The Criminal Justice Response to Victims with Developmental Disabilities: Utilizing Effective ADA Accommodations

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I. Introduction: People with Developmental Disabilities as Victims of Crime & of the Criminal Justice System

Victimization is a dark reality that is more likely to occur than not in the lives of those with developmental disabilities. Although researchers have known this for some time, it has taken years for this knowledge to reach the wider community of advocacy organizations, law enforcement, victim assistance agencies and families. This tragedy is not surprising to many of those with developmental disabilities who live daily with a heightened risk of victimization. But to the rest of us without disabilities, this realization is alarming, frightening and almost unbelievable. Yet, the truth must be fully accepted and believed by those in the disability, law enforcement and victim assistance community for change to occur. In order to further the mutual goal of positive change in the lives of these victims, the following examples of victimization and an overview of victim-related research are offered to demonstrate the urgent need for change.

Examples of Victimization

The Arc of the United States, a 50-year old national organization on mental retardation, provides assistance to individuals throughout the country seeking information and advice on a broad array of issues that involve people with mental retardation and other developmental disabilities. An issue of increasing concern includes the victimization of people with mental retardation, the lack of resources available to the victim and the inability to ensure safety for possible future victims due to little or no consequences being given to the person who committed the crime. The following examples are provided from members of The Arc and other individuals requesting assistance. Statistics provide a good understanding of the occurrence of victimization,
but only personal accounts can provide a sense of urgency and reality that is often needed before mainstream society is compelled to create change.

- Six doctors in Pennsylvania were charged with manslaughter and sewing up a patient’s wounds without using anesthesia (Doctors charged, 1999).

- In Canada, a 28 year-old female prostitute with the mental capacity of a 12 year-old disappeared and is assumed dead. One woman who knew the victim said, "She was like a big kid—very naive, very friendly. It would have been easy for a predator to take advantage of her. She didn’t have street smarts" (Vancouver police frustrated, 1999).

- In Rhode Island, Michael Thomas was charged with offering the sexual services of his daughter, a 24 year-old woman with mental impairments, to area businessmen (Across the USA, 1999).

- A mother, whose 23 year-old daughter was raped by a sheltered workshop employee, wanted to know why, after a report was made, the agency or the police department would not return her phone calls. She said her daughter has the mental age of a 6 to 7 year-old and the offender does not have mental retardation. The mother confessed, "I feel they are not doing what they would have done if she was a so called ‘normal’ girl" (E. Harmer, personal communication, April 5, 1998).

- In Syracuse, New York, police accused a family of holding a mentally disabled woman and her mentally disabled children captive for their disability checks. They were severely beaten and left chained to a box spring for days without food. The group lived predominately off of Social Security checks of the children and mother with disabilities. Police said they are unsure what connection the two families had or why they began living together (Family accused, 1998).
A staff person who works in a state hospital in Oregon with offenders with mental retardation wants to know what can be done to stop abuse of those with mental retardation in the department of corrections. Many clients with mental retardation report being physically and sexually abused from other inmates and, most recently, one was so severely beaten that he had to be moved to the state hospital (R. Kerlee, personal communication, April 28, 1997).

**Research on different types of victimization**

There are a number of ways victimization occurs, including physical, sexual, emotional/verbal, financial and neglect. Physical victimization includes assault, inappropriate handling, over use of restraints, over medicating, inappropriate behavior modification (which may cause additional disabilities), hitting, pushing, hair pulling and kicking. Sexual victimization encompasses verbal harassment, unwanted sexual touching of private parts, forced abortion or sterilization, unwanted display of sexual parts (pornography, exhibitionism), tricking or manipulating into sexual activity, sexual assault and rape. Financial victimization includes denying access to or control of funds, misusing financial resources and theft of resources. Neglect includes denial of food, clothing shelter. It also includes the withholding of medications, assistive devices or equipment or personal or medical care (including leaving someone alone without a way to call for help) (SafePlace, n.d.).

People with developmental disabilities have a 4 to 10 times higher risk of becoming victims of crime than non-disabled persons (Petersilia, 1998). People with developmental disabilities were robbed 12.8 times more often than people without disabilities (Wilson & Brewer, 1992). Even though these statistics are quite high, this population remain invisible to most criminal justice personnel. During a training session for prosecutors and detectives in
California, participants were asked if they had anyone with severe disabilities on their caseload. Not one person said yes (Sorenson, 1997).

