

Victims, Witnesses, and Defendants with Intellectual and Developmental Disabilities: Key Information for Prosecutors

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June 24, 2019

SERVING SAFELY OVERVIEW



Serving Safely: The National Initiative to Enhance Policing for Persons with Mental Illnesses and Developmental Disabilities

Objectives	Facilitate greater access to mental illnesses (MI) and intellectual developmental disabilities (IDD) training, technical assistance, resources, research, and subject-matter experts to enhance practice
	Equip police and their service partners with tangible tools and knowledge to safely respond to and resolve incidents involving persons with MI/IDD
	Build and support a national community of practice
	Promote a no-wrong-door approach to MI/IDD training and technical assistance



Contributions to the Field	Expose police agencies to a wide range of response models
	Streamline access to other BJA- and federally-funded MI/IDD training and resources
	Identify gaps and recommend an agenda to inform future police-oriented MI/IDD research

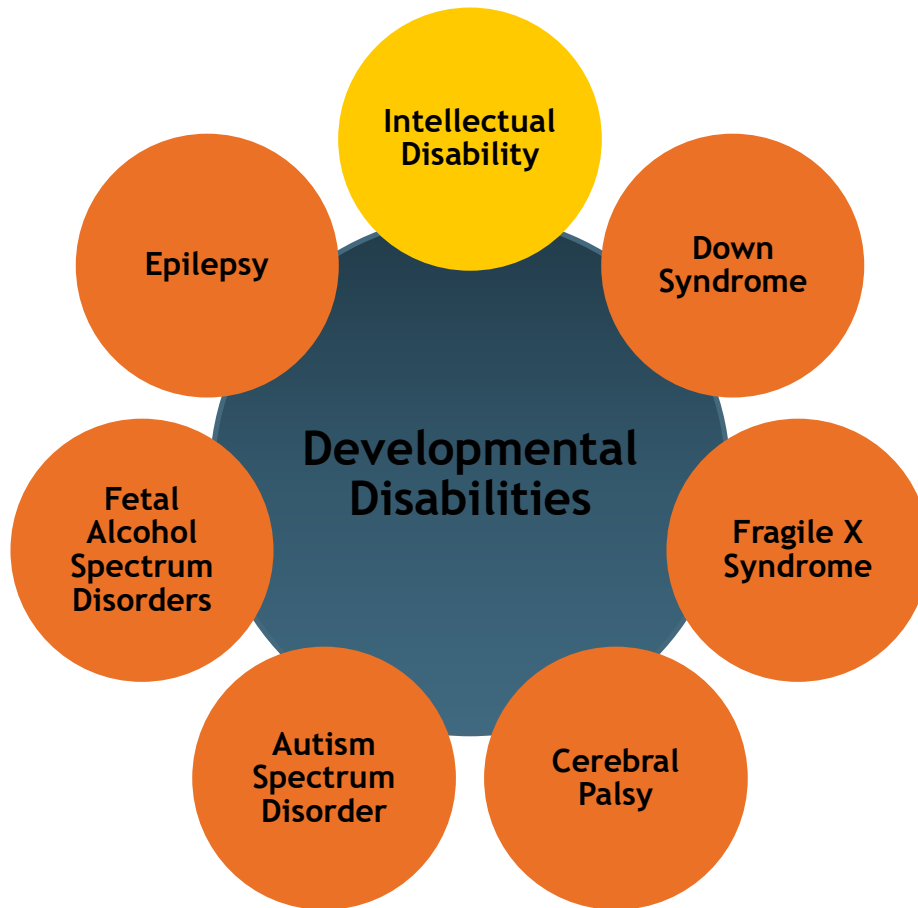
Practical Benefits to Your Agency	Ensure safe interactions with persons with MI/IDD
	Facilitate clear and effective communication between your agency, MI/IDD service providers, and community stakeholders
	Identify partnership strategies and models to refer MI/IDD cases to professionals and community supports rather than jail, when appropriate
	Promote the destigmatization of MI/IDD across your agency and in community
	Support planning, deployment, tactics training, and other operational priorities through the use of data and technology

INTRODUCTION TO DEVELOPMENTAL DISABILITIES



Developmental Disabilities

- Physical and/or mental impairments with onset before age 22
 - Substantial functional limitations in at least three of these:
 - Self-care
 - Learning
 - Walking/moving around
 - Self-direction
 - Independent living
 - Economic self-sufficiency
 - Language



Intellectual Disability

Limitations:

- Intellectual functioning
- Adaptive behavior (conceptual, social, and practical skills)
- Onset before 18

About 85 percent of people with intellectual disability fall into the lower support needs category.

