Screening for intellectual and developmental disabilities in jails: Are we there yet?

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Scheyett, A., Vaughn, J., Taylor, M.F., Paris H. S. & Helm, D. (2009). Screening for intellectual and developmental disabilities in jails: Are we there yet? *Journal of Intellectual and Developmental Disabilities, 47*(1), 13-23.

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Abstract:

Early identification of intellectual and developmental disabilities in persons in the criminal justice system is essential to protect their rights during arrest and trial, ensure safety when incarcerated, and maximize the opportunities to receive services while incarcerated and postrelease. Using telephone interviews of jail administrators (N = 80) in 1 state, this study examined how people with intellectual and developmental disabilities were identified in jails. Findings indicated that administrators varied widely in awareness of individuals with intellectual and developmental disabilities in their jails. Few jails (6%) used formal screening instruments for intellectual and developmental disabilities, others relied on officer observation and self-report (53%), and some provided no screening at all; in addition, officers received little training in this regard. Findings suggest that few jails are operationalizing best-practice screening processes for intellectual and developmental disabilities.

Keywords: intellectual disabilities | early identification of disabilities | disability screening processes | jails | incarceration | criminal justice

Article:

People with intellectual and developmental disabilities who come in contact with the criminal justice system face significant difficulties. Although evidence demonstrating that the presence of intellectual and developmental disabilities may predispose individuals to criminal behavior is mixed and marred by methodological flaws (A. Holland, 1991; Lindsay & Taylor, 2005), there is strong evidence suggesting that these individuals may struggle and be at a disadvantage throughout the criminal justice process. In addition, the deinstitutionalization movement has resulted in a dramatic decrease in the population of individuals with intellectual and developmental disabilities living in institutions, from a high of 194,650 in 1967 to 41,653 in 2004 (Prouty, Smith, & Lakin, 2005), probably increasing their exposure to the criminal justice

system in the community. As a result, individuals with intellectual and developmental disabilities are overrepresented in jails and prisons (Lindsay, 2002).

Research has demonstrated that individuals with intellectual and developmental disabilities face a number of risks during early interactions with the criminal justice system. As summarized in Table 1 , limited understanding of legal terms and processes, combined with difficulties processing information, may result in their giving up rights without understanding the consequences and put them at risk of wrongful conviction. The situation is complicated by the fact that these individuals often have heightened suggestibility and are motivated by a desire to please, increasing their risk of confessing to a crime they did not actually commit (Brodsky & Bennett, 2005).

Because of these risks to the rights of individuals with intellectual and developmental disabilities, it is important that they be identified early in their interactions with the criminal justice system; however, this is a challenging task. There is longstanding recognition that people with disabilities are often anxious to fit in and, as a result, are skilled at disguising their disabilities. This phenomenon led Edgerton (1967) to coin the term “cloak of competence” to describe these individuals' attempts to pass as normal. They rarely inform police of their limitations and may try to hide them (Perske, 2000). This may be even more likely if police interviews with individuals with intellectual and developmental disabilities occur in nonprivate settings, such as public processing areas, where other inmates and jail staff may hear individuals discussing their disability. Individuals may also engage in a process described as “cheating to lose,” (Hourihan, 1995, p. 1493), allowing others (i.e., police) to place blame on them to avoid the others' anger. Last, there is the risk of a “halo effect,” with the individual exhibiting his or her best behavior in front of an authority figure and, thus, decreasing the likelihood of being identified as having an intellectual or developmental disability. Police, in turn, often lack skills in identifying the more subtle signs of intellectual and developmental disabilities in individuals, who may appear to have adequate functioning (Brodsky & Bennett, 2005). As a result, processing from arrest through trial may proceed without the justice system becoming aware that the individual has a disability.