Sexual victimization

Most people with disabilities will experience some form of sexual assault or abuse (Sobsey & Varnhagen, 1989). The rate of sexual victimization in the general population is alarming, yet largely goes unnoticed. At least 20 percent of females and 5 to 10 percent of males are sexually abused every year in the U.S. (Reynolds, 1997a). Although these figures are disturbingly high, people with mental retardation and other developmental disabilities are at an even greater risk of abuse (Sobsey & Doe, 1991). One study found that 83% of women and 32% of men with developmental disabilities in their sample had been sexually assaulted (Hard, 1986). Another study found that out of those who were sexually assaulted, 50% had been assaulted 10 or more times (Sobsey & Doe, 1991). More than 90 percent of people with developmental disabilities will experience sexual abuse at some point in their lives. Forty-nine percent will experience 10 or more abusive incidents (Valenti-Hein & Schwartz, 1995). Other studies suggest that 39 to 68 percent of girls and 16 to 30 percent of boys will be sexually abused before their eighteenth birthday. An estimated 15,000 to 19,000 of people with developmental disabilities are raped each year in the United States (Sobsey, 1994). Although abuse is so common among this population, only three percent of sexual abuse cases involving people with developmental disabilities will ever be reported (Valenti-Hein & Schwartz, 1995).

Defendants as victims of the criminal justice system

The issues of victims and defendants are much the same in that both face discrimination, usually due to ignorance on the part of criminal justice professionals, once involved in the criminal justice system. In the case of the defendant, he or she can become a victim of
discrimination because police officers and court systems fail to provide appropriate accommodations. In many cases, the criminal justice professionals do not realize accommodations are needed (S. Lustig, personal communication, September 21, 1999). People with developmental disabilities become victims when unfair treatment occurs, such as serving longer sentences than those without disabilities when arrested, being more likely to be convicted and more likely to receive a prison sentence (Santamour, 1986). Another significant problem is the number of people with mental retardation who are executed, although 12 states and the U.S. Federal government have laws prohibiting the execution of people with mental retardation (Dieter, 1995). At least 30 people with mental retardation have been executed since 1971 (Keyes, Edwards & Perske, 1997) and many others with this disability are currently on death row (National Execution Alert, 1999). It is not uncommon for a suspect with mental retardation to become the scapegoat when involved, knowingly or unknowingly, in criminal behavior. Easily manipulated and lacking a good understanding of consequences, these individuals are prey for non-disabled criminals looking for extra protection from getting caught (Perske, 1991). Yet, uneducated judges and juries have decided that mental retardation should not be considered as mitigating evidence, or that having mental retardation should be a factor in deciding whether or not a person is executed (Edwards & Reynolds, 1998). People with mental retardation who are in prison or jail are also more likely to become victimized by fellow inmates or guards (Santamour, 1986).

II. Impact of the ADA on People with Developmental Disabilities

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The American with Disabilities Act (ADA) was signed into law on July 26, 1990. The law bans discrimination based on having a disability. It provides individuals with developmental disabilities civil rights protections similar to the rights provided to individuals on the basis of race, sex, national origin and religion. It guarantees equal opportunity for people with developmental disabilities in employment, public accommodations, transportation, state and local government services and telecommunication relay services. The ADA is needed because the Civil Rights Act of 1964 does not cover people with developmental disabilities. Until the passage of the ADA, federal protections against discrimination based on a person's disability were scattered and extremely limited. Over time, the U.S. Congress concluded that discrimination did exist against people with disabilities. A new law was crafted to allow citizens with disabilities equal, effective and meaningful opportunities to participate in society.

The ADA defines disability to mean a physical or mental impairment that substantially limits one or more of the major life activities of an individual. The person considered disabled must have a record of an impairment or be regarded as having an impairment. This is the same definition used in section 504 of the Rehabilitation Act of 1973, the Fair Housing Act Amendments and the Air Carrier Access Act. According to the ADA definition of disability, a person with mental retardation is covered under this law. Although there are no specific provisions aimed solely at individuals with mental retardation, all of the law's provisions are available to them. Examples of provisions include access to jobs, transportation and public places such as movie theaters, restaurants and stores. Children and adults with mental retardation cannot be denied access to private day care on the basis of their disability.

Title II of the ADA specifically prohibits state and local governments from discriminating against an individual with a disability. State and local government services
include: police and court systems, public transportation, municipal services (public meeting and voting places), health and aging services and recreation and learning places, such as parks, libraries, museums, sports stadiums and recreation centers. Police municipalities, sheriff's departments and state patrolmen are the focus of this paper. According to the ADA, they are responsible for ensuring that programs, services and activities provided by police are readily accessible to and usable by people who have developmental disabilities.

The ADA has made an impact on the lives of people with disabilities. For example, after the first three years after ADA was passed, more than 800,000 adults with severe disabilities went to work (President’s Committee on Employment of People with Disabilities, 1999). Although there has been a positive impact in this and other Title II and Title III areas, the area of criminal justice and people with disabilities is virtually uncharted territory. All “public entities” must comply with the ADA requirement to remove barriers that prevent the effective participation of people with developmental disabilities in all citizen activities, including involvement in the justice system. Public entities include all police, probation and law enforcement agencies, correctional facilities and court systems (Laski, F. & Keefe, K, 1997).

