Intellectual and Developmental Disabilities

Criminal Justice and People with Intellectual and Developmental Disabilities

--Manuscript Draft--

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Abstract:	People with IDD are overrepresented in the criminal justice system as victims/survivors and as offenders. The needs and circumstances of individuals from underserved communities have received scant attention in the literature. Stakeholders met online at the 2022 State of the Science Conference on Community Living to discuss criminal justice and to identify goals for research involving people with intellectual and developmental disabilities (IDD). The group focused more on victimization and less on offenders. Victimization issues examined included prevalence, individuals from underserved communities, sexual victimization, consequences of victimization, victim compensation, prevention, and risk reduction. Issues regarding offenders included prevalence, people from underserved communities, and competency to stand trial. Future directions are proposed for research on victimization and on offenders.

Dear Dr Bogenschutz,

Our thanks to the 2 anonymous reviewers for their detailed and insightful comments.

Because of the large number of changes made, track changes were simply too confusing, so we used yellow highlighting to denote new or changed text and green highlighting to show text that was essentially unchanged but had been moved to a different location in response to reviewer comments.

We also did some minor editing to reduce length a little as we now slightly exceed the journal's upper limit for manuscript length.

Below we set out, point by point, each reviewer's comments with our response to each issue.

Reviewer #1:

REVIEWER'S COMMENT

The Abstract would flow better if you switched the first two sentences with the next two sentences in order to keep the methods all together.

AUTHORS' RESPONSE

We made the suggested change.

REVIEWER'S COMMENT

The Background section actually starts with the methods of goal development. The 5 paragraphs of methods may be moved to a section after the background information. For example, before the current heading "Conclusions and Future Directions on Victimization." When rearranged, the current second paragraph, which states the goal of the "paper" may need to be updated.

AUTHORS' RESPONSE

We agree that starting the article with the process/methods is not appropriate, so we have partly followed the reviewer's suggestion, by moving the description of the Criminal Justice strand, its members, and the State of the Science conference to a new Method Section.

However, the paragraphs mentioned contain several "advance organizers" that inform readers about what to expect and/or why certain disability labels were used. We have retained some of this information at the start of the paper so that, for example, readers understand why we use different disability labels (IDD, DD, ID, ASD) at different times.

We moved the methods content to later in the manuscript, as suggested. However, we placed this Method Section before we report the findings of our review and the future directions for research. We did this because (a) the review and future directions represent the findings of these Methods (so logically should follow the Methods section), and (b) placing the Methods just before Future Directions on p. 20 seems much too late in a 24.25 pages of text.

REVIEWER'S COMMENT

Putting all future directions (on victimization and on offenders) together at the end, one after the other, may help with the flow of the article from background literature to methods to future directions.

AUTHORS' RESPONSE

As suggested, we have moved the section "Future Directions on Victimization" to precede the section on "Future Directions on Offenders" so that all future research directions are combined at the end of the paper.

REVIEWER'S COMMENT

p. 1 How many participants were involved in the strand?

AUTHORS' RESPONSE

When we first mention the State of the Science conference, we now state "A diverse group of eight stakeholders, including both authors, met online …" This material has been moved to a new Method section, as described in response to an earlier comment.

REVIEWER'S COMMENT

An additional proofreading is needed. For APA Style, when two groups of parentheses are next to each other, include them together with a semicolon to separate each part.

AUTHORS' RESPONSE

Thank you. We have corrected these errors throughout.

REVIEWER'S COMMENT

p. 5 What is OR?

AUTHORS' RESPONSE

We have now written out "odds ratio" in full to explain the abbreviation OR.

REVIEWER'S COMMENT

P. 5 What are the general findings of the small-scale studies in the 1st and 3rd full paragraphs?

AUTHORS' RESPONSE

We have added some detail from the 2 review studies we cited, as follows:

"Fisher, Corr, et al. (2016) reviewed studies of adults with IDD and concluded that they experience high rates of sexual assault, physical assault, and other forms of victimization, including financial exploitation. Trundle et al.'s (2022) review found high rates of victimization of people with ASD."

REVIEWER'S COMMENT

p. 8 You mention the education system in the first full paragraph. How is sexuality education different for students with IDD in schools? This seems important since it may be the only time some people receive sexuality education if they have access.

AUTHORS' RESPONSE

We added the following:

"Multiple factors contribute to sexuality education continuing to be marginalized or totally overlooked. In school, Barnard-Brak et al. (2014) found that less than half of US public school special education students with ID received any formal sex education. Moreover, teaching content and methods often are not individualized. Students with IDD may have difficulty fully comprehending the lesson, especially the subtle, fluid social cues, unstated "rules", and possible hidden agendas involved in social/sexual behavior."

REVIEWER'S COMMENT

p. 10 Generally, what are the changes to practice proposed by Baladerian et al. (2013)?

AUTHORS' RESPONSE

We added a brief summary of Baladerian et al.'s (2013) recommendations:

"Baladerian et al. (2013) proposed numerous changes to practice that could improve the situation regarding victimization of people with disabilities, including several recommendations related to victim compensation such as improved reporting, education/training, therapy, funding, and a therapy referral system."

REVIEWER'S COMMENT

p. 12 Does LEAP or ESCAPE-DD stand for anything?

AUTHORS' RESPONSE

We have added explanations of what these acronyms stand for:

Leadership for Empowerment and Abuse Prevention (LEAP)

Using the *An Effective Strategy-Based Curriculum for Abuse Prevention and Empowerment* (ESCAPE-DD) curriculum

REVIEWER'S COMMENT

p. 15 The paragraph with the subheading Interventions in the Criminal Justice System could be placed before the Interventions with Adults with IDD to keep all intervention ideas together.

AUTHORS' RESPONSE

We tried moving this paragraph as suggested but realized that it contains cross references to "the preceding discussion of victim's compensation" and to "the examination below of competence to stand trial". Thus, we concluded that the section/paragraph was better place between the victim's compensation and competence sections to maintain a logical flow.

REVIEWER'S COMMENT

p. 16 Delete "Conclusions and" in the heading.

AUTHORS' RESPONSE

Done.

REVIEWER'S COMMENT

p. 16 What is the difference between Education and Intervention, just that intervention includes research?

AUTHORS' RESPONSE

Education and intervention are often used interchangeably, although non-educational interventions are possible of course. However, all of the risk reduction interventions we describe are essentially educational in nature. In short, in this part of our article there are no important distinctions between Education and Intervention. Rather than spend time in the text explaining this, we have changed the subheading to read "Education and Intervention" to indicate that these issues will be discussed together.

REVIEWER'S COMMENT

p. 17 In the last paragraph, you state that there are many issues that will not be presented. What are we missing? Could you summarize those briefly, so we keep the topics in mind?

AUTHORS' RESPONSE

Drawing from Cooper et al.' (2022) review, we added mention of the following issues:

"interactions with law enforcement personnel, initial detention and investigation, courts, prisons/jails, as well as re-entry into the community and community corrections"

Reviewer #2:

REVIEWER'S COMMENT

Thank you for the opportunity to review DD-D-23-00017 "Criminal Justice and People with Intellectual and Developmental Disabilities ". This article is slated to be part of a special issue highlighting the proceedings of the 2022 State of the Science conference to summarize the Criminal Justice strand. As such, I reviewed through the lens I hold as a leader of another strand, with knowledge of the intentions

of the conference to draw particular attention to research questions that will help the IDD field center the experience of people from minoritized racial, ethnic, cultural, and linguistic groups.

AUTHORS' RESPONSE

Thank you.

REVIEWER'S COMMENT

The authors did well to summarize major literature related to broad conceptualizations of victims and offenders and offered some preliminary directions for future research. However, the authors were less successful in centering the experience of people with minoritized identities, either in the summarization of existing research findings (which they have little control of) or in their proposed future directions for research (which they do control). I believe those elements need to be strengthened significantly before publication.