In addition to questions of competence to waive rights and answer questions during interrogation, individuals with intellectual and developmental disabilities often receive differential treatment in the criminal justice system and are incarcerated at high rates in jails and prisons. They are less likely to receive a reduced charge through plea bargaining, more likely to be held in jail prior to trial, and more likely to be convicted and sent to prison with longer sentences than the general population (Petersilia, 1997). An Australian study found that whereas

14% of nondisabled individuals who were charged with an offense received a custodial sentence, over 27% of individuals with a disability received custodial sentencing (Cockram, 2005). Studies in the United Kingdom and Australia have found rates of intellectual and developmental disabilities among arrestees in police stations of 9% and of 14% to 35% in the courts (T. Holland, Clare, & Mukhopadhyay, 2002). Rates of intellectual and developmental disabilities in incarcerated populations in the United States have been found to be anywhere from 1% to 30%, with most estimates between 4% and 10% (Lindsay, 2002; Petersilia, 1997). These rates substantially exceed the 1.49% prevalence of intellectual and developmental disabilities found in the civilian population (Larson et al., 2001).

Once incarcerated, individuals with intellectual and developmental disabilities seldom receive specialized services. They are also vulnerable to victimization by other inmates and may have their personal belongings stolen, be sexually assaulted, or used by other inmates for acts that violate prison rules, such as hiding contraband (Ellis & Luckasson, 1985). Because of limited understanding, inmates with intellectual and developmental disabilities may have greater difficulty following rules when incarcerated, resulting in longer sentences and a lower likelihood of parole (Lampert, 1987; Petersilia, 1997). When released, these individuals receive little in the way of services and have high rates of recidivism (Lindsay & Taylor, 2005), although post release case management interventions seem promising (Lindsay & Taylor, 2005; Linhorst et al., 2003).

Clearly, early identification of intellectual and developmental disabilities in persons coming into contact with the criminal justice system is essential in protecting their rights during arrest and trial, ensuring their safety when incarcerated, and maximizing the opportunities to receive services while incarcerated and postrelease. Assessment is recommended throughout the literature (Beail, 2002; Brodsky & Bennett, 2005; Lindsay & Taylor, 2005). In addition, a simple, valid, reliable assessment instrument exists, the Hayes Ability Screening Index (HASI; Hayes, 2002), for identifying offenders who should be referred for full-scale diagnostic assessment.

Thus, there is strong research support for assessment of intellectual and developmental disabilities in criminal justice settings to protect the rights of vulnerable individuals (Lindsey & Taylor, 2005). However, it is not clear how often, or even if, individuals receive crucial assessments for disabilities when entering the criminal justice system. In addition, it is unclear how screening processes take place during jail intakes. Intake in a stressful and confusing setting where multiple people are present and conducting other conversations may make it more difficult for individuals with intellectual and developmental disabilities to answer questions accurately.

Because disabilities can be stigmatizing and inmates so labeled may be vulnerable to victimization by other inmates, it is likely that detainees could be reluctant to discuss their disability in front of other inmates and seek to hide any evidence of it (Ellis & Luckasson, 1985; Perske, 2000). Therefore, a private setting may be important if individuals are to be able to provide accurate answers to intake questions or disclose their disability. However, the issue of privacy during intake is not one that has been explored in the literature. Last, it is not clear how, whether, or to what extent, staff in the criminal justice system is adequately trained regarding individuals with intellectual and developmental disabilities.

To begin to examine these issues, we engaged in an exploratory study in a southern state (North Carolina), surveying jail administrators regarding screening inmates for intellectual and developmental disabilities during the jail intake process. In this study, we chose to look at jails, rather than prisons. Prisons are state run and contain inmates who have been convicted and sentenced to longer (usually more than 60 days) periods of incarceration. Jails, on the other hand, are usually run at the county level and house individuals before and during trials and after conviction for minor offenses. Thus, jails contain a broader and more representative range of individuals who come into contact with the criminal justice system. Our research question was, “How are people with intellectual and developmental disabilities identified as they enter a jail?” More specifically, we wished to determine (a) jail administrators' awareness of the prevalence of inmates with intellectual and developmental disabilities; (b) the screening process for disabilities at jail intake, including both the questions asked during intake and whether the intake setting was private; and (c) the characteristics of the individuals performing the intake, including their training regarding disabilities.

Method

This study was part of a larger project examining screening and access to care for individuals with mental illnesses or intellectual and developmental disabilities who were incarcerated in jails. We conducted a telephone interview study of jail administrators to determine existing procedures for the identification of individuals with mental illnesses or intellectual and developmental disabilities and the processes used to manage psychiatric crises and need for psychiatric care in jails. We also reviewed training materials for the mandatory training required of all jail officers, to determine the extent of preparation these individuals had before working with inmates with mental illnesses or intellectual and developmental disabilities.