One “reasonable accommodation” interpreted by the U.S. Department of Justice is to conduct training so police can identify the presence of a disability and respond appropriately. Yet, training all police officers and other criminal justice professionals in the U.S. on developmental disabilities is not an easy task. Last year, testimony was given to the U.S. Commission on civil rights on this very issue. Much of the discussion centered on training law enforcement about disability issues, but no solid answers were found on how to successfully train all 15,000 to 17,000 police departments and 600,000 to 700,000 police officers in the U.S. These figures are only estimates, since exact numbers of police agencies or officers is unknown. The
significant barriers that must be addressed when attempting to provide effective training to all police officers in the U.S include: 1) There is no central authority that governs American police, producing inconsistency in training content. Some states do not even have a central regulatory authority to set minimum standards for police training. 2) There is no database or single statistical study to document the quality of disability-related education currently being provided to police officers. The effectiveness of the training and its impact on how officers provide services to people with disabilities is unknown. 3) While many of the larger police departments have access to training materials on disability, the large police departments represent the smallest segment of police in pure numbers. Many police in smaller departments do not have access or attempt to access training on disability issues (The Americans with Disabilities Act Hearing, 1998).

Even with these barriers to training, all panelists agreed that the ADA is a needed piece of legislation. However, panelists felt research into the success of different types of accommodations should be conducted before legislating anything. Accommodations should be enforced only when their effectiveness can be documented. In observing how accommodations have been successful in other areas, these proven techniques can be used in the area of law enforcement and the court system.

III. Why the Use of ADA Accommodations by the Criminal Justice System is Needed

People with mental retardation have certain characteristics that create a potential for extreme danger due to being misunderstood, or not listened to, by a non-disabled society based on the presence of a developmental disability. It is important to note that the disability itself does not create a problem, but the secondary disabilities that result can cause harm due to the
lack of understanding by those unfamiliar with people with disabilities. Accommodations are needed because this population is so vulnerable and at risk of becoming involved in problematic situations and behaviors if supports are not provided. If individuals do not receive the accommodations needed, they may face a greater potential for future victimization or involvement in criminal activity.

Fetal Alcohol Syndrome (FAS) is one example of a disability that is associated with mental retardation. Although not everyone who has FAS also has mental retardation, people with FAS share many of the same characteristics as those with mental retardation placing individuals at-risk for victimization or involvement in the criminal justice system. The list below demonstrates why law enforcement need to provide accommodations when interacting with someone with a developmental disability.

<table>
<thead>
<tr>
<th>Presenting disability</th>
<th>Secondary disability</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poor judgement</td>
<td>Easily victimized</td>
</tr>
<tr>
<td>Attention deficits</td>
<td>Unfocused/distractable</td>
</tr>
<tr>
<td>Arithmetic disability</td>
<td>Difficulty handling money</td>
</tr>
<tr>
<td>Memory impairment</td>
<td>Difficulty learning from experience</td>
</tr>
<tr>
<td>Difficulty abstracting</td>
<td>Difficulty understanding consequences</td>
</tr>
<tr>
<td>Disorientation in time and space</td>
<td>Difficulty perceiving social cues</td>
</tr>
<tr>
<td>Impulsivity</td>
<td>Poor frustration tolerance</td>
</tr>
</tbody>
</table>


This simple table clearly translates the primary disability into a concrete action or behavior, demonstrating why providing accommodations to people with developmental disabilities is so critical. For example, a teen with mental retardation is conned into transporting drugs and gets caught in the process. If the police officer, defense attorney and judge are
provided this table showing the effects of having a developmental disability and the extreme need for acceptance and lack of judgment the teen has, the individual may be given a more appropriate punishment that would allow him or her to incur consequences without getting a police record.

Deinstitutionalization is probably the most obvious reason why accommodations must be provided. While the deinstitutionalization movement has been and continues to be a necessary and positive change to create greater community inclusion, another aspect of the change must be faced. There are real difficulties and complex challenges individuals with disabilities experience in their new environments. Some stressors individuals may encounter include resistance by members of the community, learning how to live in a new, less structured environment and learning how to interact with the community (Strohmer & Prout, 1994). One study found five major personality and behavior problems in individuals with mental retardation after leaving the institutional setting which included 1) low self-esteem, 2) learned helplessness, 3) acquiescence, 4) socially inappropriate behavior and 5) sexual inadequacies (Rosen, Floor & Baxter, 1971). The article even suggested that deinstitutionalization itself may, in some cases, cause emotional and psychological difficulties.

