

Youths with Intellectual and Developmental Disabilities in the Juvenile Justice System

Research has shown that, compared with non-disabled youths who commit offenses, those with intellectual and developmental disabilities tend to commit more serious offenses, are at a much higher risk of second- and third-time offending, and enter the juvenile justice system at a younger age (Zhang et al. 2011). Youths with intellectual and developmental disabilities are also more likely to become involved in the child welfare system, compared with youths without disabilities, because of a higher risk of abuse and maltreatment by parents or guardians (Slayter 2016). In addition, a recent report from the Bureau of Justice Statistics showed that the rate of violent victimization against persons with disabilities was at least double that of the rate for those without disabilities. For example, youths ages 12 to 15 with disabilities had a violent victimization rate of 139.1 per 1,000 persons, compared with youths without disabilities in the same age group; this group had a violent victimization rate of 37.5 per 1,000 persons (Harrell 2016). Similarly, youths with disabilities are more likely to experience bullying and victimization from classmates at school. One study found that youths ages 8–17 with disabilities (including learning disabilities and autism spectrum disorder) were two to three times more likely to be bullied, compared with non-disabled youths (Twyman et al. 2010).

The primary focus of this literature review is on intellectual and developmental disabilities of youths who are at risk of or who have come into contact with the juvenile justice system. It also includes related learning disabilities and emotional disturbances. This literature review does not focus on mental or behavioral health disorders or on physical disabilities such as blindness, deafness, or other similar challenges.

Definitions

Identification of youths with disabilities as well as the definitions of the disabilities often vary by state and from agency to agency within the federal government (Morris and Morris 2006). The National Council on Disability explained, “Federal legislative acts, professional organizations, social service and health agencies, schools, and various programs employ different terms, define the same terms differently, and use different types of information and approaches to diagnose and classify disabilities” (2005, p. 10).

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However, based on a review of the literature, there are four general types of disabilities—intellectual, developmental, learning, and emotional disturbances—which are common to youths in the juvenile justice system.

Intellectual disabilities, under the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5)*, are classified as neurodevelopmental disorders. Individuals are diagnosed with an intellectual disability if they meet the following three criteria: 1) they experience a limitation in intellectual functioning, which is most commonly determined through an IQ test; 2) they experience a limitation in adaptive behavior, which is a culmination of conceptual skills, social skills, and practical skills; and 3) the age of onset is prior to 18 years. Examples of common intellectual disabilities include Down syndrome and fetal alcohol spectrum disorder (American Psychiatric Association 2013; Richards et al. 2015). Youths with intellectual disabilities may experience cognitive deficits in areas such as attention, short-term memory, and comprehension. Research suggests that individuals with intellectual disabilities may be more likely to confess to crimes they did not commit, in part because they want to say and do things to please other people and have a strong desire to fit in (Russell and Dunlap 2016). Intellectual disabilities are encompassed by the larger category of developmental disabilities.

Developmental disabilities, according to the National Institutes of Health, are lifelong disabilities that may be intellectual, physical, or both (NICHD 2012a). For developmental disabilities, a mental or physical impairment must occur before the age of 22 and result in deficiencies in at least three major life activities¹ (Institute on Community Integration 2016). Many individuals with an intellectual disability also meet the criteria for a developmental disability. However, a young person with a developmental disability may not necessarily have an intellectual disability (The Arc's NCCJD 2015; Institute on Community Integration 2016).

Learning disabilities are conditions that affect a youth's ability to read, write, speak, and calculate numbers (NICHD 2012b). Learning disabilities occurring before age 22 are not necessarily developmental disabilities, but include a much smaller subset of about 10 disorders that specifically impact a child's ability to learn. Examples include dyslexia (which affects reading), dysgraphia (which affects writing), and dyscalculia (which affects math abilities). Under the Individuals with Disabilities Education Act, learning disabilities do not include learning problems that are due to intellectual disabilities or emotional disturbances (National Dissemination Center for Children with Disabilities [NICHCY] 2012).