Interview Guide

A telephone interview protocol and 30-question interview guide for jail administrators was developed with input from an advisory group comprised of the director of the state advocacy group for individuals with disabilities, the head of the state Division of Mental Health Criminal Justice Section (a section within the Division of Mental Health under the cabinet-level Department of Health and Human Services), a professor from the university system who engages in research in the area of disabilities, two advocates who have experienced a mental illness, two family members of individuals with mental illnesses and IDD, and two legal advocates for individuals with disabilities. The final protocol and interview guide were reviewed by this group of advisors, who provided feedback and suggestions for content inclusion. Interview questions of relevance to the present study addressed three domains: (a) administrators' perceptions of the prevalence of individuals with disabilities in their jail, (b) the process for screening inmates for intellectual and developmental disabilities during jail intake, and (c) the training and qualifications of officers performing jail intake. All study documents and protocols were approved by the behavioral Institutional Review Board of the University of North Carolina at Chapel Hill. Questions from the 30-item interview used in this study are summarized in the Appendix.

Participants and Recruitment

In North Carolina, jails are county facilities and are distinct from prisons, which are operated by the state Department of Corrections. Some counties have multiple jail facilities, but the facilities in each county are run by the same administration; for the purposes of this study, these multiple units were counted as a single jail. A few smaller counties had combined regional jails. A comprehensive list of all sheriffs and jail administrators in the state was developed from county-based public Web sites; current data were available for each jail via these Web sites. We mailed detailed introductory letters that described the study and introduced the research team to the sheriffs in each county and to jail administrators in each of the state's 93 active jails. These introductory letters explained the purpose of the study and informed recipients that researchers would be telephoning to request a telephone interview with the jail administrator or his/ her designee. The letter explained that the study was voluntary, that all interview findings would be confidential, and that no individual, jail, or county would be identified in the study report.

Following the introductory letters, jail administrators were contacted by telephone and asked to consent to participate in a 30-question telephone interview. Some administrators designated another jail official or jail medical official to complete the interview, identifying them as more

knowledgeable on the topic. Interviews ranged in length from 15 to 60 min, with a mean of 45 min. Representatives from 80 jails participated in the study, for a response rate of 86%. Participants represented all geographic areas in the state.

Table 2 presents the description of the sample. Fifty-one (64%) of the study participants were male. The majority were jail administrators (73%), followed by jail medical administrators (n = 9, or 11%), assistant jail administrators (n = 6, or 8%), other jail medical staff (n = 6, or 8%), and a program director (n = 1, or 1%). The average daily census for the jails was 194 (median = 120, SD = 330). A majority of participants (n = 54, or 67%) were responsible for smaller jails, with an average daily census of under 200, and 17 (21%) had a daily census of under 50.

Interview Procedures

A single researcher conducted all interviews using a computer-assisted telephone interview procedure. Participant responses were typed verbatim into a laptop computer while the interview was taking place, and final transcripts were developed from these files. A second researcher reviewed the transcripts, consulted with the interviewer to ensure full understanding of each participant's response, and entered the data into a database.

Analysis

To answer the research questions in this exploratory study, the computation of descriptive statistics (frequencies, means, medians, standard deviations) was the primary analytic strategy. Bivariate analyses were conducted using the chi-square test statistic to identify possible associations among the following: (a) between participants' perceptions of intellectual and developmental disability rates in their jail and either their profession (criminal justice or medical) or the average daily census of their jails, (b) whether the jail screened for intellectual and developmental disabilities and either participants' profession (criminal justice or medical) or the average daily census of their jails, (c) the privacy of intake and average daily jail census, and (d) booking officer training on intellectual and developmental disabilities and average daily jail census. The statistical package SAS 9.1 (SAS Institute, 2002) was used for all analyses.

Review of Training Manual

All jail officers in North Carolina are required to complete the Detention Officers Certification Course, a 20-module, 150-hr course (North Carolina Justice Academy, 1995). Both researchers reviewed each module of the manual, examining it for content on intellectual and developmental

disabilities. Each module containing information in this area was identified, and the time allocated for the module in the curriculum was noted. Because no entire module focused on disabilities, the portion of the relevant modules dedicated to intellectual and developmental disabilities was also recorded.