Another reason why the use of accommodations by police is so important is because the street officer is often the first person the individual with a disability will come in contact with if the person is a suspect. Due to first focusing on offender issues in the disability community, the goal has been to train police about disability in order to keep people from going to jail when jail is not the most appropriate placement or response. On the other hand, for victims the first person contacted may be a shelter or rape crisis center. In these instances, it is important to train staff at victim assistance agencies in order to ensure equal access to safety, treatment, recovery and
justice. The needs of people with developmental disabilities for protection and assistance must be recognized by law enforcement, as well as the victim assistance community. Yet, at the same time, professionals and society must guard against an attitude of over-protectionism that keeps people with developmental disabilities from being able to make their own mistakes, learn from those mistakes and make their own decisions.

The ADA is also needed because cases of victimization against those with developmental disabilities are often handled administratively (the person who committed the crime is fined, suspended or fired rather than being brought up on criminal charges) and there is no public record of the crime (Sobsey, 1997) (Luckasson, 1992). Moreover, even if crimes are reported, the victim’s behavior and communication are frequently misinterpreted causing the person to appear unreliable. The outcome is that the offender goes free while the victim is left facing the traumatic event alone without recovery supports. Without accommodations, people with disabilities and their care providers are less likely to report crimes due to the inaccessibility of achieving positive outcomes once in the court system.

Finally, the ADA has been useful in creating and disseminating helpful information through Federal projects in order to educate law enforcement professionals, which continues to be a major need as seen in the following, somewhat humorous, example. Recently, a specially trained bomb squad unit was called into a prison because staff saw something suspicious and assumed the object was some type of bomb device. Staff and others were relieved to discover the object was a TDD machine; they had never seen one before so they did not know what it was. (J. Houchins, personal communication, September 19, 1999). Without effective training, people with disabilities and their right to accommodations will be ignored and their needs will continue to go unmet.
ADA & Victim Assistance Agencies

The police have typically been the focus of attention with regard to training on disability issues, but there are other professions equally as important that remain uneducated. The victim assistance field has not identified the best practices for serving victims with unique needs, nor have they learned the most effective way to train the criminal justice community about assisting victims with developmental disabilities (Tyiska, 1998). An informal study of victim assistance agencies was conducted by the National Organization of Victim Assistance (NOVA) in order to see how many agencies were in compliance with the ADA. Sadly, very few were interested in providing accommodations and doing so seemed to be a low priority within the agencies (C.Tyiksa, personal communication, September 16, 1999). Yet, without these accommodations, people with disabilities in effect do not have the same rights non-disabled crime victims have which consist of:

* The right to protection from intimidation and harm.
* The right to be informed concerning the criminal justice process.
* The right to counsel.
* The right to reparations.
* The right to preservation of property and employment.
* The right to due process in criminal court proceedings.
* The right to be treated with dignity, compassion and respect (Tyiska, 1998).

ADA & Court Systems
According to the ADA, courts must be readily accessible to and usable by the general population. Courts must make reasonable accommodations for people with disabilities upon request, unless it fundamentally alters the activity or structure or it involves an undue financial burden. Accommodations are now being used in classrooms, in court testimony and in some instances in interrogations. Some courts do provide disability advocates to assist with criminal cases involving people with disabilities, although this seems to be rare. (L. Garfinkel, personal communication, October 4, 1999). Excluding potential jurors on the basis of a disability is also a violation of the ADA. Court cases have upheld the right of people with disabilities to serve as jurors as long as they are competent to do so (Laski & Keefe, 1997). Without accommodations, people with developmental disabilities are left out of the most powerful institutions in our society. Without access to this power, true justice is unreachable and individuals will continue to suffer victimization and false accusations with little notice by society and completely alone.

Finally, the ADA is necessary because legislation is one of the most concrete ways to create change that can foster greater opportunities for full integration of people with disabilities into society. One example of the power of the ADA is seen in the U.S. Supreme Court’s decision in Pennsylvania Department of Corrections v. Yeskey. In June of 1998, the U.S. Supreme court unanimously voted that Title II of the ADA, which mandates that public entities provide reasonable accommodations, applies to state prison systems. The decision established a broad definition of “public entity” and it was the first time the Supreme Court applied the ADA in a manner consistent with other civil rights laws. By August of 1998, the State of California made a settlement to avoid a trial that resulted from a suit filed more that two years ago by the Prison Law Office. The suit claimed that inmates with developmental disabilities were being
forced to live in units where they were abused and attacked by other inmates. The Department of Corrections agreed to adopt a plan to train prison staff in working with inmates with disabilities and to provide inmates with access to a variety of programs that have been available to non-disabled inmates, including medical and psychological care (Cooper, 1998). Without the ADA, clearly these changes would not have occurred as quickly.

