

Intellectual and Developmental Disability, Criminal Justice, and Employment... How Do These Puzzle Pieces Fit?

by Suzanne Freeze, Allison Cohen Hall, and Sheila Johnson

People who have been involved with the criminal justice system often face additional barriers to employment. These issues can be even more complex for people with intellectual and developmental disabilities (IDD). Effective systems need to be aware of the resources available and the promising strategies in place nationally, statewide, and locally to support job seekers with IDD who have criminal histories.

Recently, the State Employment Leadership Network hosted a series of online discussions to help state IDD systems better understand the intersection between employment supports and the criminal justice system. In this summary, we've tried to capture some of the key points that emerged from these conversations.

Key takeaways:

1. Prevention

Ensure paid and unpaid supports in your state are used to prevent individuals from becoming involved with the criminal justice system in the first place. Primary prevention education for individuals with IDD (from case managers, family, etc.) is needed. Taking a proactive approach, and building a robust day and employment system, can help reduce the danger of criminal involvement, especially for individuals with unique challenges or those with risk-taking behaviors.

2. Training

Require core competencies of all staff, including primary prevention and specialized offender-related training and professional development for those working with or on behalf of individuals with intellectual and developmental disabilities.

3. Ongoing involvement

Establish policies and procedures that require staff in your system to continue to engage with people throughout their involvement with the criminal justice system. Emphasize the expectation and importance of not losing track of an individual, and continue to stay connected to family members and other key relationships that will impact the individual upon exiting the criminal justice system. Provide the leadership and support staff need, and hold them accountable for ensuring this follow through happens.

4. Collaboration

Build relationships with organizations specializing in re-entry for people involved with the criminal justice system, and require staff to participate in re-entry activities. Find your allies in other systems, and form a team centered on common values and goals.

5. Planning

Determine how unique employment supports and other aspects of a full and meaningful community life will be addressed when an individual has a criminal history.

Discussion Summaries

Demystifying the Criminal Justice System

Facilitator: Randy Loss,
Pennsylvania Office of Vocational Rehabilitation

Speaker: Dr. Beverly Frantz, project director for the Criminal Justice and Sexual Health Initiatives at the Institute on Disabilities, Temple University

Dr. Frantz provided an overview of the criminal justice system, pointing out ways that it is different from the vocational rehabilitation and IDD systems. She highlighted the steps that take a suspect from the point of arrest through re-entry into the community (see the appendix for more on this process).

At each step, a decision is made whether to move the case to the next level. All cases follow the formal route through the system. However, the system is not always sensitive or responsive to the needs of individuals with IDD. Misunderstandings between the individual and the criminal justice system can force a person through the system unnecessarily, and lead to unwarranted and unfair punishment.

It is critical to identify joint training opportunities and develop inter-system relationships to educate criminal justice system staff on various disabilities and potential issues to anticipate post-incarceration. Developing a better understanding of each other's systems leads to improved outcomes for individuals, families, communities, and professional staff.

Training for IDD system staff should provide answers and generate solutions to the potentially damaging issues individuals face at each step in the judicial process.

- ❖ How does law enforcement communicate with the suspect?
- ❖ What level of training has the office officer had in dealing with individuals with IDD?
- ❖ Does an officer have effective strategies to approach an individual with a developmental disability, such as autism?

DID YOU KNOW?

People with IDD are more susceptible to accusations of criminal behavior. Once involved with the system, defendants with IDD often unwittingly waive their rights. Once sentenced, they are more likely to serve out the maximum prison sentences as they may commit infractions because they do not understand the rules while incarcerated.

- ❖ Does the individual understand the legal ramifications of arrest?
- ❖ Does the individual understand his or her Miranda rights?
- ❖ Where are preliminary arraignments conducted—online or in person?
- ❖ How is it determined whether or not the individual is competent to stand trial?
- ❖ Does the judge understand the disability enough to evaluate the behavior appropriately?
- ❖ Is the individual able to understand judicial questioning?
- ❖ Is there a court-appointed person to help the individual and family understand and move through the process?
- ❖ Who is available outside the criminal justice system to help the individual and family move through this process?
- ❖ What role does employment status play in the decisions made in court and re-entry?

DID YOU KNOW?