AUTHORS' RESPONSE

Where IDD research is available involving underserved communities, we have added information to strengthen the focus on this dimension of criminal justice research. Specifically, we have added more detail from the Tsagaris et al. (2016) study to the section "Are Individuals with IDD from Underserved Communities Overrepresented as Offenders?" as follows:

"Tsagaris et al. (2016) also analyzed where the offenders with DD lived and found much higher concentrations in certain areas – core city (72%), inner circle suburbs (20%), outer ring suburbs (9%) – especially areas with high levels of poverty and unemployment. Moreover, within each area far more were from the parts where mostly African Americans lived. These results suggest that policing was concentrated in specific areas, and that individuals with DD who lived in those areas were therefore caught up in this situation."

Further, in the same section we added new research (not available at the time on our initial submission) on the racial composition of persons with IDD found incompetent but detained:

"Disability Rights California (2023) reported demographic data on residents of the Porterville Developmental Center, a secure center for adults with IDD who have been charged with a crime but found incompetent to stand trial. In early 2023, residents were overwhelmingly male (91%) with substantial overrepresentation of Black (35%) inmates and underrepresentation of Hispanics (32%), Whites (25%), and Asians (3%) as compared to the percentage of each group in the California general

population in 2022 (Black 6.5%, Hispanic 40.2%, non-Hispanic White 35.2%, Asian 15.9%; https://www.census.gov/quickfacts/CA).”

In relation to future research directions, we have added many specific issues regarding people with minoritized identities. These changes and additions are laid out in detail in our response to Reviewer 2’s comment #9.

REVIEWER’S COMMENT

1. At the start of the article, I wonder if you would be willing to do a little more to outline the topic for this paper, before jumping to contextual information about the scope and process of your group's work.

AUTHORS’ RESPONSE

We added the following as an opening paragraph for the article:

“Individuals with intellectual and developmental disabilities (IDD) have the same rights as other community members to access the criminal justice system and to receive justice. Regrettably, surveys, research, and lived experience all consistently show that they are at much greater risk of criminal victimization including sexual victimization, and disproportionately more likely to be arrested, found guilty, be imprisoned or be subject to civil commitment. Although the evidence is very limited, some research shows that individuals with IDD and minoritized racial identities, especially young Black men, are more likely be involved in the criminal justice system as offenders.”

While more could have been said, we were mindful here and elsewhere that the revised paper is now a little beyond the upper limit of the journal’s rules for article length, so we felt constrained to keep this additional material succinct.

REVIEWER’S COMMENT

2. The contextual information (most of p. 2) should be in past tense, since it refers to past events/decisions. I also feel this information could be abbreviated, and should probably be moved after the background literature, since all that is on p. 2 is essentially your methods for this paper.

AUTHORS’ RESPONSE

We changed this section to the past tense. We edited this material to make it a little shorter.

REVIEWER'S COMMENT

3. The acknowledgement that racial and ethnic disparities are a central feature of the U.S. criminal justice system is important. In fact, it has been my understanding that focus on identity-based disparities was a key area of emphasis for the SoS conference. I'm wondering if the authors may be willing to expand on the statement on p. 2 (bottom) to provide a stronger grounding for the rest of the paper.

AUTHORS' RESPONSE

We have added further detail as follows:

"with far higher imprisonment rates among people of color (Black, American Indian/Alaska Native, Hispanic) compared to Whites. By contrast, recent general-community data on the rate of violent victimization showed small differences by race and ethnicity (Bureau of Justice Statistics, 2020)."

REVIEWER'S COMMENT

4. Top of p. 5, the statement ""points to the need to start education and support efforts early…" seems to put the onus for preventing victimization entirely on the person being victimized, which could be seen as stigmatizing. Please also acknowledge that training ALL students and school personnel , and putting school policies in place to proactively avoid bullying and victimization are important structural solutions to the problem.

AUTHORS' RESPONSE

We acknowledge that there are other important approaches to helping people with IDD be safe (see first paragraph of the "Prevention and Risk Reduction" section). However, providing people with IDD with knowledge and skills to avoid unsafe situations or to seek help has been a prominent part of the literature for some time and we think that it is important that we cover this material. Rather than being stigmatizing, we consider these efforts to be empowering. To make this focus more explicit, we have added the words "empower"/"empowered" in several places.

In the first paragraph of the "Prevention and Risk Reduction" section we have added specific mention of the importance of training all school students and staff and having bullying prevention policies, as follows:

"For example, training students with and without disabilities and school staff, and implementing proactive whole-school policies to prevent bullying and victimization are important ways to deal with these issues within schools (Raskauskas & Modell, 2011)."

In the specific context of teaching people with IDD about victimization, we changed “abuse prevention” to “risk reduction” to be more accurate (sadly, abuse likely can never be 100% prevented) and to recognize that teaching people with IDD is one of a number of approaches to improving safety.

REVIEWER’S COMMENT

5. Again on the bottom of p. 5 the onus is placed squarely on victims to prevent victimization with no acknowledgement that systemic factors also need to change in order to prevent mistreatment of people with disabilities/IDD. I would like to see a more complete and nuanced statement about what needs to happen, with additional focus on structural factors that could be changed.

AUTHORS’ RESPONSE

These issues were addressed in our response to the preceding comment (comment #4). As a further recognition of systemic factors, we added:

“ensure that services (e.g., schools, disability services) and law enforcement provide safe environments across the life span”.

REVIEWER’S COMMENT

6. The first paragraph under the heading "Individuals with IDD from Underserved Communities…" could use a rewrite for clarity and to add a little more context as to the nature of the study being cited.

AUTHORS’ RESPONSE

We added the words “the NCVS survey showed” to remind readers that Harrell (2021) reports findings from this Bureau of Justice Statistics national survey of victimization.

To aid greater clarity we added an example:

“For example, Hispanics with disabilities had a victimization rate of 55.3 per 1,000 people in 2017-19, whereas the rate for Hispanics without disabilities was 12.3 (age adjusted).”

REVIEWER’S COMMENT

7. P. 6, middle of first full paragraph, consider changing "non-white" to "minoritized racial identities and/or immigrant communities"

AUTHORS' RESPONSE

We made the suggested change.

REVIEWER'S COMMENT

8. P. 8, paragraph "Multiple factors… " is quite unclear and needs a complete rewrite.

AUTHORS' RESPONSE

We added information about sex education in schools in response to a comment by reviewer #1. We also made a minor edit to the paragraph. However, we reviewed this paragraph several times and were not able to identify a major problem with clarity. We are happy to revise it when we better understand what the problems are.

REVIEWER'S COMMENT

9. Both at the end of the Victims section and the Offenders section, I think it may be worthwhile to expand upon the future directions to propose possible research questions, and to explicitly center the experience of racially and ethnically minoritized populations in those research questions. Also, I would strongly considering compiling all of your future research directions at the end of the paper, rather than splitting them across the two sections. (consider this as your discussion section, of sorts)

AUTHORS' RESPONSE

As listed below (and in response to other reviewer comments) we have added numerous specific mentions of the experience of racially and ethnically minoritized populations in our proposals for future research in the "Future Directions" section.

As suggested, we have moved the section "Future Directions on Victimization" to precede the section on "Future Directions on Offenders" so that all future research directions are combined at the end of the paper.

Further, we have moved several comments regarding research questions from various parts of the body of the manuscript to the Future Directions section at the end. For example, questions regarding competency have been moved to the "Competency" subsection of the "Future Directions on Victimization" section. Likewise, we moved the comments on the type of victim compensation data

needed to the “Victim’s Compensation” subsection of the “Future Directions on Victimization” section (see sentence beginning “These goals require robust data …”.

We added an overarching question on differences regarding competency issues for individuals from underserved communities.