Results

Tables 3–7 present a summary of the information related to each of the three research questions. As noted previously, we determined the jail administrator's perception of the rate of disabilities among inmates at his or her facility, the screening process used to identify individuals with disabilities during jail intake, and the characteristics and training of the persons performing the intake.

Awareness of the Rate of Intellectual and Developmental Disabilities

The mean response for participants' estimate of the prevalence of intellectual and developmental disabilities in their jails was 1.7% (median = 0.005, SD = 0.039). Administrators varied widely in their estimates. As shown in Table 3, over one quarter (n = 22, or 28%) of the participants reported having no individuals with intellectual and developmental disabilities in their jail in the past 6 months and one half thought that less than 1% of their inmates had intellectual and developmental disabilities (n = 44, or 55%). At the opposite end of the response continuum, 2 participants (3%) believed that 15% or more of their jail inmates had intellectual and developmental disabilities (see Table 3).

Screening Process for Intellectual and Developmental Disabilities

When asked if their jail screened individuals for disabilities, 42 (53%) participants responded affirmatively. When asked to describe the specific process used, 5 (6%) participants reported using a formal written process, 4 (5%) had specific questions regarding disabilities on their intake sheet (usually something like, “Have you ever had a problem with a mental illness or mental retardation?”), and 1 (1%) had a question asking if the individual had ever been in a special education class in school. The remaining 37 participants reported informal screening, usually based on observation and/or information volunteered by another individual. Specifically, 33 (41%) participants reported basing identification of a disability on officer observation, and, of these, 22 (28%) stated that officer observation was their only screening criterion. Other

information sources used to identify inmates with intellectual and developmental disabilities included inmate self-report (n = 5, or 6%), information from family members or community providers (n = 5, or 6%), checking school history if the individual reported not completing high school (n = 3, or 4%), observation by the jail nurse (n = 2, or 3%), jail staff's prior knowledge of the inmate (n = 2, or 3%), and information from an inmate's attorney (n = 1, or 1%). These results are summarized in Table 4.

To answer the second part of our research question regarding screening processes at intake, we asked if the intake process occurred in a private setting. Fewer than half (n = 33, or 41%) of participants reported that their jail consistently conducted these in private settings where no one could overhear detainees' responses. A third (n = 26, or 33%) of respondents reported that their jails rarely or never conducted intakes in a private settings, 17 (21%) respondents indicated that their jails did so only some of the time, and 4 (5%) reported being unsure about the privacy of intake location. Of the 42 participants reporting they screened for disabilities, 17 (40%) reported that their jails conducted intakes in a private setting, 13 (31%) reported doing so some of the time, 11 (26%) stated they did not conduct these in a private setting, and 1 (1%) was unsure (see Table 5).

Jail Intake Personnel

As is summarized in Table 6, participants reported that intake was most often done by a jail officer (n = 63, or 79%). In some cases (n = 8, or 10%), a medical portion of the intake was conducted by jail medical staff; this only occurred in large jails in the top quartile of average daily census (census greater than 225). In six jails (8%), intakes were conducted by jail staff but reviewed by medical staff. Three participants (4%) were unsure who conducted intakes at their jail.

Of the 42 participants who reported screening for disabilities, 35 (83%) reported screenings were done by a jail officer, 4 (10%) reported the medical portion of the intake was completed by jail medical staff, and 2 (5%) reported that intakes were completed by jail staff and subsequently reviewed by jail medical staff. One (2%) participant was unsure who conducted screenings.

Jail Staff Training in Disabilities

When asked about jail staff training in intellectual and developmental disabilities, all jails reported that their officers complete the state-mandated Detention Officer Certification Course

(DOCC; Detention Officers' Certification Course: Student Notebook; North Carolina Justice Academy, 1995), which includes content on intellectual and developmental disabilities. On review of the DOCC training manual, we found content on intellectual and developmental disabilities in two areas. The needs of individuals with intellectual disabilities for special supervision and, possibly, separate cells were discussed in a 7-hr unit focused on processing inmates. Individuals with intellectual disabilities were listed as 1 of 11 populations to be considered for separate cells, and this discussion of separate cells was one of seven sections in this unit. In addition, we found one section on intellectual disabilities in a 6-hr, six-section unit titled, “Aspects of Mental Illness.” When asked if their officers received any training beyond this limited DOCC training in intellectual and developmental disabilities, only 28 participants (35%) reported that their officers received continuing education in any area of mental disorder or disability, which could include intellectual and developmental disabilities. None reported that their officers received training in co-occurring mental illnesses and developmental disabilities.