IV.  *Law Enforcement's Past and Current Use of Accommodations*

A training curriculum for judges written by the National Judicial College suggests the following accommodations to use in supporting victims or witnesses with developmental disabilities:

1) testifying outside the courtroom  
2) videotaping pre-trial interviews  
3) tape recording testimony  
4) allowing a support person to accompany the witness  
5) using expert witnesses on the reliability of testimony where there are questions of competency  
6) conducting pre-sentence evaluations by properly qualified professionals to accurately understand the impact of the crime  
7) identifying qualified therapists to deal with the victimization and prevent future victimization  
8) using anatomically correct dolls  
9) allowing the person frequent breaks  
10) set-up of courtroom (physical arrangements)  
11) familiarizing witness with courtroom  
12) using closed circuit TV  
13) using established interview protocols  
14) conducting public information campaigns to reach victims  
15) establishing good rapport with the family to identify resources  
16) working in conjunction with special programs/agencies designed to provide services to people with developmental disabilities  
17) seeking out providers to deal with special needs, include medical services, sexual abuse, counseling (Luckasson & Vance, 1995).
Before law enforcement can provide accommodations for people with disabilities, they must first be aware that accommodations are needed. Therefore, one of the first ways an officer can be accommodating is to learn more about developmental disabilities. There have been a number of training materials created for police to respond to this need, including officer training on epilepsy, mental illness and more recently Tourette syndrome and a number on developmental disabilities (The Arc of the United States, 1996). One police department in Portland, Oregon created a training program for people with developmental disabilities in their community to educate individuals about how to stay safe in the community, protect themselves from different types of abuse and how to get help from police officers (Portland Police Bureau, 1999). Classes are taught by officers in uniform with the target audience being adults with developmental disabilities.

Yet, the use of accommodations that require some type of action on the part of law enforcement is uncommon. An "action accommodation" specific to victimization that could be used by officers is provided by the Department of Justice (DOJ) in the following example. What happens when a person with mental retardation wants to fill out a form in order to report a crime? DOJ suggests that the police department should have an officer or clerk assist the individual in reading and filling out the form and that the form could be provided in an alternative format. However, no specific information is given on what format should be used if the victim has mental retardation. The suggestions provided by DOJ are only for someone with vision disabilities. Other examples given by the DOJ of ADA accommodations in law enforcement duties include receiving citizen complaints, interrogating witnesses, arresting, booking and holding suspects, operating emergency centers (911), providing emergency medical services, enforcing laws and other duties (U.S. Department of Justice, 1996).
One of the arguments against using accommodations is not knowing their level of effectiveness. Unfortunately, this information is not documented. Much of the information known about the use of accommodations by police is hearsay so the effectiveness of the ADA remains untested and unknown. Most police officers have most likely been using accommodations without realizing it because in some situations it is natural to do so. For example, whenever an officer recognizes a person is slow in understanding something, he or she may talk slower automatically without giving it a second thought because it is the best way to obtain accurate information.

Even with some evidence that the ADA is a positive change agent in the area of law enforcement and disability, police remain in the first stage of implementing ADA accommodations: learning what disabilities are and how to identify if someone has a disability. Clearly, we must move beyond education and begin implementing action-oriented accommodations to make a significant impact for people with developmental disabilities. This has already begun in businesses and the community with regard to changing the physical structure of buildings for people with physical disabilities. But people with developmental disabilities are still waiting for tangible accommodations. Those in the business community were not necessarily required to learn more about disabilities before they began providing simple accommodations. Certain changes can be done immediately that do not create undue hardship and police can continue to learn about developmental disabilities in the process. Waiting until the law enforcement profession learns more about developmental disabilities should not become an excuse for not taking action and implementing practical accommodations.
V. The Responsibility of Reporting Crime

The reasons why victims do not report crime are many and complex. Perhaps the most common reason is denial. Thick denial exists not only in our society at large, but also in developmental disability systems and in many families with children or adults with developmental disabilities who refuse to accept that victimization is very common and problematic. This may explain why many disability-related advocacy organizations have not yet tackled the issue of victimization. For example, one compelling reason individual service providers or family members choose not to report victimization is due to the embarrassment of admitting that victimization occurs in one's own day program, group home, institution or home. Admitting this means that "our own workers" are committing criminal acts and that "our program" or "our home" is not safe (S. Lustig, personal communication, September 21, 1999).