We also added multiple comments and/or research questions that focus directly on underserved communities. For example, in the “Future Directions on Victimization” section, “Prevalence” subsection, we added:

“The NCVS collects data on both disability and racial/ethnic status, but in its publicly available reports the BJS has only provided victimization prevalence data by racial/ethnic group for people with disability overall, not broken down by disability type (e.g., Harrell, 2021). Doing so would facilitate a clearer understanding of any disparities by race and ethnicity in the victimization of people with cognitive disabilities/IDD and give advocates, policy makers and researchers ready access to this information.”

Likewise, in the “Future Directions on Offenders” section, “Underserved Communities” subsection, we added and slightly extended the following material that was previously in the body of the paper in the Offenders with IDD section:

“More research is needed to provide robust and representative data on the prevalence of individuals with IDD at all stages of the criminal justice system, to evaluate outcomes, barriers, disability accommodations, and trends over time. One key focus of this research should be to document the proportions from different racial and ethnic groups, to identify communities at high risk of criminal justice involvement, the circumstances of their involvement, and the variations in these patterns that may be evident in different jurisdictions. This information can inform the targeting of risk reduction and diversion efforts and help ensure that such interventions are accessible and acceptable to the affected communities. Even with the very limited available research on these issues, the situation for young black men with IDD warrants particular attention.”

In addition, in the “Future Directions on Offenders” section, we have added the following material on issues related to the information added from Tsagaris et al. (2016) as part of our response to the reviewer’s second (unnumbered) comment above:

“Specific issues for future research include examining crime and policing rates in the areas where people with IDD live and any disparities by race and ethnicity. Causes for living in areas with high crime and/or policing rates that could be investigated include housing affordability and poverty.”

Elsewhere we have added specific reference to underserved communities. For example, in the “Future Directions on Victimization” section, “Victim’s Compensation” subsection we added:

“Here too, barriers and disparities by underserved community status should be examined carefully.”

And in the Measurement subsection we now state:

“Further, such tools need to be examined separately with various underserved communities to determine their validity and acceptability for different cultural groups.”

Likewise, in the “Future Directions on Offenders” section, “Competency” subsection, we added:

“Do any of these competency-related issues function differently or have different consequences for individuals from underserved communities?”

REVIEWER’S COMMENT

10. An important note that I think needs to be added is a stronger statement about how victimization (ultimately, the topic of this paper) is part of criminal justice (generally thought of as policing, the courts, crime, adjudication, etc.). Mostly the paper is really about crime (as both vicitim and offender) with little attention to policing, the bias of the court system, etc. I understand that the authors' intent is to focus on the victim side of crime, but ultimately this is a very incomplete picture of criminal justice for people with IDD. In my view, it comes across as flat, especially in light of the SoS conference's focus on racial justice, which has a much more clear relationship to issues of policing and imprisonment of (disproportionately Black and Latinx) people with IDD. Many of the high profile incidents of police brutality in the U.S. have targeted Black men with IDD or other disabilities, who would not fall neatly into the authors' categorization of victim/offender. There is virtually no attention at all given to racially and ethnically minoritized populations in the paper as currently written, and I believe this needs to be attended to more deliberately prior to publication in order to be in-line with the intention of the SoS conference.

AUTHORS’ RESPONSE

At the start of the section on “Criminal Victimization” we added the following statement regarding victimization as part of criminal justice:

”Some readers may think of criminal justice mainly in terms of crime, policing, courts, and prisons. However, victimization is a fundamental aspect of criminal justice. As well as the effects on victims/survivors themselves, the criminal justice system includes components such as victim support services and victim compensation. Given the very high rates of victimization of people with disabilities discussed below, especially individuals with cognitive disabilities (including IDD), victimization is a particularly important issue for people with IDD. Our article does not deal with child abuse or bullying. Fisher, Corr et al. (2016) and Hickson and Khemka (2021) provide thorough examinations of these issues.”

We acknowledge that the reviewer’s comment regarding issues of policing and imprisonment is accurate. However, these issues received quite limited discussion in the Criminal Justice strand of the SoS conference, because the participants, including the two self-advocates, chose to focus mainly on victimization. That being the case, we feel that our paper should substantially reflect the issues discussed within our strand. That said, elsewhere we have taken up the reviewer’s suggestions regarding a clearer focus on minoritized populations, as we explain in our responses to the reviewer’s comments (e.g., #9).

In the “Future Directions on Offenders” section, as a reminder to readers that our paper pays little attention to certain issues, we added the following comment (first sentence included for context, only the second sentence is new):

“Many important issues from all stages of the criminal justice system involving offenders with IDD require research attention (see Cooper, 2022). These include providing and evaluating training to criminal justice personnel (police, prosecutors, judges, prison staff, parole officers) about IDD and appropriate supports and accommodations. However, we do not deal with those issues here because the topics mentioned below reflect the scope of the discussions at the *State of the Science Conference on Community Living.*”

REVIEWER’S COMMENT

11. The authors have chosen to use the term "victim/ization" throughout the paper, rather than survivors, people who have experienced abuse, people exposed to violence, etc. I would suggest adding a note somewhere toward the top of the paper to explain why the authors made this choice, as there are different lines of thought on the best terminology to use, making the "victim" label potentially controversial, as it could be read as taking power away from people who have experienced crime or violence.

AUTHORS’ RESPONSE

We added the following explanation as the second paragraph of the “Criminal Victimization” section.

“When referring to individuals, we use the term victim/survivor, instead of either victim or survivor. The term victim is widely used in the literature and in criminal justice, but we recognize that many people with disabilities find this term demeaning or disempowering and prefer the term survivor. We use victim when referring to programs or services such as victim compensation.”

In line with this explanation, throughout our paper we have changed the term victim to victim/survivor when we refer to an individual who has been subject to victimization.

REVIEWER’S COMMENT

12. Throughout, please make sure that all mentions of disability and IDD are clearly and consistently noted, as to the precise population referenced in each study. I can see that the authors have tried to do this, but some sections remain a little confusing, so an additional review would be beneficial to make sure populations are specified as clearly as possible.

AUTHORS’ RESPONSE

We have reviewed the disability descriptors carefully for consistency and to ensure they reflect the labels used in the source material.

REVIEWER’S COMMENT

13. I noted quite a number of missing words, punctuation errors, etc. throughout. Rather than documenting all of them, I will simply request that the authors do a very thorough copy edit before resubmitting.

AUTHORS’ RESPONSE

We have carefully edited the manuscript and corrected errors.

REVIEWER’S COMMENT

14. Finally, as you edit, I would suggest giving more attention to transitions, context, etc. Much of the paper read a bit choppy, as rather unconnected ideas, that I believe could be tied together more firmly into a cohesive narrative.

AUTHORS' RESPONSE

We have edited to improve transitions and flow. Some of these efforts have been described in responses to previous reviewer comments.

An example of new material that aids transition and context is the new paragraph at the end of the "Are Individuals with IDD from Underserved Communities Overrepresented as Offenders?" section.

"Taken together, these US and international findings suggest that adults with IDD from some minority backgrounds are far more likely to become involved in the criminal justice system as offenders, but the data are very patchy. Even so, the markedly disproportionate involvement of young black men with IDD is consistent with US general community trends on imprisonment and merits detailed attention by advocates, policy makers and researchers."

Criminal Justice and People with Intellectual and Developmental Disabilities

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Declaration of Competing Interest

All authors declare that they have no competing interests.

