

## **Individuals with Intellectual and Developmental Disabilities in the Criminal Justice System and Implications for Transition Planning**

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*Abstract: The focus of this manuscript is on the challenges faced by individuals with developmental and intellectual disabilities within the criminal justice system. Prevalence data are cited and these data are interpreted in light of possible rationales for the disproportionate number of individuals with disabilities present within the system. Then the specific challenges faced by individuals with disabilities are discussed within the context of three key elements of the criminal justice system: interrogation and arrest, prosecution, and sentencing and disposition. The paper concludes with a discussion of the implications of this information for life skills instruction and transition planning. Specific recommendations are provided in terms of curriculum and instruction as well as community advocacy.*

Transition planning is a central focus in the development of individualized educational programs as students enter the middle and high school years of school. As a part of that training, especially in cases of students with developmental and intellectual disabilities (D/ID), effective planning can help these students gain as much personal autonomy as possible and acquire critical self-determination skills. This process most commonly is accomplished by teaching skills such as how to maintain a home, manage finances, arrange leisure activities, be successful in the workplace, and make important life decisions. However one important area may be too often overlooked: teaching students basic information about potential interactions with the criminal justice

system. By not addressing this key life domain, many students with disabilities will leave secondary education ill-prepared for the realities that may be associated with subsequent encounters with the criminal justice system.

While this area may seem like an incidental component to life skills education, recent research establishes a strong case for such an emphasis. A number of reports have recognized the difficulties that persons with mental retardation experience within the criminal justice system. Most notably, Perske's (e.g., 2000, 2005) work in this area has highlighted the problem and discussed the consequences.

The most dramatic attention has been given to a focus on mental retardation as related to death penalty cases. Given the decision in *Atkins v. Virginia* by the Supreme Court in 2002, the field of mild mental retardation has experienced renewed attention to concerns about definition and identification (Greenspan, 2006; Polloway, 2006) and particularly about the way in which death penalty cases unfold for defendants with intellectual disabilities

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(Patton & Keyes, 2006). While our purpose in this paper is not to suggest that more than a very few persons with intellectual disabilities will ever be charged with a capital crime, there clearly are issues that are highlighted in such cases that have importance for criminal justice processes in general.

This paper discusses the potential realities of interactions with the criminal justice system by persons with D/ID. The paper will explore the particular pitfalls that may be easier snares for persons with D/ID than for others without a disability, with a focus on key aspects of the criminal justice system. Using these problem areas as a foundation, the paper then focuses on selected implications for transition planning, including curricular emphases that result in the empowerment of the individual student as well as the possible roles that professional educators can play in ensuring that persons with disabilities experience justice within the criminal justice system, including collaboration with community partners.

### **Criminal Involvement and Persons with Developmental and Intellectual Disabilities**

To understand the rates of crime for, and criminal justice system involvement by, persons with D/ID, Hasssan and Gordon (2003) pointed out that definitions rooted in public policy determine who is identified and not identified as having a disability, which thus impacts rate of identification. While prevalence rates vary depending on the particular research study, the consistent finding is that there is a significant over-representation of persons with developmental disabilities in the criminal justice system worldwide (Hasssan & Gordon, 2003). While approximately 2% of the population of the United States may be identified as having a developmental or intellectual disability, common estimates are that between 4-5% and 10% of the prison and jail populations in this country (and internationally) have been identified as having such a disability (Bowker, 1994; Davis, 2006; Petersilia, 2000a, 2000b), dependent on definitions used. As Davis (p.14) concluded: "this does not mean people with disabilities are more likely to commit crimes, but they are more likely to get caught if they become involved in a criminal act (they may or may not realize the

act they are involved in is actually a criminal offense)".

A comparable trend is also found within juvenile correctional facilities. Overall, of those incarcerated in the juvenile system, approximately 3.4% of the population has been identified as having mental retardation as a primary diagnosis (Rutherford, Bullis, Anderson, & Griller-Clark, 2002). It is important to note that IDEA is still relevant in terms of access to special education for these individuals.

To complicate an interpretation of criminal justice system prevalence data, there are a number of social and intraindividual factors that make a risk of involvement in the criminal justice system higher for persons with D/ID. First, there is an over-representation of mild retardation in low-income minority groups, which collectively experience higher rates of police involvement and police presence in their neighborhoods than do those with fewer economic disadvantages. Approximately 34% of persons with developmental disabilities live in homes with incomes under \$15,000 (almost triple that of persons without disabilities) (Petersilia, 2000b); although these data are not recent, a reasonable adjustment in income level would still underscore their viability for the current time.