Individuals may choose not to report victimization due to the lack of alternatives or resources for the victim. This phenomenon also occurs in the non-disabled population. For example, some people may choose not to report child abuse because they think the alternative of taking the child away from the home and placing the child in a foster home is as equally unsafe as being in an abusive home. With regard to the disabled population, what alternatives are available for the rape victim with mental retardation? Most rape crisis centers do not have staff members who know about this disability and may never even recognize the person has a disability and needs accommodations. Some victim assistance centers may feel overwhelmed with this population and are not trained on how to assist victims with disabilities. Moreover, professionals, advocates and friends may feel overwhelmed with the needs of a victim with a disability, thinking they will require more time and assistance than those without disabilities.
Another obstacle is the victim's fear of not being believed or taken seriously when victimization is reported. "A young woman repeatedly told staff that she was being raped by a staff person. 'She just tells stories,' they thought. 'Who would be sexually attracted to her? She has mental retardation.' No one believed her so no one reported the abuse, until she became pregnant." (Furey, 1997). Whether or not someone is competent to provide testimony in court contributes to the problems victims face. "Victims with mental retardation have been excluded from the legal system based on the belief that they are incompetent to provide accurate, reliable testimony." (Valenti-Hein & Schwartz, 1993, p.287). However, in some cases, being found incapable of consent can be advantageous for the victim. For example, in Washington v. Ortega-Martinez (1994), the defendant was convicted of second-degree rape because there was sufficient evidence to find that either forcible compulsion occurred or that the victim was incapable of consent by having mental retardation.

Some states have attempted to improve the rate of reporting by enacting legislation. For example, the state of Connecticut passed legislation in 1985 making it mandatory to report suspected abuse of adults with mental retardation. The existence of such a law may bring greater attention to the problem, making it harder to ignore (Furey, 1997). However, although this law can help educate others about the victimization issue among people with developmental disabilities, similar to the ADA, it holds little power if attitudinal barriers are not addressed by building significant, on-going collaborations between the systems involved.

Although the issues of reporting crime are too broad to address in detail, this paper would be incomplete without at least touching on the denial factor that contributes so heavily to isolationism, on-going victimization and re-victimization among the population of people with developmental disabilities. People with developmental disabilities must be regularly and
aggressively educated about their rights as victims and how to report crime. These historically silent victims must be given the opportunity to improve their ability to say "NO" when necessary and to learn appropriate intimate and touching behavior so that they can begin to decipher on their own the difference between healthy touches and victimization (Sorensen, 1997).

VI. Conclusion: Recommendations for Future Research and Action

The following recommendations are offered to begin creating services and to provide direct assistance for victims with developmental disabilities.

1. Conduct research to discover which accommodations are most needed at this time and which accommodations are the most effective in providing equal access to justice for victims with developmental disabilities.

The ADA can be effective in providing appropriate services to people with mental retardation and other developmental disabilities within the criminal justice system. However, these accommodations must be carefully examined at the outset before used on a broad scale. Therefore, research efforts regarding the ADA, law enforcement and people with developmental disabilities should begin immediately. Once successful accommodations are known, they should be included in all training materials for criminal justice, victim assistance and disability fields.

Accommodations in law enforcement

Few research studies have been conducted to confirm which benefits, services and program are most effective for those with certain types of disabilities. For example, what community policing ideas work? Do these techniques allow for the introduction of or use of ADA accommodations for people with developmental disabilities? Both police and disability
fields are trying different approaches to assist victims, but it remains unclear which approach is most successful. The need for research in the criminal justice and developmental disability field is great, but this is not a unique problem to the broad study of criminal justice policy. In some public services, such as education and public works, the amount of funds spent on research is anywhere from 15 to 25 percent. In contrast, the amount spent in law enforcement is less than one half of one percent (The Americans with Disabilities Act Hearing, 1998).

Another question to be studied is whether or not police should be required to request an advocate who is familiar with the disability when questioning the victim, or is it more efficient to have specially trained officers who are familiar with developmental disabilities on the police force to assist in such situations? Another possibility that is currently being discussed by leaders in the field is to create a specialized program that consists of specially trained police, victim assistance staff, attorneys, probation/parole officers and judges who all have specific training in developmental disabilities (J. Houchins, personal communication, September 19, 1999). The possibilities are endless and the questions remain as to which strategies work best in which communities and, the question all policymakers must ask, which approach is the most cost-effective?

Accommodations in victim assistance agencies

Resources that are available to the general public as victims of crime need to be available to those with developmental disabilities. For example, some victims of crime often seek short-term counseling after a traumatic experience. For those with developmental disabilities obtaining counseling services is not easy because only a few counselors know how to communicate effectively with a victim with developmental disabilities. Luckasson (1995)
recommends the following victim assistance services should be considered when attempting to serve victims with disabilities:

"Counseling, transportation to court, escorts to court, accommodations such as hearing enhancement devices in court, follow-along services to enable victims to understand court scheduling and proceedings, help with arranging medical treatment following victimization, alternative dispute resolution services, access to individuals in environments such as nursing homes to monitor possible victimization (p. 219)."

Researchers can begin to document where and how these types of accommodations are being provided among those with developmental disabilities. Victims with developmental disabilities should also have access to participating in the most up-to-date strategies now being utilized in the victim assistance or court process. One example of a promising practice is the use of "restorative justice" which seeks to involve victims, offenders and the community in the criminal justice process in order to restore balance in the system (Justice Fellowship, 1998). This approach is now being used by juvenile justice professionals to create a system that offers community safety, accountability to victims and competency development of juvenile offenders. Using this model would be beneficial to all people, including those with developmental disabilities, because it allows for direct consequences to the offender and timely assistance for victims.