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Criminal Justice and People with Intellectual and Developmental Disabilities

Abstract

People with IDD are overrepresented in the criminal justice system as victims/survivors and as offenders. The needs and circumstances of individuals from underserved communities have received scant attention in the literature. Stakeholders met online at the 2022 *State of the Science Conference on Community Living* to discuss criminal justice and to identify goals for research involving people with intellectual and developmental disabilities (IDD). The group focused more on victimization and less on offenders. Victimization issues examined included prevalence, individuals from underserved communities, sexual victimization, consequences of victimization, victim compensation, prevention, and risk reduction. Issues regarding offenders included prevalence, people from underserved communities, and competency to stand trial. Future directions are proposed for research on victimization and on offenders.

Key words

Intellectual and developmental disabilities, Criminal justice, Victimization, Victim compensation, Offenders.

Individuals with intellectual and developmental disabilities (IDD) have the same rights as other community members to access the criminal justice system and to receive justice. Regrettably, surveys, research, and lived experience all consistently show that they are at much greater risk of criminal victimization including sexual victimization, and disproportionately more likely to be arrested, found guilty, be imprisoned or be subject to civil commitment. Although the evidence is very limited, some

research shows that individuals with IDD and minoritized racial identities, especially young Black men, are more likely be involved in the criminal justice system as offenders.

This paper aims to examine what is currently known about selected criminal justice issues, and to use that information to frame key priorities for future research involving people with IDD. It examines criminal justice data and research involving people IDD separately for victims/survivors and for alleged offenders/prisoners. The paper focuses mostly on the situation in the US, but where there are gaps in the US data and research, we supplemented our analysis with certain international findings. The applicability of non-US research to the US should be considered with due caution, owing to the many differences in criminal justice systems.

Several factors constrained the extent to which we could report clear findings about the criminal justice involvement of people with IDD. Because of the differing approaches used by researchers and in administrative data when grouping people with disabilities, some reported findings related to people with any/all kinds of disabilities, whereas other results focused on specific disability subgroups. We labelled these (sub)groups as clearly as possible based on the descriptors reported in the source documents. Robust, representative data were often simply not available specifically for people with IDD or for diagnostic IDD subgroups such as intellectual disability (ID) or autism spectrum disorder (ASD), in which case we reported the most relevant available data.

Disparities related to race and ethnicity are important aspects of the overall US criminal justice system, with far higher imprisonment rates in the general community among people of color (Black, American Indian/Alaska Native, Hispanic) compared to Whites (Carson, 2021). By contrast, recent general-community data on the rate of violent victimization showed small differences by race and ethnicity (Bureau of Justice Statistics, 2020). Where possible, we examined the situation for people with IDD from underserved communities to try to determine if they experienced similar outcomes. However,

many research gaps remained on this topic, meaning that we were often unable to offer substantive conclusions beyond highlighting the need for such research.

Method

A diverse group of eight stakeholders, including both authors, met online at the *State of the Science Conference on Community Living* in September 2022 to discuss criminal justice and to identify goals for research for people with IDD. The participants had lived experience, and expertise in advocacy, self-advocacy, policy, victim/survivor support, legal issues, and research related to criminal justice.

The group spent more time considering victimization of people with IDD (especially sexual victimization), and less on individuals with IDD as offenders. The situation for witnesses with IDD was not discussed. Based on the group's discussions, and examination of relevant literature, the rest of the paper analyzes selected criminal justice issues and presents related priorities for future research.

Criminal Victimization

Some readers may think of criminal justice mainly in terms of crime, policing, courts, and prisons. However, victimization is a fundamental aspect of criminal justice. As well as the effects on victims/survivors themselves, the criminal justice system includes components such as victim support services and victim compensation. Given the very high rates of victimization of people with disabilities discussed below, especially individuals with cognitive disabilities (including IDD), victimization is a particularly important issue for people with IDD. Our article does not deal with child abuse or bullying. Fisher, Corr, et al. (2016) and Hickson and Khemka (2021) provide thorough examinations of these issues.

When referring to individuals, we use the term *victim/survivor*, instead of either *victim* or *survivor*. The term *victim* is widely used in the literature and in criminal justice, but we recognize that many

people with disabilities find this term demeaning or disempowering and prefer the term *survivor*. We use victim when referring to programs or services such as victim compensation.

Prevalence of Criminal Victimization of People with IDD

Data about the prevalence of people with IDD as victims/survivors of crime are fundamental to understanding the nature and extent of the issues, identifying which sub-groups of people with IDD are at greater risk, and informing prevention efforts. Recent US survey and research data on prevalence are increasingly well developed. They feature age-adjusted comparisons with the general community, large and representative national samples, and improved identification of disability. IDD specifically is rarely reported in large-scale US studies which instead use broader disability groups such as cognitive disability (Harrell, 2021; Maruschak et al., 2021;). Several studies from other Western countries do report IDD-specific prevalence data (Fogden et al., 2016; Ringland et al., 2022), so their findings are included below.

Bureau of Justice Statistics Prevalence Data in the US

The US Bureau of Justice Statistics (BJS) conducts surveys and reports national data on victims/survivors of crime (Harrell, 2021) and on prisoners (Maruschak et al., 2021). These surveys include questions about disability that enable identification of six types of self-reported disabilities (hearing, vision, cognitive, ambulatory, self-care, and independent living disabilities). BJS surveys do not report specific data on people with IDD, although individuals with IDD would usually be included in the broader *cognitive disabilities* category.

The BJS *National Crime Victimization Survey* (NCVS; Harrell, 2021) examined self-reported, non-fatal violent criminal victimization regardless of whether the incident was reported to police. Relative to prevalence research based on police data (e.g., Fogden et al., 2016), this NCVS methodology presumably results in higher prevalence among individuals with and without disability because, as discussed below, not all victimization crimes are reported to police. People with severe IDD and significant

communication difficulties often have problems self-reporting, so victimization data for this subgroup may be underestimated. Proxy responses are allowed if the person is unable to answer, but proxies may not know of some incidents, or may even be the perpetrator, leading to likely prevalence underestimates. Another limitation is that the NCVS is a household survey, so people who live in institutions or are homeless are excluded even though these groups are at high risk of victimization.

The NCVS surveys individuals aged 12 and older. The NCVS rate of violent victimization of people with disabilities (46.2 per 1,000) approached four times the age-adjusted rate for individuals without disabilities (12.3). Among disability types, people with cognitive disability were significantly more likely to be victims/survivors of violent crime (83.3 per 1,000) than each of the five other disability types (range 23.6 to 47.6 per 1,000; Harrell, 2021).

Rates of reporting victimization to the police also affect interpretation of research findings. Harrell (2021) found that victims/survivors with disabilities (37.9%) were significantly less likely than those without disabilities (44.7%) to report violent crime to police. Further, among disability types, people with cognitive disability were significantly less likely to report to police (Harrell, 2021). Consequently, differences in prevalence of violent victimization between individuals with cognitive disability/IDD and those without disabilities would be larger for self-reported data than for police data on victimization.

The victimization rate for people with disabilities aged 16-19 (179.0 per 1,000) was significantly higher than for all older age groups and similar to that for 12-15-year-olds with disabilities (145.5; Harrell, 2021). This rate is more than 7 times higher than for peers without disability aged 16-19 (24.7 per 1000). Higher risk among young people with disabilities points to the need to 1) start education and support efforts early (e.g., during school years) to help equip them with the knowledge and skills to reduce the risk of victimization, and 2) ensure that services (e.g., schools, disability services) and law enforcement provide safe environments across the life span.

Although the NCVS does not focus specifically on IDD, the overall finding of much higher rates of victimization accords with the results of small-scale studies specifically involving people with IDD. Fisher, Corr, et al. (2016) reviewed studies of adults with IDD and concluded that they experienced high rates of sexual assault, physical assault, and other forms of victimization, including financial exploitation. Trundle et al.'s (2022) review found high rates of victimization of people with ASD.