A related issue is the social status of such individuals. As Petersilia (2000) points out, individuals with D/ID may be easy targets because, while they may not be 'criminal', they are persons who tend to skirt along the edge of society simply because they may not fully understand societal rules and laws. They can become easy targets to be included in a group offense for which the person who has the disability subsequently may become the one who is blamed for the crime.

A key concern is the interaction between certain common characteristics of persons with D/ID and the vulnerabilities that they may have within the criminal justice system. Table 1, adapted from Patton and Keyes (2006), provides an overview of key intraindividual characteristics. Major areas of concern are then further discussed below.

Perske (2000, 2005, 2006a) has focused on the fact that numerous individuals with mental retardation have been documented to have confessed to serious crimes that they did not commit. Perske (2006) provided data on 41

**TABLE 1***Potential Problematic Characteristics in Criminal Justice System*

<i>Characteristic</i>	<i>Description</i>	<i>Example</i>
Gullibility	Phenomenon of being duped or lied to and often involving some degree of victimization	Taken advantage of
Acquiescence	Tendency to give in when under pressure	Talked into doing things for which one does not understand consequences Talked into confessing to crime that did not commit Gives in to repeated questions under interrogation
Naiveté	Inexperienced, credulous	Accepts what someone says without question
Desire to please	Interest in pleasing another	Does not catch subtlety of situations Will do what someone else wants in order to be accepted May say what he or she thinks police want to hear
Concrete thinking	Inability to understand abstract concepts	Does not understand Miranda rights
Memory issues	Difficulty with short-term memory	Not likely to recognize seriousness of what he or she is being accused of Likely to get confused as to complexities of a crime Does not remember details of a situation
Language problems	Difficulty with receptive and expressive language	Does not understand what is being said
Social behaviors	Displays certain emotions or feelings	Cannot articulate what one is thinking or feeling Cannot respond appropriately to critical questions during an interrogation
Cloak of competence	Attempt to pass as 'normal'	May display a behavior (e.g., laughing) that suggests a lack of remorse at an inappropriate time (e.g., during trial) May go to great lengths to deny or hide limitations May cover for co-defendants in an effort to appear strong

Adapted from Patton, J. R., & Keyes, D. W. (2006). Death penalty issues following *Atkins*. *Exceptionality*, 14, p. 241.

persons with intellectual disabilities who have been legally exonerated in cases to which they had previously confessed guilt. Data on those accused of less serious crimes were not presented but the generalization to the latter appears to be a reasonable one to make.

Through the work of Greenspan (2006a, Greenspan & Switzky, 2003, 2006), increased

attention has been given to the issue of social vulnerability in general and gullibility in particular. Greenspan posits that gullibility is a core characteristic in individuals with mild retardation and that these individuals are thus vulnerable to social manipulation, particularly within the criminal justice system. Further, this problem is exacerbated because contem-

porary adaptive behavior instruments (discounting those currently in production) have not included items that focused on gullibility and suggestibility as elements within the process of identifying adaptive functioning in individuals with intellectual disabilities.

Another aspect of the identification and prevalence question is that persons with developmental disabilities are much more likely to be involved in the criminal justice system if they also have limitations in intellectual functioning (e.g., mild retardation) (Hassan & Gordon, 2003) but not show physical signs of disability. This complicates matters for many persons in the criminal justice system because they may less frequently be recognized as having a disability (Petersilia, 2000). Patton and Keyes (2006) discussed some of the common misconceptions of the public, and attorneys, judges, and juries, of persons who have mild mental retardation that lead to failures in identification. Of course persons with mild mental retardation typically do not have a particular appearance (e.g., Down syndrome) or exhibit childlike actions. As a partial result of such misconceptions, it is estimated that 75% of persons with disabilities who are arrested are not identified as having a disability. Further an estimated 10% of this population goes unidentified during a subsequent prison term (Petersilia).

Hassan and Gordon (2003) noted that persons with D/ID often have more trouble gaining access to programs and treatment, and they may be stigmatized within the prison population. This issue may lead some attorneys to try to have the label removed in order to serve their client more efficiently. Another facet of labels is their view in varying contexts. For persons in the mental health field and teaching fields, the label serves as an informational tool from which to build strengths. However, in the legal system, the label serves to excuse behavior in some cases and to limit options in other cases, especially in capital cases (Patton & Keyes, 2006)

In summary, persons with disabilities are at risk for coming into contact with the criminal justice system for various reasons. Additionally, there are consequences for them whether they are identified as having an intellectual or developmental disability or not.