Additionally, there remains a need for research in the United States on what types of crime are being committed against people with developmental disabilities, especially on less well-documented types of victimization, such as financial manipulation or exploitation. Although a number of studies have attempted to obtain data on the occurrence and causes of physical and sexual victimization, little is known about how often a person with developmental
disabilities is manipulated out of a paycheck by "friends" or other significant others. Research protocols should be developed to address this unexplored area of victimization.

Another crucial area of research is determining what factors contribute to an atmosphere where reporting victimization is safe and worthwhile for people with developmental disabilities. Victim assistance agencies can begin trying different approaches in reaching out to the disabled community and documenting which ones are most effective over a long period of time.

Accommodations in the courtroom

Research should be supported that studies further the ability of people with developmental disabilities to provide testimony in a court of law. One question that must be answered is what specific accommodations are most useful in assisting victims with disabilities to be effective witnesses? Many accommodations have been listed in various training curricula for judges and attorneys (Luckasson & Vance, 1995), but they are not being used on a regular basis so that their effectiveness is unknown. In order to motivate courtroom personnel to use accommodations, there must be well-documented research to show clearly how the use of such accommodations is necessary in obtaining justice in the lives of citizens with developmental disabilities.

2. Continue Training Entire Criminal Justice System on Disability Issues

Training is essential for police officers in order for them to have a good understanding of developmental disabilities, the high rate of victimization among this population and the behaviors people with disabilities have that create a vulnerability to becoming involved in criminal activity. There is evidence to support that people with disabilities who do not receive
supports are more likely to be victimized and then to commit criminal behavior. Not because they are inherently violent, but because they have not received the supports and services they need. Moreover, their families do not have access to supports for the individual either (L. Garfinkel, personal communication, October 4, 1999).

New training materials for police officers on disability need to be replaced with current curricula that may be inaccurate or not comprehensive is scope. CADRE (Coalition Advocating for Disability Rights and Empowerment) attempted to pass legislation in the state of Pennsylvania in 1998 (House Bill No. 2620) to require police officers to obtain training on different types of disabilities. The group formed to pass legislation because the current curriculum used by officers is inaccurate. It suggests that mental retardation and mental illness are the same thing and does not differentiate between the two disabilities, which is a common misconception among police officers that can lead to serious consequences for victims or suspects with mental retardation.

Any police training on disabilities should be ongoing in order to ensure the information is absorbed by officers and is not quickly forgotten. This is especially important since the officers often have never heard about developmental disabilities and do not know the difference between mental retardation and mental illness. Expanding the training over one month from one to two hours weekly is much more effective than conducting one day of training. (S. Lustig, personal communication, September 21, 1999)

The training provided should include a broad range of scenarios people with developmental disabilities face when involved in the criminal justice system. Different sections could address:
1) Victim's issues (refusing to take a report from someone with mental retardation based on the presence of a disability is discriminatory and against the law).

2) Witness issues (prohibiting witnesses with mental retardation from giving information based on the presence of a disability is also discrimination.)

3) Suspect issues (not calling an advocate or third party to the scene when reading a suspect with mental retardation his or her rights is discriminatory because the individual is unable to fully understand the concepts of the Miranda warning which negates the purpose of reading someone his or her rights).

Police departments should be notified through a number of sources that new curricula have been developed to assist officers in working with people with different types of disabilities. Training should be included in the state certification training for law enforcement in order to ensure participation. This approach has already been taken in some states, including California and Texas (Fulton, 1997).

One advocate points out it is dangerous to wait on the professionals to get trained and for laws, like the ADA, to save the day (Norley, 1997). Advocacy groups have a responsibility to do what they can to support the person with developmental disabilities who becomes involved in the criminal justice system. Ms. Norley, a pioneer in the criminal justice and developmental disabilities field, was the first to create police training materials on mental retardation. Her work paved the way for the development of a police training curriculum that educates officers throughout the country about mental retardation (Reynolds, 1998).

Perhaps the most important component of successful training is the quality of partnerships that exist between disability advocacy organizations and police departments. Providing training will not be enough to change attitudes. Building meaningful partnerships
between agencies and carefully examining each agency's values and culture will help change attitudes beyond what training alone can do (The Americans with Disabilities Act Hearing, 1998).