International Research on Prevalence of Victims/Survivors with IDD

Studies in other Western countries have reported similar findings but have focused specifically on victims/survivors with IDD. An Australian data linkage study (Fogden et al., 2016) using police data on reported crimes showed that, compared to a sample of the general community without ID, people with ID were much more likely to be victims/survivors of violent crime (odds ratio [OR]=2.44) and of sexual crime (OR=6.27), although less likely to be a victim/survivor of a non-violent, non-sexual crime.

A recent population-based Australian study (Ringland et al., 2022) showed that victims/survivors with disabilities were more likely to experience repeated violent victimizations than those without disabilities. Many other smaller-scale studies have reported similar findings (Khemka & Hickson, 2017).

Overall, these robust and consistent findings present an alarming picture of much higher rates of violent victimization, greater prevalence of repeated victimization, and lower rates of reporting the crime to police. These data provide a strong justification for a focus on victimization prevention, risk reduction, and treatment of victims/survivors with IDD.

Individuals with IDD from Underserved Communities Overrepresented as Victims/Survivors

Within each racial and ethnic group measured, the NCVS survey showed that US persons with disabilities had higher violent victimization rates than those without disabilities (Harrell, 2021). For example, Hispanics with disabilities had a victimization rate of 55.3 per 1,000 people in 2017-19,

whereas the rate for Hispanics without disabilities was 12.3 (age adjusted). Among Americans with disabilities, Blacks had a lower rate of violent victimization (39.0 per 1,000) than Whites (45.1) or Hispanics (55.3; Harrell, 2021). We found no equivalent US national figures on the victimization of people with IDD by race/ethnicity.

Ballan et al. (2014) undertook a retrospective file review of female survivors of intimate partner violence who used a support program for women with disabilities in New York City. Of the 886 participants, 74 (8.4%) were women with DD. For the entire sample, only 22.4% were White and 47.6% were born outside the US. Race/ethnicity data were not reported separately for women with DD. These findings suggested that women with minoritized racial identities and/or from immigrant communities were at greater risk of inter-personal violence, but the data came from one service provider and dealt with one form of violent victimization. Much more research attention is needed to the fundamental issue of the intersection of victimization of people with IDD and underserved community status.

Sexual Victimization

Prevalence of Sexual Victimization

The US rate of rape or sexual assault of people with disabilities (4.1 per 1,000) was more than four times higher than the age-adjusted rate for those without disabilities (0.9; Harrell, 2021). Rapes or sexual assaults involving victims/survivors with disabilities (19%) were significantly less likely to be reported to police, than for individuals without disabilities (36%; Harrell, 2021). As noted, victims/survivors with cognitive disability were the least likely to report violent crime to police (Harrell, 2021).

Information on sexual victimization of adults with ID, based on a rigorous systematic review and meta-analysis, yielded an overall prevalence of 32.9% (Tomsa et al., 2021), with a higher rate for men (39.9%) than women (31.8%). Fogden et al.'s (2016) data-linkage study found no gender differences in

the rate of sexual victimization between Australian men and women with ID, although compared to a general-community sample the relative risk (RR) was much higher for men with ID (RR=11.79) than women with ID (RR=5.05). By contrast, Fisher, Corr, et al. (2016), and Khemka and Hickson (2017) cited multiple studies showing that more women were sexual abuse victims/survivors than men. These differing findings may be partly due to the setting from which data were collected. Tomsa et al.'s (2021) review found that sexual abuse is most prevalent in large institutions, especially for male victims/survivors. Male peers were the commonest abusers. On the other hand, among women with IDD with intimate partners, intimate partner violence is very prevalent (Ballan et al., 2014).

Factors Associated with Sexual Victimization

Intellectual disability itself is a risk factor for victimization (Fisher, Corr, et al., 2016) and Tomsa et al. (2021) found higher prevalence among individuals with more severe ID. As discussed above, gender has also been found to be related to victimization risk (Khemka & Hickson, 2017; Tomsa et al., 2021). This information is useful in understanding who is at risk and in what circumstances, and to help target intervention and protection efforts. However, factors like having intellectual disability or gender cannot easily be changed. By contrast, modifiable risk factors such as knowledge/education or support can be altered and therefore are of more interest when the intention is to reduce the risk of victimization.

Knowledge Gaps and Lack of Education. Like other areas of life, accurate knowledge about relationships and sexuality is essential for people with IDD to take responsibility for their sexual health, make well informed decisions, and reduce their risk of victimization. Research involving people with IDD reveals marked knowledge gaps, minimal or absent education (Barnard-Brak et al., 2014), but a clear wish to learn more (Lafferty et al., 2012). For example, Brown-Lavoie et al. (2014) found that adults with autism spectrum disorder (ASD) without ID had less sexual knowledge but experienced significantly more sexual victimization than adults without ASD. Likewise, Fisher, Baird, et al. (2016) concluded that

individuals with ID and less sexual knowledge were at greater risk of sexual abuse. More sexual knowledge was associated with a significantly lower risk of victimization. Sadly, when education is provided, too often it is reactive, only occurring *after* a sexual incident (Lafferty et al., 2012; Thompson et al., 2014, 2016). Sexuality education is being discussed in the victimization section of this article, but it is also important for people with IDD to be educated about their responsibilities so that they do not unknowingly participate in unlawful sexual behavior.

Multiple factors contribute to sexuality education continuing to be marginalized or totally overlooked. In school, Barnard-Brak et al. (2014) found that less than half of US public school special education students with ID received any formal sex education. Moreover, teaching content and methods often are not individualized. Students with IDD may have difficulty fully comprehending the lesson, especially the subtle, fluid social cues, unstated "rules", and possible hidden agendas involved in social/sexual behavior.

Another important area is disability service policies. Because of the potentially controversial or taboo nature of sexuality education, staff understandably feel the need to follow state, local and agency policies that specify what is required and acceptable (Thompson et al., 2014). Sadly, such policies are too often absent in adult IDD services, or when they exist only focus of what staff should *not* do regarding sexuality (Thompson et al., 2014). This situation is why positive policies, supporting sexuality education, are important. We refer readers to a 2018 policy of the Pennsylvania Department of Human Services, *Guidelines Concerning Sexual Health, Personal Relationships, and Sexuality*, which encourages IDD provider agencies to develop policies consistent with the guidelines, including that "individuals with disabilities can receive objective, non-judgmental, comprehensive information regarding sexual health and relationships" (Pennsylvania Department of Human Services, 2018, p. 2).

Do People with IDD Recognize that their Experience as a Victim/Survivor is a Crime? One disturbing consequence of lack of education and knowledge gaps is that some people with IDD are unaware that what happened to them was a crime (Fisher, Baird, et al., 2016; Richardson et al., 2016). This issue is one reason why sexual victimizations of people with IDD are less often reported to police. This situation may also motivate perpetrators to target victims with IDD in the belief that they will likely not be caught because the victim/survivor will not understand what has happened to them.

Social Connections and Support. Fisher, Corr, et al. (2016) reported that adults with IDD who live with family experience less victimization than those living alone. Hickson and Khemka (2021) proposed low levels of social support and poverty are risk factors for maltreatment but noted that the research on risk factors for maltreatment of adults with IDD is quite limited.

Are Victims/survivors with IDD Believed? No doubt, there are examples of appropriate, supportive responses by police and social services when a person with IDD reports victimization. However, Khemka and Hickson (2017) noted that some individuals with IDD who tried to report (sexual) abuse to authorities said they were not believed, or their concerns were dismissed. Such experiences likely contribute to reluctance to report future victimization, and have fundamental implications for police investigation, identifying the perpetrator, and the likelihood of repeat victimization.