## **The Impact of Disability within the Criminal Justice System**

The criminal justice system is built upon finding justice for persons who are the victims of crime and maintaining order in society. While there are protections built into the system to ensure fairness, it is not a system that was developed with a full appreciation of the needs and characteristics of all persons in mind. Persons with disabilities have particular issues that challenge a system that was built to ferret out truth and protect rights (Fowler, Wilensky, LoVoi, & Monger, 2005).

There are a number of processes underlying the criminal justice system. The discussion in this paper focuses on interrogation and arrest, prosecution, and sentencing and disposition. A full discussion of the corrections system is beyond the scope of this manuscript. Each of the three relevant categories is discussed below as related to defendants with D/ID.

### *Interrogation and Arrest*

The role of the police officer at the occurrence of a crime is of course to locate and arrest the perpetrator as quickly as possible, and this objective increases especially in cases of serious offenses (Perske, 2003). Many political battles are waged when crime is seen as "out of control". These types of campaigns put increasing pressure on officers to process cases as efficiently as possible, especially in high publicity cases (see Perske, 2005).

In order for police to be able to do their job, they have a variety of interrogation tools available to them that help them to find the criminals and gain the truth from them. These tactics, while falling to a degree into the realm of deception, are allowed by law. As Perske (1991) stated, "as a citizen, I am a firm believer in the use of police tricks that keep violent criminals in an interrogation room for reasonable periods until they truly confess" (p. 532) to a crime they did commit.

The problem with interrogation arises in that many tactics are particularly disadvantageous to persons with intellectual disabilities for a number of reasons. First, many persons with disabilities have been taught that police officers are to be respected and obeyed. They

often try to please the officer (Perske, 2000). Added into this mix, many police officers will not recognize the presence of a disability because persons with mild retardation may mask their limitations, because they are embarrassed or because they have been taught that it is not something that they should talk about. The classic finding of the “cloak of competence” (Edgerton, 1967), which many persons with intellectual disabilities may exhibit to mask their disability, is consistent with this pattern.

During an interrogation, the goal of the officer is to make the situation as likely to gain a truthful confession as possible. To accomplish this goal, they establish the interrogation room as “a place of total control” (Perske, 2000, p. 532). In order to establish this place, the room is typically located deep in the police station, with the individual being placed furthest away from doors, thermostats, and light switches, and with few distractions (Perske). Additionally, the police officer will try to place himself or herself in total control of the room, such that the person being questioned may have to ask for everything. Many people do not realize that they have not been arrested and may walk out, however, the police officer attempts to make them believe that he or she is in complete control, even when that may not be the case. The officer may also expose the person to long waits, a sequence of tiresome yes-no questions, and a series of routines where the officer minimizes and maximizes the offense, all in order to try to get the person to feel a need or desire to confess (Perske).

This pattern of control involved in interrogation is a particular concern for a person with a D/ID because of the increased likelihood of an individual being susceptible to suggestibility. Hasssan and Gordon (2003) note that, “the reliance on ‘yes-no’ questions when interviewing developmentally disabled offenders at each point of the criminal justice process can have devastating impacts on the validity of the responses given and the subsequent fate of such offenders” (p. 13).

In a recent analysis of the work of Gudjonsson, Perske (2006, p. 15) identified three types of interrogational strategies that may impact on those who have high levels of suggestibility: “(1) responses to negative feedback,

(2) responses to lead in questions, and (3) responses to repeated questions”. Each tactic or strategy is consistent with the goals inherent in an effective interrogation but each nevertheless coincidentally can result in persons with D/ID inadvertently confessing to a crime, against their best interests.

Gullibility is a significant issue when discussing interrogation and arrest and it provides a foundation for social vulnerability that Greenspan (2006a, 2006b) argues is a universal trait in mental retardation. Consistent with this premise, Petersilia (2000b) noted the difficulty that some persons faced when critically responding to the greeting by an authority figure who says, “I am your friend, I am here to help you” (p. 24). She reported on a study by Reynolds (1998) in which persons with disabilities were asked about their perceptions in such situations. Sixty-eight percent of the sample felt that they would be protected. Additionally, 58% said that they would talk to the police before talking to an attorney. While over half would trust the police and talk to them, only 50% would reveal that they had a disability. Surprisingly, 38% were reported to maintain beliefs that they could be arrested because they had a disability. Everington and Fulero (1999) further reported that persons with developmental disabilities were more likely both to change and shift their answers to please their interrogators.