Finally, *emotional disturbances*, as defined by the Individuals with Disabilities Education Act (U.S. Congress 2004), are conditions in which a child may exhibit one or more specific characteristics that appear over an extended period and adversely affect his or her ability to learn. These characteristics include (but are not limited to) an inability to build or maintain satisfactory interpersonal relationships with peers and teachers, inappropriate types of behavior or feelings under normal circumstances, and a general pervasive mood of unhappiness or depression (NICHCY 2012). An example of an emotional disturbance that

¹ Life activities include self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency.

might impact a youth is schizophrenia.

Generally, cultural, environmental, or economic disadvantages are excluded from definitions of disabilities². For example, external influences on a child's academic performance, including being from a poor community in an underserved school district, are not encompassed by this definition, though a child in a poor neighborhood may experience negative academic outcomes similar to a child with an intellectual or developmental disability.

Scope of the Problem

Various studies have estimated the number of youths with intellectual, developmental, and other related disabilities in the juvenile justice system. Although the exact statistics vary, the overall pattern across the research shows that there are many youths with disabilities in the juvenile justice system.

Intellectual and Developmental Disabilities

A national survey was administered to 38 (out of 51, including the District of Columbia) heads of state departments responsible for housing and educating youths in long-term juvenile correctional facilities. Based on reported single-day counts in December 2000, the prevalence of disabilities varied greatly across juvenile corrections facilities, ranging from 9 percent to as high as 77 percent, with an estimated national average of 33 percent. These prevalence rates included all disabling conditions such as emotional disturbances, specific learning disabilities, and multiple disabilities, which are all encompassed by the developmental disability definition (Quinn et al. 2005). When examining only youths in juvenile correctional facilities who were categorized as having a disability, Quinn and colleagues (2005) found that intellectual disabilities (at the time, referred to as mental retardation) accounted for a little less than 10 percent of all reported disabilities.

Emotional Disturbance

The 2005 survey by Quinn and colleagues also found that, when examining only youths in juvenile correctional facilities who were categorized as having a disability, approximately 48 percent had an emotional disturbance. Another study by Bullis and Yovanoff (2005) found that a little less than one third (about 30 percent) of their sample of incarcerated youths in Oregon's juvenile justice system suffered from an emotional disturbance.

Learning Disabilities

Prior research has found that around one third (33 percent) of youths in long-term secure custody facilities have a learning disability, compared with 8 percent in the general population (Cruise, Evans, and Pickens 2011). Similarly, a 2005 report from the National Council on Disability estimated that 30 percent of detained and incarcerated youths have a learning disability.

In addition, some groups of youths are more likely to be diagnosed with a disability. For example, research has shown that youths within the justice system who are identified as having

² 34 C.F.R. § 300.8(c)(10)(i-ii)

a learning disability are disproportionately black, Native American, or Latino; male; and of low socioeconomic status (Quinn et al. 2005). Gender is considered a risk factor for having an intellectual disability; that is, boys are more likely to be diagnosed with an intellectual disability, compared with girls (Mallett 2011). Similarly, males are more likely to be identified with special education needs, while girls are more likely to be identified with mental health needs (Cruise, Evans, and Pickens 2011).

Although there is research to suggest that there is a high prevalence of youths with intellectual and developmental disabilities represented in the justice system (Quinn et al. 2005; Zhang et al. 2011), it is difficult to know the exact size of this population for a number of reasons. As mentioned previously, one important reason is that the definition or criteria of what constitutes a “disability” may vary from jurisdiction to jurisdiction (Cruise, Evans, and Pickens 2011). As Morris and Morris (2006) explained, “Until a standard definition is set it will remain difficult to compare studies and to determine the true prevalence of disabilities in those individuals within the U.S. juvenile justice system” (p. 615).

In addition, jurisdictions do not always maintain a comprehensive record on the number of youths with disabilities. This may be due to a lack of information sharing between the education system and the juvenile justice system or issues with screening tools or assessments used by the justice system to identify youths with disabilities (Mears, Aron, and Bernstein 2003; Morris and Morris 2006).