Beyond Prevalence

Consequences of Victimization

Hickson and Khemka (2021) identified four types of negative outcomes of victimization: 1) biological/physical health, 2) psychological, 3) behavioral, and 4) social. Khemka and Hickson (2017) listed a wide range of serious negative psychological issues related to domestic violence and sexual abuse of people (mostly women) with IDD. Hayes (2009) studied the outcomes of violent victimization among Australians with and without ID who were seeking victim's compensation. Individuals with ID

were more likely to have been victims/survivors of sexual abuse and were more likely to attempt suicide. Mandell et al. (2005) found that children with autism who had been sexually abused were more likely to engage in sexual acting out, running away from home, and attempting suicide. Hickson and Khemka (2021) noted that the negative effects of victimization can continue throughout life. Making this situation worse is the reality that few therapists are skilled in both trauma and IDD, often meaning that victims/survivors with IDD have fewer therapeutic resources available to them.

Victim Compensation

All US states have victim compensation programs for crimes reported to the authorities. These programs can pay for costs including medical treatment and therapy to aid recovery. Less than 5% of victims/survivors with disability received benefits from a victim's program (Baladerian et al., 2013). We found no data on access to victim compensation specifically by people with IDD. This issue was not examined in recent reviews of research on criminal justice, victimization, and IDD (Cooper et al., 2022; Fisher, Corr, et al., 2016; Olley & Cox, 2021). However, the well-established lower rate of people with cognitive disability (including IDD) reporting violent victimization to police (Harrell, 2021), together with the fact that cases not reported police (or other relevant authorities) are ineligible for victim compensation, strongly suggests that access to compensation may be particularly limited for people with IDD. Baladerian et al. (2013) proposed numerous changes to practice that could improve the situation regarding victimization of people with disabilities, including several recommendations related to victim compensation such as improved reporting, education/training, therapy, funding, and a therapy referral system. We found no data on access to victim compensation by people with IDD from underserved communities.

Anecdotal data suggest that many victims/survivors with IDD don't know about victim compensation. Cases where people with IDD hear of victim compensation and are supported to apply,

often seem to arise by chance rather than through systematic information and support provision. Victims/survivors of crimes not reported to police and/or that do not proceed to court have no access to police and court victim support services that provide information on or referral to victim compensation programs, rape crisis centers and the like. However, we know of no reliable data on these issues.

Prevention and Risk Reduction

The prevalence data consistently demonstrated the existence of a major and disproportionate problem of violent victimization of people with IDD. A key question is how to prevent or reduce the risk of victimization. Clearly, victimization is a whole-community issue and must not be seen as simply the victim's problem. There are many important approaches to enhancing safety and reducing risk that involve disability service systems, caregivers, victim services, law enforcement, and various community settings. For example, training students with and without disabilities and school staff, and implementing proactive whole-school policies to prevent bullying and victimization are important ways to deal with these issues within schools (Raskauskas & Modell, 2011). However, here we will focus mainly on approaches to self-protection that can directly empower adults with IDD to recognize, avoid or manage risky situations for themselves and/or seek help. As Tomsa et al. (2021) noted, there is a balance to be struck between managing the risk of victimization versus impinging on freedom. Protection cannot be at the cost of rights (e.g., freedom to express one's sexuality). In addition, it cannot be guaranteed that protection provided by others will always be effective or available when needed, given that most perpetrators know their victim, that peers, relatives, and staff are documented as abusers, and that sexual victimization can happen in service settings and at home (Tomsa et al., 2021).

Interventions with Adults with IDD

Hickson and Khemka (2021) highlighted that maltreatment risk reduction efforts for children focus on the family home, for adolescents on the school, but for adults with IDD abuse can occur in the many

different settings that this cohort access (home, work/day program, disability services, community). By developing self-protection skills, knowledge, and behavior, adults with IDD can potentially be empowered to reduce their risk of victimization in *all* settings, so it is unsurprising that this approach has been an important focus or research and intervention. Further, such approaches target characteristics of people with IDD that increase their vulnerability, namely limited social awareness (e.g., difficulty in recognizing and assessing risky social situations), and challenges with decision making in response to risk of abuse (Hickson & Khemka, 2021). Moreover, self-protection training empowers adults with IDD manage risky situations for themselves and/or seek help, whereas protection provided by others (family, IDD service providers) too often results in disempowerment, overprotection and/or constant supervision, with consequent reduction in freedom, independence, social inclusion, and participation.

There is a clear need for training in safety/risk reduction because research has shown that adults with IDD often do not identify appropriate, self-protective responses to realistic but hypothetical vignettes of abuse situations (Khemka & Hickson, 2017), or fail to recognize hypothetical situations as potentially abusive (Hickson et al., 2015). In the past, self-protection training interventions have focused more on women with IDD (Dinora et al., 2021). To illustrate recent intervention efforts, their achievements, and limitations, we briefly describe three good quality studies that involved both male and female participants that were published since 2015.

In a multi-site study, Dinora et al. (2021) used the 4-session classroom-based *Leadership for Empowerment and Abuse Prevention* (LEAP) intervention and assessed outcomes via participant verbal responses to questions about six video vignettes. The researchers found no significant change in correct identification of abuse situations from pre- to post-test, but there were significant improvements in the explanation of why situations were abusive and in stating what action could be taken to deal with the issue. There was no control group.

Over eight weekly classroom meetings, Hughes et al. (2020) delivered an in-person, group safety awareness training program, *The Safety Class*, to adult men and women with ID. Assessment involved pre-, post- and 3-month follow-up questionnaires. Relative to controls, intervention participants improved more on assessed knowledge of healthy relationships and abuse, safety planning, and self-efficacy. The authors noted that future research is needed on the extent to which these factors reduce actual victimization in everyday life.

Another randomized controlled intervention study focused on teaching identification of abuse situations and decision-making strategies to avoid or escape abuse (Hickson et al., 2015). Using the *An Effective Strategy-Based Curriculum for Abuse Prevention and Empowerment* (ESCAPE-DD) curriculum, classroom teaching took place in small groups over 12 sessions. Pre- and post-test assessment involved six brief, realistic, hypothetical vignettes describing sexual, physical, or verbal abuse. These written vignettes were read aloud, and participants verbally answered questions about each one. Intervention participants made greater gains on decision making but problem awareness did not improve. The authors acknowledged that further curriculum development and research are needed before such interventions can assure that people with IDD are able to reduce their risk of abuse in real life.

While these findings are encouraging, there are limitations related to both teaching and assessment methods. For risk reduction training interventions to be truly effective, they must change knowledge and behavior, generalize to real life situations, and be maintained over time. As the preceding examples show, teaching typically occurs in classroom-like settings and assessment involves verbal responses to hypothetical vignettes or role plays. There is evidence that classroom-based skill improvement by people with ID may not generalize to real-life settings, whereas training in real environments may improve both generalization and maintenance (Fisher et al., 2013). However, such in-situ training adds time, cost, and logistic complexity that may be difficult to deliver at scale.

Demonstrating through research that individuals who have received these interventions behave in self-protective ways in real-life situations of potential abuse is quite challenging, partly for valid reasons of research ethics. It is not ethically appropriate to expose participants to the risk of victimization. Deception in research (e.g., use of research confederates) is usually not acceptable, although there are examples of confederates (strangers to the participant with IDD) being used to assess responses to aspects of stranger danger in real community settings (Fisher et al., 2013). In such circumstances there can be a tradeoff between ethical acceptability and assessment validity.

Theoretically, demonstrating a reduced rate of real-life victimization could be achieved by following a research cohort over time to assess prevalence of victimization. However, the highest prevalence rate for violent victimization during 2017-19 reported by Harrell (2021) for people with disability was for those aged 16-19 (179.0 per 1,000). Thus, even for this high-risk cohort, following them for 2 years post-intervention should mean that slightly more 8 out of 10 had (fortunately) not experienced violent victimization, regardless of intervention status. To detect even large intervention effects under these circumstances would require a very big sample. Thus, researchers generally have looked at short-term treatment effects and evaluated verbal responses to realistic but hypothetical abuse scenarios. We know of no direct demonstration that such training leads to a lower risk of real-life victimization.