Suggestibility and confessions are a volatile combination because, as pointed out by Hasssan and Gordon (2003), “the act of confessing is further complicated, in the case of developmentally disabled defendants, as the confession process assumes an understanding of Miranda rights” (p. 14). It is at the point of interrogation that the discussion of the waiver of rights and the right to not self-incriminate is presented. Everington and Fulero (1999) noted that the Miranda rights given at the start of an interrogation are a major issue because there is reason to suspect the validity of the waivers that are agreed to by persons with mental retardation, thus calling in to question the understanding and concurrence assumed, for example, with a signature.

A key concern is the actual language of the Miranda warnings. Praiss (1989) noted that persons with retardation are challenged to understand the concepts inherent in Miranda

rights and to understand “a standard recitation of the Miranda warnings without further explanation” (p. 2). Petersilia (2000) studied the readability and listening difficulty of these warnings and determined that in order to fully comprehend these rights, a person needs to be functioning at seventh grade reading and listening levels, respectively. Similarly, Everington and Fulero (1999) assessed the comprehension of the Miranda rights on persons with mental retardation and reported that they had much more limited understanding of the rights than those who were not disabled. When they questioned their sample of individuals with disabilities about each of the four parts of the rights, they found that approximately 67% had little to no understanding of one or more of the parts of the warnings. As they concluded, “significantly more persons with mental retardation did not understand any of the substantive portions of this warning – right to remain silent, potential use of statements in a court proceeding, and the right to an attorney before and during questioning” (p. 217). The potential for misunderstanding of these rights underscores the importance of having an attorney or advocate present when they are read and before the individual confirms understanding (Davis, 2006).

It is instructive to consider the three categories of false confessions that Gudjonsson (2003, in Perske, 2006) identified. These include those that are: *voluntarily false*, due to vulnerability from the interrogator questioning him about the crime; *coerced into compliance*, in order to simply tell the interrogator that which he wants to hear; and *coerced interrogated*, in which the suspect becomes convinced through the process that he actually did commit the crime. While concerns for justice relate to instances where persons with D/ID did, as well as did not, commit a crime, these categories illustrate the challenges inherent in the system.

Finally, it is important to note that while suggestibility indicates an individual’s “acceptance of the information provided or requests made”, compliance refers to the “tendency to go along with propositions, request, or instructions for some immediate instrumental gain” (Perske 2006, p. 16) such as to “get out of that pressure cooker of an interrogation

room. First, they try to do anything possible to please the police officer. Secondly, they do everything possible to avoid conflict or confrontation with him or her” (Gudjonsson, 2003, in Perske, 2006, p. 16). Therein lies the challenge for a fair system of interrogation for persons with D/ID.

### *Prosecution*

Once formal charges have been filed, persons with developmental and intellectual disabilities must navigate the prosecutorial system. Competence within the legal system is at issue when a person enters the trial stage of the criminal justice system. The attorney becomes a central feature at this point in the legal system, and it is imperative upon that attorney to recognize and understand the individual’s disability in order to help his or her client (Hassan & Gordon, 2003).

If the attorney does not recognize the disability or understand the impact of such a disability on a person’s decision-making ability, the consequences can be dire. The best protection for a person with a disability at this stage in the process is an attorney who is knowledgeable about the impact of a developmental disability on a person. Access to a professionally trained advocate to assist attorneys throughout this process also can be a critical asset (Bowker, 1994; Davis, 2006). Davis notes that the American Bar Association maintains a directory of attorneys with some experience in representing clients with D/ID. The preferred expertise of attorney vis-à-vis mental retardation is extensive and becomes even more so in capital punishment cases (see Burr, Cecil, James, Patton, & Peoples, 2002).

The task becomes more difficult when one considers that even simple identification of a person with a developmental or intellectual disability may still be difficult at this stage. In fact, when a probation program for persons with developmental disabilities evaluated how many of their participants had been given competency tests, they found that only approximately 27% had (Bowker, 1994).

At the prosecutorial stage, issues of bail and pre-trial incarceration become important. Petersilia (2000b) reported that persons with developmental disabilities had a more difficult time seeking bail prior to trial and therefore

were more likely to be incarcerated. The court seeks to determine a risk level when considering bail. Persons with developmental disabilities do not fare well in this area because they are less likely to be employed or have substantial community ties, which are two key considerations when determining whether or not to set bail. When a person is incarcerated at the time of trial, all other factors being equal, the person is more likely to be convicted of the crime (Petersilia).