A person with IDD can become involved in the criminal justice system as a witness, victim, or defendant. The rate of victimization for people with IDD can be four to ten times higher than for people without disabilities.

Community Resources

Facilitator: Randy Loss,
Pennsylvania Office of Vocational Rehabilitation

Speaker: Melanie G. Snyder, executive director of the
Lancaster County Reentry Management Organization

Ms. Snyder led a discussion on how to support offenders with IDD in the reentry process. She emphasized collateral consequences—the issues people face after they have served their time in prison or completed probation or parole requirements. Collateral consequence effects include restrictions on housing, employment, education, voting rights, family/paternal rights, and access to government resources.

Other key points:

- ❖ Online database for collateral consequences: www.abacollateralconsequences.org/
- ❖ This database describes federal and state statutes that impose collateral consequences for criminal convictions. For example, in Pennsylvania, 712 laws impose limits or restrictions on different types of employment/professional licensure for people convicted of certain crimes.
- ❖ Common barriers that could affect employment and need to be addressed in the individual planning process: loss of family connections and communication during incarceration (e.g., non-contact visitation, expensive phone rates, incarceration far from home); loss of identification (forms of identification lost during arrest; driver's license suspended or revoked); financial impacts of incarceration (fines, per diem fees, restitution); housing ("Not In My Back Yard," Section 8 housing restrictions); employment, business, and occupational licenses; education and student loans; voting rights
- ❖ Factors affecting reentry: family/parental rights, access to government benefits, long-term criminal justice supervision requirements and restrictions, registration requirements (e.g., for sex offenders), inadequate medication and mental health services while incarcerated

The appendix provides details of the criminal justice process, to emphasize what is happening at each step and to highlight how the IDD system may become engaged or stay abreast of changes.

Employment for People with Criminal Backgrounds

Facilitator: Randy Loss,
Pennsylvania Office of Vocational Rehabilitation

Speaker: John Rakis, president of John Rakis and Associates, a consulting firm which provides services to criminal justice agencies and their community partners

Mr. Rakis discussed employment for people with IDD who have criminal backgrounds. Like the previous presenters, Mr. Rakis opened with an emphasis on the need for prevention or diversion of people from the system entirely. From extensive experience working with this population, he shared poignant stories to illustrate common challenges, including an individual with IDD who was mistakenly arrested for a crime in which he was actually the victim.

The discussion covered the following areas:

- ❖ how to establish partnerships in the criminal justice system;
- ❖ how to determine the needs of employers; and
- ❖ practical strategies for creating connections that can lead to employment.

Other key topics:

- ❖ Establish partnerships between the disability and the criminal justice systems. Diversion programs exist, but are not prevalent enough to meet the needs of individuals with IDD in the system. Probation and parole systems may even inhibit individuals from working, especially if they are bound by overly stringent conditions of supervision. While work is a "requirement" in the parole process, it is not always emphasized, or even a measure for which probation and parole officers are held accountable.

- ❖ In some local and statewide criminal justice systems, there has been a push to provide staff training on working collaboratively with the criminal justice system. There is also an emphasis on forming reentry partnerships with community-based organizations to reduce recidivism. Those collaborations can yield significant results. For example, federal probation staff in Missouri developed partnerships with community entities such as mental health organizations and faith-based organizations. As a result, Missouri has high employment rates among people with criminal backgrounds.
- ❖ Practical strategies for approaching the criminal justice system include offering training that staff perceive as relevant to their work, and forming a relationship with probation and parole officers, letting them know the IDD system supports that are available and why they are important. Mr. Rakis emphasized the need for the disability community to take the initiative on developing these important relationships with the criminal justice system.
- ❖ Develop employer-focused initiatives:
 - Make visits to companies; develop training initiatives focused on understanding and meeting the needs of employers; continually work to understand the employer and the prospective culture; know what skill set is required, the history of the employer, whether they have hired individuals with criminal histories in the past, and what has worked or not worked.
 - Be clear and concise about “what’s in it for them.” Learn a two-minute “elevator” presentation: introduce yourself, your services, why they should be engaged with you, and brainstorm future activities that build rapport (e.g., informational interview).
 - Prepare the individuals with whom you work for the interview. Coach the individual to create and deliver a speech that briefly discloses his/her engagement with the criminal justice system (referred to as the “incarceration speech”). Keep it simple, emphasize skills, focus on the positives, and practice, practice, practice, so it sounds natural.