3. Create and maintain a national center on criminal justice and developmental disability issues.

Sobsey (1997) and others in the field believe that in order to create a system that is as equally accessible to people with developmental disabilities as it is to the non-disabled population, there must be more community inclusion, community-based law enforcement and appropriate counseling and support for victims. A national center could support these initiatives in several ways:

1) Maintain an updated listing of counselors, therapists, victim service providers who have been trained in and have experience working with individuals with developmental disabilities. Those in the disability and criminal justice field should be connected with resources that can provide timely and appropriate services. Unfortunately, counselors who have expertise in the disability field are rare. The center should discuss ways to increase interest in this area and provide training to disability and victim assistance staff and others desiring to work in the area. People with developmental disabilities who are interested in learning more about victim issues and in advocating for themselves should also be included on this list. There are roughly 650 People First groups\(^1\) in the country whose mission is to work toward justice for people with disabilities and fight discrimination. One of their main goals is to work with the criminal justice

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\(^1\) People First groups consist of people with disabilities who seek personal empowerment in their lives. The national group, called "Self Advocates Becoming Empowered," helps local groups learn how to organize chapter meetings, share personal stories with state and local leaders, and attend and present at state and national conferences on issues important to the group.
system and people with disabilities in order to teach self-advocates their rights so they can be protected if ever involved in the system. Each of these groups can provide a tremendous resource to communities by assisting in neighborhood watch programs and training or co-training people with developmental disabilities, police departments, victim assistance agencies and court personnel about a variety of topics pertaining to criminal justice. As Sobsey (1997) points out, people with disabilities often are excluded from "informal support networks" and are unable to access any self-help resources, such as a twelve-step program. The center should maintain a listing of these resources so that people with developmental disabilities have the option of learning how to form and lead these types of small self-help groups so that they themselves can learn how to be a resource for someone in need.

2) With the beginning of CAVNET, created by Marc Dubin, Esq., those in the criminal justice and/or disability fields have begun to see the power of information and the benefits of being able to connect with people in both fields. CAVNET, which stands for Communities Against Violence Network, is a web site with several different listserv groups whose goal is to bring together people in very different fields for the purpose of decreasing violence against women and people with disabilities. The center should be linked to the CAVNET resource, which can assist in formal documentation of victimization information that can lead to a better understanding of victimization among those with disabilities. This resource could also assist the center in documenting ADA cases related to criminal justice and disability issues.

3) There are a number of community-based or community policing techniques being used throughout the country, and many of these could be used when encountering people with disabilities. The center can document strategies and conduct research to determine which strategies are most effective. This research would serve to strengthen the argument for the use of
the ADA since there would be well-documented evidence that certain strategies work best in certain settings or communities.

4) The Center should be co-governed by multiple agencies so that it provides information in an unbiased, non-territorialistic way, and to ensure continued funding. All agencies genuinely concerned about this population will be willing to set aside personal agendas in order to benefit not necessarily their agency, but the people their agency serves. One reason why the criminal justice and disability movement has been slow in creating positive and lasting changes in the system for people with developmental disabilities is due to inadequate funding for research, causing a recycling of information among professionals in the field. In many ways, the same suggestions for action in this area of study were recommended before, but due to lack of funding, were never carried out, only to be rediscovered by new researchers in the field at a later time (Reynolds, 1997b).

In closing, Title II of the ADA was created to provide equal access to programs in state and local government services. The law in its entirety represents a commitment by society to the fullest opportunity and support for adults with developmental disabilities in all areas of their lives. One fundamental right that is yet to be enforced through the ADA that deters individuals from experiencing the fullest life possible is the right to be safe. The full intent of the law will only be realized when victims with developmental disabilities, as those without developmental disabilities, begin to feel safe and have a sense of security in knowing that if a crime does occur to them personally, they have a way to stop the victimization and get assistance.

Victimization happens irrespective of race, social or financial status, and, not whether or not one has a disability, but especially if one has a disability. As a survivor of incest in
childhood, I strongly believe that if I had been born with a developmental disability along with being sexually victimized, I would not have survived emotionally and would be hurting alone in silence. Today, after several years of individual and group counseling, I continue struggling and fighting for normalization and a healthy sense of sexuality in my own life. I experience incredible difficulty trusting men, since my abuser was a close and trusted male. If I am still struggling with sexuality and trust issues after years of counseling and depression, imagine the confusion, difficulties and isolation experienced by someone with mental retardation who is sexually victimized or is victimized in some other traumatic way. This fight is no longer for myself alone. The struggle to survive has grown into a passion to help those with developmental disabilities who lack the ability, the resources, and the opportunities I had to survive such devastating trauma as a child. Society can no longer pretend "it" does not happen or that "it" hurts less because a person has developmental disabilities. In facing the truth about the common occurrence of victimization in the lives of people with developmental disabilities and the impact it has on these individuals, justice can be realized more quickly for all victims. The ADA, when used effectively, can help by educating society about the high rate of victimization among people with developmental disabilities, then by teaching society how to use accommodations in pursuing justice that equally protects all people.
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