McGillivray and Watterman (2003) examined the attitudes of attorneys within the justice system. They found that while the majority of attorneys understood that persons with D/ID may need services that were different than other offenders, there was less consensus on many other beliefs, including that such persons can be led into crimes more easily, that these individuals may fear authority, and that they may try to cloak or mask their disability when confronted by an authority figure. More significant, they reported that 35.4% of attorneys were unaware that a person with a developmental disability may not understand the part of the Miranda warning which allows a person to remain silent (Gillivray & Watterman, 2003). In fact, Petersilia (2000b), in her review of the literature, noted that persons with developmental disabilities concede guilt more quickly than their peers who are non-disabled, provide more self-incriminating material than other defendants, and are unable to participate in plea bargaining as easily as others.

### *Sentencing and Disposition*

If a person with a disability is convicted, they may be at a greater risk of receiving longer sentences from the court. McGillivray and Watterman (2003) reported that persons with an intellectual disability run a greater risk at sentencing because many may have previously violated bail conditions or the communities in which they reside may lack the appropriate kinds of community options that can ensure subsequent success. In addition they may lack the social capital needed to secure their freedom. Further, with the degree of variability within attorney knowledge as noted above, competent representation can impact sentencing. This set of complicated and interwo-

ven issues places persons with D/ID at a greater risk than those who do not have disabilities.

Once a sentence has been given, there remain additional significant concerns for persons with disabilities either within the prison system or if within a community-based program such as probation or parole. Glaser and Deane (1999) point to a subtle shift that has had a significant impact upon the lives of persons with disability. As society has normalized environments (and thus has re-defined the concept of disability; see Smith & Pollock, 2008), this transformation has resulted in an increased expectation that persons with disabilities be held accountable to the same expectations as their peers who are non-disabled. However, as Glaser and Deane (1999) pointed out, “offenders with an intellectual disability are more likely to be uneducated, unemployed, poor, members of an indigenous minority, have suffered from childhood neglect or abuse, have deficits in social communications skills, and suffer from a behavior or psychiatric disorder” (p. 339).

While the movement to “normalization” clearly reflects a positive trend in the societal inclusion and acceptance of persons with disabilities, it is nevertheless, and inadvertently, related to a corresponding shift in the goal within the correctional system that may lead to unfair consequences for persons with disabilities. Thus within the prison setting, the disadvantages that these persons face are likely to impact not only daily life activities within the setting but also their length of stay. While those under the age of 22 are eligible to still receive services under IDEA, these needs exist for older persons as well. Davis (2006) noted that a key focus should be on finding an alternative placement but she acknowledged the difficulty in doing so given the limited number of specialized programs available. Clearly the nature of the setting can have an impact on success after release from the system (Alexander, Crouch, Halstead, & Pichard, 2006).

### **Implications for Transition Planning**

While a small minority of adolescents and adults with intellectual disabilities will have adversarial encounters with the criminal justice system, nevertheless the available data

suggest that this minority is sufficient to warrant the professional attention of educators. Further, the challenges that persons with retardation face within the system underscore the importance of educational interventions to prevent subsequent problems. It is within this vein that the importance of including attention to the criminal justice system within the process of transition planning becomes most apparent.

The transition planning process is intended to be a comprehensive one that involves both skill development in students as well as coordination with the community in which the individual will live. With reference to the need for planning vis-à-vis the criminal justice system, two main areas are addressed below: programming to empower individuals and working within the community.

### *Empowering the Individual*

Through the work of the Arc and other organizations, information has typically been available to adults with mental retardation to assist them in navigating the criminal justice system. While these are beneficial to those with access to this information, it is important that it also be provided to adolescents with D/ID through the same type of direct instruction that is used within other key domains within the school curriculum (e.g., reading, mathematics). The recommendations below follow from this basic assumption.

First, the topics related to the criminal justice system need to be addressed directly within the curriculum. These topics are appropriate components of broader curricular emphases on the development of self-determination skills and self-advocacy skills.