- Highlight benefits for employers such as tax credits and the federal bonding program.
- Build relationships with the community to overcome challenges associated with collateral consequences.
- Find events to support your organization’s marketing and information dissemination efforts. Be clear about what you are sharing and asking of employers (e.g., opportunities for mock interviews).

Conclusion

Many states are releasing new statements and policies that prioritize employment in the community, emphasize the importance of ending practices of segregation, and highlight the need for individuals to have opportunities to accumulate assets. Yet as more individuals carve out a role in community and interact with a wider array of people, new challenges materialize with unique consequences. Leadership staff in public systems of support are rethinking key roles and responsibilities as a shift occurs in the types of services offered and staffing is adjusted to meet emerging needs, such as preventing and responding to individuals engaged in the criminal justice system.

SELN member states will continue to explore ways to support individuals who are seeking community-based jobs and have criminal histories. Future sessions include a focus on individuals with substance abuse issues, as well as specific strategies for those requiring particular supervision or support following their involvement with the criminal justice system.

Links to the webinar recordings

Demystifying the Criminal Justice System, with Dr. Beverly Frantz

<http://tinyurl.com/seln-franz>

Community Resources, with Melanie Snyder

<http://tinyurl.com/seln-snyder>

Employment for People with Criminal Backgrounds, with John Rakis

<http://tinyurl.com/seln-rakis>



Additional Resources

Justice Advocacy Guide

www.thearc.org/document.doc?id=3669

(includes lengthy list of specialized resources)

People with Intellectual Disabilities & Sexual Offenses

www.thearc.org/document.doc?id=3658

People with Intellectual Disabilities in the Criminal Justice System: Victims & Suspects

www.thearc.org/document.doc?id=3664

National Disability Rights Network-CJ Resources

www.ndrn.org/en/issues/criminal-justice.html

Doing Justice? Criminal Offenders with Developmental Disabilities. Detailed research findings. (Petersilia, 2000)

www.eric.ed.gov:80/PDFS/ED465905.pdf

The Criminal Justice and Human Services Systems: A Coordination Handbook.

(South Dakota's Center for Disabilities, 2006)

<http://dhs.sd.gov/ddc/documents/CJHB7-27-07.pdf>

National Reentry Resource Center

www.nationalreentryresourcecenter.org

Reentry Mythbusters: fact sheets to clarify federal policies that affect formerly incarcerated individuals and their families

www.nationalreentryresourcecenter.org/documents/0000/1090/REENTRY_MYTHBUSTERS.pdf

The Criminal Justice Advocacy Program is the only one of its kind in New Jersey that provides alternatives to incarceration on behalf of individuals with developmental disabilities who are defendants in the criminal justice system through advocacy, case management, education, and training:

www.arcnj.org/programs/criminal_justice_advocacy.html

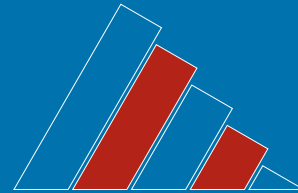
Suspects with developmental disabilities and the criminal justice system

[www.arcunion.org/resources/pdfs/](http://www.arcunion.org/resources/pdfs/ithddadawarenessforofficers.pdf)

[ithddadawarenessforofficers.pdf](http://www.arcunion.org/resources/pdfs/ithddadawarenessforofficers.pdf)

The State Employment Leadership Network (SELN) is a cross-state cooperative venture of state MR/DD agencies that are committed to improving employment outcomes for adolescents and adults with developmental disabilities. Working documents contain information collected in response to state requests, and federal, state and local initiatives of interest to the SELN membership. They are intended to share work in progress but may not be a comprehensive analysis or compilation. Working documents are updated over time as information changes.

The SELN is a joint program of the Institute for Community Inclusion at UMass Boston and the National Association of State Directors of Developmental Disabilities Services.



NASDDDS

The authors would like to acknowledge and thank the following individuals for their participation, feedback and editorial assistance:

Randy Loss

Dr. Beverly Frantz

Melanie G. Snyder

John Rakis

Anya Weber

David Temelini



Arrest

The first step in the criminal justice process is contact with police. In most instances, police action begins while the officer is on patrol. For example, a police officer might observe a suspicious behavior (e.g., the officer observes, or a neighbor reports, someone looking into the window of a house where the officer and/or neighbor believes the person does not reside, or a person walking in an erratic manner). Depending upon the circumstances, specially trained officers, such as Crisis Intervention Team officers, may be dispatched.