Federal Policies

There are a number of federal policies that pertain to the treatment of youths with intellectual and developmental disabilities in the juvenile justice system. The Individuals with Disabilities Education Act (IDEA) applies to youths with intellectual and developmental disabilities in juvenile facilities (which include correction and detention facilities). Under IDEA, children with a disability are required to have access to special education and relevant services (U.S. Congress 2004). The goal of IDEA is to promote equity in educational attainment among all youths. IDEA encompasses more than intellectual disabilities and includes 13 disability categories³.

Identification of youths’ needs is paramount to the treatment of youths with intellectual and developmental disabilities and is ensured through Child Find, a requirement within IDEA wherein all children, whether through school attendance or through being in state custody, are located, evaluated, and referred if they are suspected of having a disability and need services (Mallett 2011). However, research suggests that the juvenile justice system does not always properly identify children who need services and does not always provide adequate special education, if needed (Mendel 2011). For example, among detained and committed youths who have a learning disability diagnosis, less than half (46 percent) receive special education and related services (Sedlak et al. 2010).

³ The 13 disability categories covered under IDEA include autism, deaf-blindness, deafness, emotional disturbance, hearing impairment, intellectual disability, multiple disabilities, orthopedic impairment, other health impairment, specific learning disability, speech or language impairment, traumatic brain injury, and visual impairment including blindness.

In addition, under IDEA, an Individualized Education Plan (IEP)⁴ is a federal requirement for all children who screen positively for having a disability. The IEP is required to be enacted at the beginning of each academic year. An IEP-development meeting among the child’s parents or guardians, school representatives, and any other relevant specialists must take place no later than 30 days following the child’s disability diagnosis. Some provisions include a statement of measurable goals and a statement of educational supports and services that will be provided (Mallett 2011). Placement in out-of-home facilities, such as detention or correction facilities, does not nullify a youth’s right to an education⁵; however, IDEA was initially established for application in an educational setting, making its interpretation to a justice setting complicated and requiring timely and thorough intersystem coordination, which can be rare. IDEA eligibility and IEP development fall under the responsibility of the education system. Youths who enter the justice system without having been previously evaluated for a learning disability must rely on corrections educators to do so; however, corrections staff are often unsupported and overburdened, and youths may be overlooked and never receive an IEP or other services as required by law (Leone and Wruble 2015; Read 2014).

Links to Delinquent Behavior

The high prevalence of youths with intellectual and developmental disabilities in the juvenile justice system suggests there may be a relationship between a disability diagnosis and delinquent/problem behaviors (Mallett 2009). Several theories have attempted to explain this relationship. These include low IQ, which leads to poor academic performance; susceptibility to delinquent behavior; and differential treatment.

Low Intellectual Functioning

Longitudinal, neuropsychological studies have found that poor neuropsychological status, which is a measure of cognitive functioning, was an accurate predictor of initial male offending before age 13 and of continued high-level offending thereafter (Moffitt et al. 1994). A similar study by Seguin and colleagues (1995) found that even after controlling for factors such as race and class, the relationship between low IQ and delinquency behavior was maintained (i.e., those youths with low IQs were more likely to be delinquent). A report by Hawkins and colleagues (2000) also found that IQ was a predictor for violent and serious delinquent offenses. However, the study showed there were other, stronger predictors of violent behavior such as substance use, aggression, and antisocial peers. Overall, these findings suggest that youths with low IQs exhibit behavior that makes them more likely to be labeled as delinquent—and not because a low IQ is necessarily a predictor of delinquent behavior.

The association between IQ and delinquency is largely derived from the relationship between deficiencies in delinquency related to verbal skills, such as abstract reasoning, and self-control functions (Moffitt et al. 1994). These findings suggest that delinquent behavior may be a symptom of the low intellectual functioning associated with an intellectual or developmental disability diagnosis.

⁴ 34 C.F.R. § 300.323 (c)(1)

⁵ 20 U.S.C. 1401 et seq.