Bivariate Analyses

Bivariate analyses examined participants' estimates of intellectual and developmental disability rates in their jail, disability screening in their jail, privacy of intake setting, and officer training in disabilities (see Table 7). Analysis examining participant estimates of rates of intellectual and developmental disabilities in their jail revealed that participants with medical backgrounds (i.e., jail medical administrators or jail nurses) were significantly less likely to say that no one in their jail had disabilities than nonmedical jail administrators (0% vs. 38%), $\chi 2(1, N = 80) = 6.67$, $p < .01$. In addition, participants whose jails were smaller, in the bottom quartile of average daily census (59 or less), were significantly more likely to report that no one in their jail had a disability than participants from larger jails (53% vs. 25%), $\chi 2(1, N = 80) = 4.48$, $p = .03$.

Bivariate analyses showed that participants reporting that their jail did any kind of screening for intellectual and developmental disabilities were significantly more likely to be medical professionals (80% vs. 46%), $\chi 2(1, N = 80) = 5.60$, $p = .02$. No differences were seen in screening processes based on jail size. No significant differences were seen between jails that conducted intakes in a private setting and those that did not when examining jail size. Bivariate analysis also revealed that jail officers were significantly less likely to receive training in intellectual and developmental disabilities beyond DOCC in jails with daily census in the bottom quartile compared with larger jails (13% vs. 44%), $\chi 2(1, N = 80) = 5.95$, $p = .01$.

Discussion

Based on these findings, a troubling picture begins to emerge of the interaction between an unaware, untrained criminal justice system and a vulnerable and difficult-to-detect population of inmates with intellectual and developmental disabilities. These interviews and curriculum material review clearly reveal that jail administrators have widely different, and likely inaccurate, views on the prevalence of individuals with disabilities in their jails. Nearly 70% of respondents felt that 1% or fewer of their total inmate populations had disabilities, and although exact rates of intellectual and developmental disabilities in the North Carolina's jails have not been measured, the literature suggests that an estimate of under 1% is low (Crocker, Cote, Toupin, & St-Onge, 2007).

Processes described by participants indicated that individuals with intellectual and developmental disabilities are not being consistently screened or reliably and effectively identified when they enter the jails. Jails are not using reliable and valid screening tools for disabilities, and, moreover, screening is done primarily by jail officials who have not received adequate and ongoing training in identifying and working with individuals with these disabilities. An additional concern is the lack of privacy reported by many jails during the intake process. If intake occurs where others can overhear, it may be less likely that an inmate will self-identify as having any stigmatizing conditions, such as disabilities or a medical condition such as HIV. Individuals who do self-identify may be increasing their risk of victimization if they do so when other inmates are present.

This lack of consistent, quality screening is disconcerting for a number of reasons. First, inmates with intellectual and developmental disabilities may not understand the legal processes occurring and their rights within these processes. If they are not identified and provided additional supports and services, these individuals are at high risk of rights violations and poor outcomes within the criminal justice system (Ericson & Perlman, 2001; Perske, 2000). These inmates may have difficulty functioning while in jail, may struggle to understand rules and procedures, and may fall prey to victimization by other inmates. If not identified, individuals cannot be protected and supported while incarcerated. Last, without identification of inmates' disability-related needs, links to adequate community-based supports and services cannot be provided during the release process (Petersilia, 1997). In North Carolina, community-based services for disabilities are provided by a complex network of agencies loosely coordinated by local management entities (North Carolina Department of Health and Human Services, 2004). It is difficult to imagine that individuals with intellectual and developmental disabilities leaving jail could negotiate access to services in this system without support and assistance.