Measuring Safety Skills and Knowledge. There are challenges in developing valid and reliable instruments to measure knowledge and skills about victimization that people with ID can understand and respond to (Dinora et al., 2021). At present, there is no gold standard tool, rather currently available tools are in various stages of development. Hughes et al. (2020) developed measures of outcomes of their study such as *Knowledge of Healthy Relationships*, *Knowledge About Abuse*, *Knowledge of Warning Signs,* and *Safety and Communication Skills*. However, difficulties with content and psychometrics led them to propose that further refinement of these measures was needed. Some tools involve answering questions about brief written verbally presented (Hughes et al., 2020) or video based (Dinora et al.,

2021) fictional vignettes involving potential (sexual) abuse. However, Dinora et al. reported problems with the internal consistency of their measure and there appeared to be issues with a ceiling effect. As noted previously, a critical issue is the extent to which responses to hypothetical vignettes generalize to real life situations.

Needs and Preferences of People from Underserved Communities

Koh et al. (2021) noted the lack of diversity in disability research on abuse and exploitation, with very few studies examining the experiences of individuals from underserved communities. As identified by Dinora et al. (2021), most risk reduction programs for adults with IDD have focused on women with milder intellectual disability (see Khemka & Hickson, 2017) and rarely reported race and ethnicity, let alone analyzed intervention accessibility, effectiveness, and acceptability for different racial and ethnic communities. Several recent intervention studies have deliberately included men and women with IDD (Dinora et al., 2021; Hughes et al., 2020), but little is known about the needs and preferences of people with IDD from underserved communities regarding risk reduction programs.

Offenders with IDD

There are many important issues for people with IDD who become involved with the criminal justice system as alleged offenders, defendants, prisoners, or parolees. Cooper at al. (2022) recently reviewed research on many of these issues involving individuals with ASD and covered themes on interactions with law enforcement personnel, initial detention and investigation, courts, prisons/jails, as well as re-entry into the community and community corrections, themes that are relevant to offenders with IDD generally. The analysis below is much less comprehensive than Cooper et al.'s and focuses on the few issues involving offenders with IDD discussed by the participants in the criminal justice strand of the *State of the Science Conference on Community Living.* As noted previously, much more of the strand member's attention was given to victimization, so the section on offenders is relatively short.

Prevalence of Prisoners with Disabilities

Overall BJS disability data (Maruschak et al., 2021) revealed several important findings about US adult prisoners (aged 18 and older). Prisoners (38%) were about 2.5 times more likely to report having a disability than adults in the U.S. general population (15%), indicating that people with disabilities were much more likely to be in prison than people without disabilities. The most common disability among prisoners was cognitive disability (23%). Black and Hispanic prisoners were less likely than White prisoners to report a cognitive disability (Maruschak et al., 2021). Prevalence of cognitive disability was higher among state prisoners (24%) than among federal prisoners (14%). This disparity may reflect the different types of crimes that lead to incarceration in state versus federal prisons.

Like other BJS data, Maruschak et al.'s (2021) results did not specifically identify people with IDD. The high prevalence of prisoners with cognitive disability suggests that individuals with IDD likely were over-represented in prison but did not directly show this. International research typically has reported a disproportionately high percentage of prisoners with ID. In a systematic review, Hellenbach et al. (2017) concluded that prevalence of ID among prisoners internationally was 7% to 10%, substantially above the prevalence of ID in the general adult population.

The BJS data just discussed related to inmates in US state or federal prisons, but not those detained in local/city/county jails. Using 2011-12 national US data, Bronson et al. (2015) reported a significantly higher prevalence of disability among jail inmates (40%) than among prisoners (32%). Cognitive disability (30.9%) was by far the most prevalent disability type among jail inmates, with higher prevalence of cognitive disability than for prisoners in state or federal prisons (19.5%; Bronson et al., 2015). These findings clearly indicate that IDD research should focus on jails as well as prisons.

Are Individuals with IDD from Underserved Communities Overrepresented as Offenders?

All Prisoners. US national data on all prisoners in 2020 showed vast disparities in imprisonment rates by race and ethnicity. Expressed as the rate per 100,000 residents in each demographic group, the rates for adults were: non-Hispanic Whites (223), non-Hispanic Blacks (1,234), Hispanic (639), Native American (1,027), and Asian (93; Carson, 2021, Table 6). No nationally representative US data were available for the race and ethnicity of prisoners with IDD, but in the face of these massive disparities, it seems very likely that a similar racial mix was present among inmates with IDD.

Offenders with IDD. Despite the vast racial disparities in the overall US prison population (Carson, 2021), almost no research has examined the race of individuals with IDD involved in the criminal justice system as prisoners or in other ways. We located two small-scale US studies (Disability Rights California 2023; Tsagaris et al., 2016), both of which were local in scope.

Tsagaris et al. (2016) reported data from Cuyahoga County in Ohio on offenders with developmental disabilities (DD) referred to the Forensic Unit, Cuyahoga County Board of Developmental Disabilities. Overall, 70.0% were Black, 20.6% were White, and 1.3% Hispanic/Latino. In 2021, the racial composition of Cuyahoga County was Black (29.6%), White (58.0%), and Hispanic/Latino (6.6%; USA Facts, https://usafacts.org/data/topics/people-society/population-and-demographics/our-changing-population/state/ohio/county/cuyahoga-county), indicating that Blacks were heavily overrepresented among offenders with DD, with Whites and Hispanics/Latinos with DD underrepresented. Some 96.9% of the offenders with DD were male and 83.8% were aged 18-30 years (Tsagaris et al., 2016). These findings support the view that, relative to other people with DD, young Black men with DD are much more likely to become involved with the criminal justice system. Tsagaris et al. (2016) also analyzed where the offenders with DD lived and found much higher concentrations in certain areas – core city (72%), inner circle suburbs (20%), outer ring suburbs (9%) – especially areas with high levels of poverty and unemployment. Moreover, within each area, far more were from the parts where mostly African

Americans lived. These results suggest that policing was concentrated in specific areas, and that individuals with DD who lived in those areas were therefore caught up in this situation.

Disability Rights California (2023) reported demographic data on residents detained at the Porterville Developmental Center, a secure center for adults with IDD who have been charged with a crime but found incompetent to stand trial. In early 2023, residents were overwhelmingly male (91%) with substantial overrepresentation of Black (35%) inmates and underrepresentation of Hispanics (32%), Whites (25%), and Asians (3%) as compared to the percentage of each group in the California general population in 2022 (Black 6.5%, Hispanic 40.2%, non-Hispanic White 35.2%, Asian 15.9%; https://www.census.gov/quickfacts/CA).

In New Zealand, Brookbanks (2019) reported similar findings. Among offenders with ID who were subject to a compulsory care order, Maori were overrepresented and made up about 40%. By contrast, in 2021 Maori represented 17.1% of the New Zealand population (Stats NZ https://www.stats.govt.nz/information-releases/maori-population-estimates-at-30-june-2021).

Taken together, these US and international findings suggest that adults with IDD from some minority backgrounds are far more likely to become involved in the criminal justice system as offenders, but the data are very patchy. Even so, the markedly disproportionate involvement of young black men with IDD is consistent with US general community trends on imprisonment and merits detailed attention by advocates, policy makers, and researchers.

Interventions in the Criminal Justice System

There are multiple levels within the criminal justice system where people with IDD are seriously disadvantaged (Cooper et al., 2022). Each situation offers possibilities for improvement through changes in laws, policies, procedures, training of criminal justice personnel, and other interventions. Apart from the preceding discussion of victim's compensation, and the examination below of

competence to stand trial, it is beyond the scope of this review to consider these issues in detail, although we acknowledge their clear importance.