Investigation

If the police officer believes the information received and/or behavior observed rises to the level of a violation of the crime code, an investigation begins. An investigation consists of interviewing victims, witnesses, and suspects; analyzing the information gathered for validity, reliability, and accuracy; and compiling the information in a comprehensive and factual manner to be presented to the office of the district attorney. An investigation can take several hours, weeks, months, or longer.

There are two ways an arrest can be processed following an investigation.

Full Process

The person is taken into custody, searched, and transported to police headquarters. Once at headquarters, processing begins. Full processing includes recording the person's name and the crime for which they were arrested; fingerprinting; photographing the person (mug shot); taking, logging, and holding the person's personal property; searching the person; gathering additional

information about the person, including checking for any outstanding warrants or prior arrests; and placing the person in a holding cell.

Partial Process

There are times when someone can be arrested, brought into police headquarters, fingerprinted, photographed, and released pending a summons. A summons listing the date and time of the preliminary arraignment will be sent to the individual.

Miranda Rights

It is a misconception that Miranda rights must be read to everyone taken into custody. If taken into custody and asked only generic information (name, address, occupation, etc., and nothing about the crime), a person does not need to be read Miranda rights. However, Miranda rights must be read aloud when the individual in custody is asked questions about the crime.

Preliminary Arraignment

The purpose of the preliminary arraignment is for the defendant to be told of the criminal charges; provided with a copy of the charges; advised of his or her rights, including the right to an attorney; and ordered to appear at the scheduled preliminary hearing. A date, time, and location of the preliminary hearing are set. The defendant is not asked any questions about the charges.

At the preliminary arraignment, the district court judge decides if the defendant should be released on bail, released on own recognizance, released under certain conditions, or remanded to jail without bail.

Preliminary Hearing

At the preliminary hearing, the prosecution must establish a prima facie case. That is, the prosecution must prove to the judge that a crime has been committed and that the defendant, more than likely, committed that crime. If the prosecution cannot meet its prima facie burden to support the elements of the crime, then the case might be dismissed. In most cases, the defendant does not testify at the preliminary hearing, although there are times when an attorney might put the defendant on the witness stand.

Arraignment

The purpose of an arraignment is to formally advise the defendant about the charges that have been filed by the office of the district attorney, which makes the final decision on what the defendant is to be charged with. There are three levels of offenses:

- 1) summary
- 2) misdemeanor
- 3) felony

During the arraignment, the defendant will be asked to enter a plea to the crime/s charged. The two most common pleas are guilty and not guilty. By pleading guilty, the defendant admits to the facts of the crime and to committing the crime. By pleading not guilty, the defendant asserts innocence and denies committing the crime.

After the plea has been entered, the judge will set a pre-trial or trial date. The judge will also continue the bail that was set at the preliminary hearing, change the bail, refuse to set bail, or release the defendant on personal recognizance.

Trial

A trial is an adversarial process. The district attorney (prosecution) and the defense attorney give different interpretations of the same event to determine the innocence or guilt of the defendant. A defendant may receive either a trial by judge or a trial by a jury.

If the defendant pleads guilty at the arraignment, the judge will conduct a process called a colloquy. In a colloquy, the judge asks the defendant a series of questions to help the defendant understand his or her rights. Once the judge believes the defendant understands what is happening and what rights are being relinquished or given up, the guilty plea is entered into the court record.

Sentencing

If found guilty of some or all of the charges, the defendant may choose to stand for sentencing. This means the defendant wishes to be sentenced immediately following the announcement of the verdict. Or, the judge may ask for a pre-sentence investigation before imposing sentence.

Pre-sentence Investigation

Pre-sentence investigations are usually conducted by the department of probation. Their reports include information about the defendant's prior criminal record, family history, education and employment history, and history of treatment for addiction or illness. The judge may also request a mental health evaluation.

When imposing a sentence, the defendant may be:

- 1) sent to county jail (maximum sentence of less than two years)
- 2) sent to state prison
- 3) placed on probation, or
- 4) placed under house arrest.