Underpinning the problems with accurate identification of individuals with intellectual and developmental disabilities in jails is misinformation and a clear lack of training. Basic understanding of disabilities demonstrated by participants was limited; in a few cases, participants confused it with mental illness. For example, 1 jail administrator stated that an individual might be identified as having a disability because “the officers might see mood swings, or see that something isn't quite right, and they'll tell the sergeant.” This confusion between mental illness and disabilities is reinforced by the DOCC manual, which addresses the topic in a unit titled “Aspects of Mental Illness.”

Screening processes reported by participants in a large number of jails were based on the erroneous assumptions that individuals with intellectual and developmental disabilities can be identified based on appearance or responses to a few intake questions (many of which can simply be answered yes or no) or that they will willingly self-identify when asked. These assumptions are contradicted by the research; individuals with disabilities often work hard to hide their disability and may have the initial appearance of adequate functioning, particularly to untrained persons (Edgerton, 1968; Perske, 2000). Training provided to jail officers regarding disabilities during the Detention Officer's Certification Course is brief and apparently inadequate, and discussion of screening procedures using reliable and valid, empirically tested tools, such as HASI (Hayes, 2002) or the Kaufman Brief Intelligence Test (Bowers & Pantle, 1998), does not occur.

The results of this study suggest that the need for effective screening for individuals with intellectual and developmental disabilities at jail intake may be particularly high in smaller jails. Jails in the bottom quartile in average daily census were more likely to have administrators who were unaware of the problem of persons with disabilities in jails and were less likely to have jail staff trained in disabilities beyond what was learned in the Detention Officer Certification Course. These jails are in rural, usually poorer counties in the state, and this lack of training may be the result of fewer resources available to the jail through county funding.

Although the data are informative, there are a number of limitations to this study. First, this is part of a larger study examining both intellectual and developmental disabilities and mental illnesses. A few administrators' confusion between disabilities and mental illness may mean that their reports on screening and other activities regarding disabilities are actually reports of activities with inmates with mental illnesses. All data were self-reported and, thus, are subject to both recall and social desirability bias. The fact that all interviews were completed by one

researcher, who was not blind to the study questions, may have introduced bias into the findings. In addition, selection bias may have been pres ent. The jail administrators who declined to participate in the study may have differed in their responses and views from those who participated. Last, the study provides a picture of the situation in jails only in one state, and, thus, generalizability of findings is limited.

Despite its limitations, this study provides what is perhaps the only recent examination of the issue of screening for intellectual and developmental disabilities in jails in a representative state sample. Although early work in this area was completed by Brown and Courtless (1971), more recent research is lacking. The picture that emerged from our research was one of jails that, on the whole, try to do the right thing given limited knowledge and training regarding disabilities. Findings also clearly demonstrate that although research has provided guidance on best practices for individuals with disabilities in jail settings, few jails are operationalizing these recommendations. We did not find any jail using an empirically supported screening process or providing in-depth training to jail officers about disabilities.

Assertive advocacy is needed to ensure an increased focus on dissemination of best practices and on translation of research to practice regarding intellectual and developmental disabilities in jail settings. Empirically supported screening instruments and processes that will maximize the likelihood of identifying individuals with disabilities should be implemented. Jail staff, jail administrators, and policymakers must be educated about the urgent need for evidence-based disability screening tools. In addition, it must be made clear that the issue of identification is only one step in a series of changes needed to ensure justice for individuals with disabilities in the criminal justice system. As noted in the policy statement by the American Association of Intellectual and Developmental Disabilities (American Association of Mental Retardation/ ARC, 2004), individuals with intellectual and developmental disabilities must be treated fairly by all involved in the criminal justice system, including police, lawyers, judges, court personnel, and jail personnel. They should have access to assistance, accommodations, and an advocate and be protected from harm, self-incrimination, and exploitation. If sentenced, individuals with intellectual and developmental disabilities should have accommodations, treatment, and education while incarcerated and community-based alternatives to incarceration.

To implement these changes, research examining the structural and systemic barriers that prevent the implementation of best practices is also needed. Building on efforts such as the Equal Justice for People With Mental Retardation Initiative of the Institute on Disabilities at Temple University (Bryen, Feinstein, & Sonneborn, 2000), additional advocacy and intervention at a system and policy level are needed to ensure that individuals with intellectual and developmental

disabilities are adequately identified, that their rights are protected, and that they are provided the supports and services they need both during and after incarceration to protect their right to justice and fair treatment in the criminal justice system.

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