Susceptibility to Delinquent Behavior

Another explanation for the link between intellectual and developmental disabilities and delinquency among youths is susceptibility to antisocial and delinquent behavior (Brier 1989; Morris and Morris 2006). This susceptibility may be attributed to impulsive behaviors, low social skills, or difficulty reading social cues, which can be characteristics of a learning disability (Mallett 2011). Other characteristics of youths with a learning disability include short attention span, hyperactivity, and impulsivity (Evans, Clinkinbeard, and Simi 2015). These findings suggest that youths with intellectual and developmental disabilities tend to exhibit behaviors related to their diagnoses, which can predispose them to involvement with the juvenile justice system.

Differential Treatment

A final theory that attempts to explain the link between intellectual and developmental disabilities and delinquent behavior in youths is differential treatment. This explanation suggests that while their non-disabled counterparts may participate equally in delinquent behavior, key players in the juvenile justice system (such as police, judges, court services personnel, and corrections officers) process disabled youths more harshly, resulting in worse case outcomes (Morris and Morris 2006). This explanation is supported by findings that show that youths with a disability are disproportionately detained, compared with non-disabled youths (Mallett 2011). This is particularly problematic for this population, given the correlation between detention and later reoffending and recidivism (Holman and Ziedenberg 2006). In addition, some studies suggest that school districts under pressure to produce impressive academic outcomes among their student populations are inclined to redirect low-achieving youths to alternative platforms, including the juvenile justice system (Osher et al. 2002). As a result, the juvenile justice system has been characterized as a “default system” for youths who perform poorly in school (Nelson 2000).

Outcome Evidence

Various strategies have been developed to promote positive outcomes among intellectually disabled youths who come into contact with the justice system. Many of these strategies emphasize early identification, which helps promote timely allocation of disability services, including education services ensured under IDEA (Mears et al. 2003; Quinn et al. 2005). Other strategies that are currently practiced in the juvenile justice system on youths with intellectual and developmental disabilities include specialized youth courts, positive behavioral support treatment, and increased intra-agency information sharing; however, there is a lack of rigorous assessment and evaluative research on the effectiveness of specific juvenile justice system practices targeting youths with intellectual disabilities (Mears et al. 2003).

One program that has shown promise is [An E-mentoring Program for Secondary Students with Learning Disabilities](#). In this program, a mentoring relationship is established between a high school student with a mild learning disability and a college student and takes place through a virtual classroom setting in which they practice skills such as problem solving, decision making, time management, and self-advocacy.

An evaluation of the program found that the treatment group showed improvements in

measures of social connectedness, self-determination, and transition competency, when compared with their peers who were not involved in the program (Collier 2009).

Conclusion

Non-standardized definitions and discrepancies in use of the term “disabilities” in the juvenile justice system and other youth-serving systems pose a significant obstacle to investigating and understanding the full scope of the population of youths with disabilities and their needs.

While estimates on the number of youths who are diagnosed with a disability vary by study, research has shown that there are many youths with intellectual and developmental disabilities in the juvenile justice system. Additionally, youths with intellectual and developmental disabilities often experience worse outcomes than those without an identified disability such as increased risk of abuse/neglect and violent victimization (Mallett 2009).

Federal policies, such as IDEA, aim to promote equity in educational attainment among youths. However, the implementation of IDEA, which was designed for educational settings in the community, becomes complicated when applied to a confined, justice setting where coordination and ongoing communication between the juvenile justice system and the school system is necessary.

Finally, certain positive practices do promote better outcomes for youths with disabilities in the juvenile justice system; among these are early detection, specialized youth courts, positive behavioral support treatment, and increased intra-agency information sharing (Mears et al. 2003). But much more research is needed to develop programs and services that can address the specific needs of youths with disabilities in the juvenile justice system.

Additional Resource

The Office of Special Education Programs, under the U.S. Department of Education, developed the following resource for educators, families, facilities, and community agencies, to better support youth with disabilities in juvenile correctional facilities: [Improving Outcomes for Youth with Disabilities in Juvenile Corrections](#)

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