Competency to Stand Trial

The right to due process means that if a person is found to be incompetent (unable to understand criminal justice processes such as their trial or to make informed decisions and assist their lawyer) then a trial cannot proceed. If competence is questioned by any party, the criminal court must determine the person's competency. This is usually done by the judge ordering a competency evaluation. However, there are frequently very long waits for competency determinations (Boutwell, 2017; Brompton, 2017) While waiting, the person is often held in prison, a forensic psychiatric facility, or a secure IDD setting (Disability Rights California, 2023).

Self-evidently, competency issues are much more likely to arise for defendants with IDD than for most other defendants, so incompetency and its consequences should be seen as a disability-specific issue. However, there is a systemic problem that "the system is not designed to address competency of individuals with I/DD, as exemplified by the lack of I/DD-specific evaluations, restoration programs, resources, and expertise" (Brompton, 2017, p. 2). While the ideal is that "incompetency is only found in cases where there is a true lack of understanding that cannot be overcome with appropriate accommodations" (Brompton, 2017 p. 3), scant data are available on competency issues affecting defendants with IDD, with the result that many important questions remain unanswered.

Recent research has identified small but growing numbers of individuals with IDD moving from the criminal justice system to (secure) IDD public institutions and vice versa (Disability Rights California, 2023; Neidorf, 2023). This practice needs to be examined closely to determine who is affected, what outcomes they experience, and the relationship to competency determination and civil commitment.

Future Directions on Victimization

Prevalence. There is consistent, robust evidence of high rates of victimization of people with disability including individuals with IDD. In the US, the *National Crime Victimization Survey* (NCVS; Harrell, 2021) identifies disability subgroups such as individuals with cognitive disability. IDD research, policy, and practice would be enhanced if participants with IDD in major criminal justice surveys, such as the NCVS, were identified separately. This could be achieved by adding items on core constructs of IDD, such as age of onset of the condition (Havercamp et al., 2019). As a household survey, the NCVS excludes people living in (disability) institutions causing "an undercount of violence against persons with disabilities" (Harrell, 2021, p. 10). More accurate prevalence estimates could be obtained by including people with disabilities not living in households. The NCVS collects data on both disability and racial/ethnic status, but in its publicly available reports the BJS has only provided victimization prevalence data by racial/ethnic group for people with disability overall, not broken down by disability type (e.g., Harrell, 2021). Doing so would facilitate a clearer understanding of any disparities by race and ethnicity in the victimization of people with cognitive disabilities/IDD and provide advocates, policy makers, and researchers with ready access to this information.

Underserved Communities. There is limited criminal justice data on people with IDD from underserved communities. Hickson and Khemka (2021, p. 466) concluded that "The literature offered little clarity in terms of race/ethnicity and how it interacts with other risk factors". We reached a similar conclusion regarding criminal victimization of people with IDD and noted that this gap applies to all aspects of criminal justice, not just prevalence and risk issues. Clearly, far more research is needed on all aspects of victimization of people with IDD and underserved community status.

One factor associated with why disability and underserved community membership are rarely examined together, is the small sample size for some subgroups and consequent difficulties with statistical reliability. Even so, this does not explain the limited attention given to understanding the

needs and preferences of underserved community members with IDD regarding criminal justice involvement.

Victim's Compensation. Studies are needed of awareness, understanding and use of victim's compensation schemes by people with IDD, to identify the barriers to use and effective supports and accommodations. Barriers/disparities by underserved community status should also be examined carefully. These goals require robust data on the number of victims/survivors with IDD who are informed about compensation, the number who apply for and receive compensation, and the amount and type of compensation granted.

Education and Intervention. Analyses of policy and practice in proactive education on sexuality, relationships, and personal safety are needed to document the current situation for people with IDD and where possible link this to data on the prevalence of victimization.

Fisher, Corr, et al. (2016) noted that few risk reduction programs had been developed. Recent years have seen further program development (e.g., Dinora et al., 2021; Hughes et al., 2020) and increasing research sophistication, including stronger research designs involving randomized control trials (RCTs; Hickson et al., 2015; Hughes et al., 2020). However, these efforts remain at the stage of curriculum development and evaluation, with no known examples of system-wide scale up, although both Dinora et al. (2021; 15 sites) and Hughes et al. (2020; 12 centers) each involved multi-center trials with manualized intervention delivery. The outcomes of these classroom-based programs have been partially encouraging but generalization to real-world situations has not been demonstrated, and effectiveness in reducing actual victimization remains unknown.

None of the intervention programs has explicitly sought to understand victimization and self-protection from the perspectives of individuals with IDD from underserved communities and to develop effective interventions that are acceptable to those communities. Adequately responding to both the

measurement challenges and the needs of underserved communities could ideally lead to future, scaled-up intervention studies with large enough samples to be followed over time to monitor the impact on real-world victimization.

Measurement. Measurement remains a challenge, and there is a clear need for further development to create valid, reliable measurement tools to evaluate interventions, and to identify individuals with less well-developed knowledge and skills, who would presumably benefit most from relevant training. These tools should be evaluated for ecological validity, to determine the extent to which the skills or knowledge assessed generalize to similar real-life situations. Further, such tools need to be examined separately with various underserved communities to determine their validity and acceptability for different cultural groups.

Future Directions on Offenders

Many important issues from all stages of the criminal justice system involving offenders with IDD require research attention (see Cooper, 2022). These include providing and evaluating training to criminal justice personnel (police, prosecutors, judges, prison staff, parole officers) about IDD and appropriate supports and accommodations. We do not deal with those issues here because the topics below reflect the scope of the discussions at the *State of the Science Conference on Community Living.*

Prevalence. IDD research, policy, and practice would be enhanced if participants with IDD in major criminal justice surveys, such as the BJS *Survey of prison inmates*, were identified separately. Research is needed on the prevalence of individuals with IDD at all stages of the criminal justice system, including jail inmates, prisoners with IDD, and those held outside the prison system in secure IDD facilities.

Underserved Communities. More research is needed to provide robust and representative data on the prevalence of individuals with IDD at different stages of the criminal justice system, to evaluate outcomes, barriers, disability accommodations, and trends over time. One key focus of this research

should be to document the proportions from different racial and ethnic groups, to identify communities at high risk of criminal justice involvement, the circumstances of their involvement, and the variations in these patterns evident in different jurisdictions. This information can inform the targeting of risk reduction and diversion efforts and help ensure that such interventions are accessible and acceptable to the affected communities. Even with the very limited available research on these issues, the situation for young black men with IDD warrants particular attention.

Specific issues for future research include examining crime and policing rates in the areas where people with IDD live and any disparities by race and ethnicity. Causes for living in areas with high crime and/or policing rates that could be investigated include housing affordability and poverty.

Competency. In-depth research is required on competency determination practices that are applied to defendants with IDD, including their validity, availability, timeliness, consequences, and the extent to which these issues differ for members of underserved communities. Likewise, robust data are needed regarding how the criminal justice, mental health, and IDD systems interact to deal with individuals who are waiting for competency assessment or reassessment. Specific questions include the following. Are competency determination processes valid and accurate for people with IDD, including individuals from diverse communities? How long do people wait for competency determination and where do they wait? How many people judged as not competent end up detained in secure disability or psychiatric facilities (e.g., under civil commitment) and for how long? What community alternatives to prison or a secure facility exist for alleged offenders with IDD, and how does competency affect access to these alternatives? Do any of these competency-related issues function differently or have different consequences for individuals from underserved communities?

Conclusion

People with IDD are overrepresented in the criminal justice system as victims/survivors and as offenders. Substantial research attention is required at all stages of the system to better understand their situation and how to prevent or improve it. The needs and circumstances of individuals with IDD from underserved communities have received scant attention in the available literature, despite the overwhelming racial disparities in the criminal justice system generally.

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