on Criminal Justice and Disability, 2015).

► Enforcement Research Goals

Defendants with IDD are more likely to give false confessions because of their desire to please investigators or their greater suggestibility. Unless interviewed with appropriate techniques, people with IDD may be less able to

identify exculpatory evidence, more prone to falsely incriminate themselves, and may attempt to feign a level of understanding that they do not possess. To ensure that the rights of people with IDD who are suspects are adequately protected, research is necessary to identify investigatory techniques that are most effective with this population while protecting their constitutional rights and to demonstrate that those strategies can be successfully implemented

► **Quality Research Goals**

Research designed to elicit and analyze criminal justice contacts and outcomes by victims, suspects, defendants, and incarcerated people who have IDD is essential to enable justice systems to continually improve policies and practices to reduce or eliminate discrimination, increase access to appropriate supports and remedies, and to protect the constitutional rights people with IDD.

► **Public Policy Research Goals**

Research that examines the intended and unintended consequences of shifts in public policy regarding the criminal justice system and people with IDD is crucial to assure that future policies and practices are evidence-driven.

► **Conclusion**

Whether victim, witness, suspect, defendant, or incarcerated, people with IDD are entitled to participate in, and be treated fairly by, our criminal justice system. Although people with IDD are more vulnerable to pressure to self-incriminate or falsely confess than are typical suspects, with appropriate strategies, they can effectively protect their interests in encounters with the criminal justice system. Research is necessary to identify and successfully implement strategies to assure that people with IDD receive the supports they are guaranteed by law and are free from discrimination in their dealings with the criminal justice system.

► **References**

- Harrell, E. (2015). *Crime against people with disabilities, 2009-2013*. Washington, DC: US Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.
- The Arc's National Center on Criminal Justice and Disability. (2015). *Violence, abuse and bullying affecting people with intellectual/developmental disabilities: A call to action for the criminal justice community*. Washington, DC: Author.

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