Autism

- Difficulty with social interaction and cues
- Verbal or nonverbal communication
- Repetitive behaviors
- Sensory processing difficulties

Fetal Alcohol Spectrum Disorder (FASD)

FASD can lead to a high risk of criminal justice involvement because the disability is very difficult to identify. People often have IQs in the average range.

- Occurs when the mother drinks while pregnant
- Difficulty with abstract concepts, judgment, and impulsivity, yet good expressive language skills



Functional Needs, NOT Diagnosis

- Access and Functional Needs
 - Used in emergency situations/disaster response to address functional needs
- Focus on the need first, then on how to assist

GENERAL IDENTIFICATION TIPS



Communication: What to Look For

- Limited vocabulary or speech impairment
- Difficulty understanding
- Short attention span
- Mimicking or repetitive speech
- Nonsensical speech
- Bluffing greater understanding

Behaviors: What to Look For

- Indications that the person is easily influenced and/or eager to please
- Indications that the person is easily frustrated
- Difficulty with everyday tasks, such as telling time
- Uses or requests to use assistive devices
- Repetitive motions or motor impairment

Interactions: What to Look For

- Inappropriate interactions with peers
- Over-compliance with authority figures
- Misunderstanding of social cues and body language
- Under- or over-engagement with others

DISABILITY RIGHTS



Disability Rights Laws

- Rehabilitation Act
- Americans with Disabilities Act (ADA)
- Individuals with Disabilities Education Act
- Developmental Disabilities Act

Americans with Disabilities Act

Title	Subject	Who's affected?
Title I	Employment	Private employers with more than 15 employees and all public employers
Title II	Public Programs and Activities	State and local governments
Title III	Public Accommodations	Hotels, restaurants, doctors' offices, private schools, day cares, health clubs, sports stadiums, movie theaters, etc.
Title IV	Telecommunications (closed captioning)	Telephone and internet companies
Title V	Miscellaneous Provisions	Various entities



Two Basic Rights

- Effective communication
- Access to programs and services
- Anti-discrimination
 - Auxiliary aids and services
 - Reasonable accommodations

CASE SCENARIO



The police responds to a call from Amy, a staff member at a local group home. She reports that one client stole something from another client. The alleged victim, **Thomas**, who has an intellectual disability, would like to file charges. The person accused of stealing, **Marcia**, has autism. **Marcia** has no criminal history. **Marcia** is arrested but allowed to return to the group home, pending investigation.



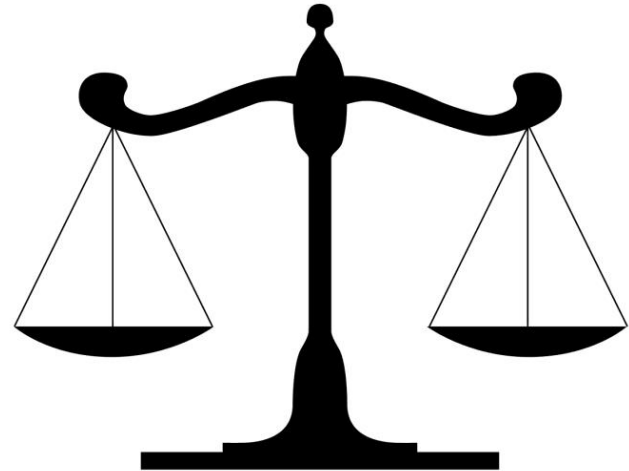
Initial Considerations

- Prosecutors may be hesitant to take this case
 - Often their only experience with disability issues is in the context of defeating defenses
- Must overcome assumptions and discomfort
- Basic advice:
 - Start like any other case
 - Be aware of disability and related resources throughout



The Victim: Thomas

- Challenges:
 - Communication
 - Credibility



Helpful Strategies

- Start by believing the victim
- Use effective communication strategies
 - Take a trauma-informed and victim-centered approach
 - No leading questions
 - Consider who is in the room (family members, interpreters, etc.)
- Assist with accommodations
 - ADA coordinators
 - State and local disability organizations
- Assess corroborating evidence



The Defendant: Marcia

- Challenges:
 - Fair and appropriate disposition
 - Public safety



Helpful Strategies

- **Ask yourself:** What would keep this defendant from entering the system again?
- Consider the services and programs available
 - Possible adaptations for access
 - Personalized justice planning
- Work with state and local disability organizations

Resources

- State and local chapters of The Arc
- Protection and advocacy organizations
- State and local self-advocacy groups
- Pathways to Justice
- New Prosecutor Resource

QUESTION & ANSWER



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