Second, given the fact that most individuals with disabilities are being taught in inclusive general education classrooms (US Department of Education, 2006), a key focus should be in reviewing the educational standards for a particular state that relate to coursework in government, civics, and/or political science. An example relates to teaching students the Virginia Standard of Learning CE. 3, which states that “The student will demonstrate knowledge of citizenship and the rights, duties and responsibilities of citizens by . . . describing the First Amendment freedoms of

religion, speech, press, assembly, and petition, and the rights guaranteed by due process and equal protection of the laws; [and] describing the duties of citizenship, including obeying the laws, paying taxes, defending the nation, and serving in court” (Board of Education, 2001). Instruction on a standard such as this one provides an excellent opportunity to incorporate individuals’ rights when being suspected of a crime by a police officer. A lesson in which the entire class goes to a local police station and discusses the topic with a police officer could be authentic, motivating, and have a powerful effect on the class.

Third, in situations where teachers may have significantly greater control over curriculum design (e.g., pull-out programs), opportunities to further develop topics relevant to the criminal justice system can be explored along with specific instructional instances in to which career and life skills can be infused. Polloway, Patton, and Serna (2008) discuss this approach within the context of school curriculum while Cronin, Patton and Wood (2007) provide a detailed discussion of how to create courses, units, and/or infusion topics for specific subjects. For example, when creating life skills lessons that include instruction on the criminal justice system, teachers must first be familiar with specific life skills (Cronin et al.). Then teachers can identify life skills areas, develop or identify a unit on the topic, plan for teaching the unit, and deliver the unit. Furthermore, a chart can be developed to outline the process and ensure that these steps are followed.

Cronin et al. (2007) identified a major series of life domains/skills (e.g., home and family, leisure pursuits, community involvement) and then, under each domain/skill, identified subdomains and life demands. Specifically under the domain of community involvement, these authors listed understanding legal rights and judicial procedures and obeying laws. When a teacher is addressing this subdomain with his/her students, it would be a logical opportunity to incorporate topics within the criminal justice system.

Regardless of setting in which instruction occurs, one of the most significant foci should be direct instruction accompanied by role playing for persons with disabilities of their responses if they come into contact with the

criminal justice system. To this end, the Arc of New Mexico Justice Program developed a curriculum that included an alternate warning that can be used to discuss Miranda rights (see Davis, 2006). An analysis of the language and meanings of the words in this warning should be a critical component of life skills instruction. Another helpful resource, focused on the juvenile justice system, was developed by Dershowitz, Jouet-Nikinyang, Gill, and LoVoi (2004).

### *Involving School Personnel with the Community*

To complement the above curricular emphases, education programs can also involve school resource officers in the classroom to create exposure and to teach relational skills with police officers. This education can include teaching and role playing, such as what “you have the right to remain silent” actually means, as well as other key features of the Miranda warnings.

The involvement of school resource personnel also provides a linkage to opportunities for community-based education related to the criminal justice system. While classroom field trips to local jails and courts of course can be unnecessarily negative if handled improperly, nevertheless students can learn to appreciate the nature of the system better when they experience it in a concrete form by meeting with and discussing the justice system with individuals who are responsible for its implementation. Further, as discussed below, such an opportunity provides these public servants with an occasion to learn more about developmental and intellectual disabilities and to have a greater sensitivity to individuals who they may subsequently encounter within the system.

Teachers have an opportunity to play a unique role in advocacy for their students and former students and for the community at large. In addition to strategies for building curriculum and providing instruction, teachers may be individuals’ best advocates if they have an interaction with the criminal justice system as adolescents or young adults. Special educators have the best understanding of the learning, behavioral, and personality characteristics of individuals with intellectual disabilities and can greatly assist police officers, pros-

ecutors, defense attorneys, and judges in understanding, for example, the nature of mental retardation and intellectual disabilities in general and the characteristics of the individual person in particular.

For communities in which there is not a presence of mental retardation professionals, such as in small towns and rural areas, teachers are likely to be the best informed for educating professionals within the criminal justice system about intellectual disabilities. Opportunities for exchange of information can be critical in this regard because such information can serve in a preventive fashion by, for example, alerting law enforcement to the likelihood of suggestibility and gullibility as traits of persons with intellectual disabilities as well as to making them aware of the common preference of some individuals to mask their disability and adapt a cloak of competence even when it is not to their advantage. The result can be the prevention of unnecessary arrests and convictions (Davis, 2006) as well as the assurance of fair treatment within the system.

While model programs and the education of persons within the system may, over the long-term, create change, school program changes are imperative now. Instruction in basic skills may prevent the injustice of a child sitting in the classroom today, who may be an adult disadvantaged in the criminal justice system tomorrow. An adoption of a focus on the criminal justice system within life skills and transition planning and programs is a clear recognition of the realities of community living for all individuals and particularly for those with developmental and intellectual disabilities.

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