

The Arc Resources to Inform Law Enforcement about I/DD

Voiceover

00:00

Welcome to *The Beat*—a podcast series from the COPS Office and the Department of Justice. Featuring interviews with experts from a varied field of disciplines, *The Beat* provides law enforcement with the latest developments and trending topics in community policing.

Today we have two guests, one is joining us in-studio, the other by phone.

Jennifer Donelan

00:20

Hello everyone and thank you for joining us for this edition of *The Beat*. Today we are going to be introducing you to The Arc's National Center on Criminal Justice and Disability and we are very happy to have with us Leigh Ann Davis. She's the Director of the Criminal Justice Initiatives at The Arc of the United States and joining her is Ariel Simms. She's Program Manager and an Attorney at the Criminal Justice Initiatives at The Arc of the United States. Ladies, thank you so much for joining us.

Ariel Simms

00:50

Thank you.

Director Leigh Ann Davis

00:51

Thank you for having me.

Donelan

00:53

We're going to begin with Leigh Ann. Can you give the audience an overview of The Arc's National Center on Criminal Justice and Disability, and then explain what resources are available that you offer for law enforcement?

Davis

01:06

Sure, Jennifer. So we're very excited to provide information on the podcast today. Let me give you an overview of The Arc in general, because I'm sure officers and those in the criminal justice field are not as familiar with The Arc. So, The Arc was founded in 1950 and we are the largest community-based organization in the United States that are advocating with and for people with intellectual and developmental disabilities.

We serve all ages and people with more than 100 different diagnoses. Which can include autism, Down Syndrome, Fetal Alcohol Spectrum Disorder, and other types of developmental disabilities. We also have a long history of criminal justice and legal advocacy within the field of developmental disability. So it was in 2013 that we received a grant from the Bureau of Justice Assistance, that allowed us to create the first national center on criminal justice and disability, that really was able to focus on both victim and suspect, or defendant issues.

This was a big win for our field because often the funding dictates that you can either focus on one or the other. So, this national center gave us the opportunity to educate law enforcement about both sides. And now we're able to provide resources for officers and others in the criminal justice system, because we also outreach to attorneys and different service providers, probation officers and others in the criminal justice field.

So, after five years of operation, our center has been able to create the Pathways to Justice training. And we've been able to train over five thousand people with our training. And we're currently working on developing an advanced course for CIT officers that would help them focus not only on mental illness, but looking at intellectual and developmental disabilities. So, we've tried to cover a lot of ground in five years that the Center's been around. And we're continuing to look for opportunities to provide outreach to law enforcement.

Donelan

03:16

You have been busy and that is an understatement. You know in the ability to be all-encompassing it is just wonderful. I think it's understanding that's at the heart of this. So, Ariel, I want to ask you. At your center, you focus on supporting people with intellectual and developmental disabilities in the criminal justice program. Can you explain what this is and how it's different from mental illness and why it's so important for officers to understand the difference between the two.

Simms

03:45

Sure. So the disability community uses a lot of different labels and a lot of different language. So this can be really confusing for officers and for criminal justice professionals generally. And the language and the labels that we use change over time. So on the mental health side of things, you might hear labels like depression, bi-polar disorder, schizophrenia, psychiatric disability, which is the term that we use, mental health disability. All of these labels are related to mental health disabilities.

And then on the intellectual and developmental disabilities side, you'll often hear the abbreviation I-D-D for short. We use labels such as Autism, intellectual disability, fetal alcohol spectrum disorder, cerebral palsy. And with I-D-D generally, these are life-long disabilities that impact a variety of areas of life, such as expressing language, ability for movement, independence, and self-determination. And we can think about psychiatric disabilities on the one hand and intellectual and developmental disabilities on the other as two parts of a larger, sort of, disability-wide community.

And they do have some differences that I'll point out for officers. So, the first is the onset of the disability. With psychiatric disabilities, those can come on at any point in a person's life, childhood, adulthood, late life, there's really no sort of rhyme or reason for when a psychiatric disability can occur. With intellectual and developmental disabilities, that onset has to occur during what's called the developmental period.

In the case of general developmental disabilities, before age 22, and in the case of intellectual disability, actually before age 18. So there's a difference in sort of timing and when the disability occurs.

Another piece that's different between these two, kind of, groups of disability, if you will, is the overall length of the disability. How long it lasts for a person. With psychiatric disabilities, these can be temporary, they can be episodic, they can come and go or they can be more chronic and last over the course of somebody's life. With intellectual and developmental disabilities, these are chronic disabilities. They last across the lifespan and they're generally not episodic or temporary.

A last kind of difference I would highlight for officers, and I think that this is the really important one, is the impact on intellectual functioning. With psychiatric disabilities, IQ or sort of general intelligence is generally not affected or impacted in the same way. But when we're talking about people with intellectual disability, the IQ or the general intelligence is always affected. And then if we're thinking about the larger developmental disabilities community, they can also have co-occurring intellectual disability along with another type of developmental disability.

Now, however, one more thing to even further confuse officers is that 34% of people with intellectual and developmental disabilities also have a co-occurring psychiatric disability, so sometimes it's really hard to tell, you know, what sort of disability that you might be dealing with. So what we tell officers is, don't try to diagnose anybody and, like, that's not your role. That's not what we would ever expect from officers. Instead, treat the people you're encountering that you suspect have disabilities as individuals and keep your response as individual as possible. But understand some of the basic characteristics of the disability community and the different parts of the disability community. For example, don't assume that someone necessarily completely understands your commands to them, would be a good rule of thumb.

Donelan

07:26

I'm always in awe of law enforcement officers who as they approach a situation, they don't know what they're walking into. They don't know with whom they're dealing, they don't have a history, nobody hands over a cheat sheet and says, "Hey, this is who I am."

And they've having to make decisions in split seconds and to make sure A) they're protecting themselves, protecting the community at large, and protecting the person with whom they're dealing. What are, Leigh Ann, I'm going to start with you, what are the primary disadvantages or challenges facing people with intellectual and developmental disabilities when they're interacting with law

enforcement and then, how does The Arc's National Center on Criminal Justice and Disability work with those officers on how to deal with those challenges?

Davis

08:11

That's a great question. And we actively are working to try to simplify this issue for officers. So, we look at it from two different perspectives. And I'm going to talk about the victim's issues. And then Ariel can speak to the suspect, defendant issues.

So, one of the key challenges that we see with this population overall, and that I've been seeing in the past 20 years working in this field, is that many times this disability is really hard to recognize. We know that in looking at the total population of people who have an intellectual or developmental disability, that a very high percentage of those people can live in the community. And they don't need a high level of support. This means that their disability is not easily recognizable and it may take time for an officer to really become aware that a disability is present.

So, it's not until the officer starts talking to the person and getting a feel for how he or she communicates that the officer realizes that something else may be going on. For example, an officer may be talking to an autistic person who suddenly starts stimming. Now, stimming is a type of repetitive behavior that may be more common in people with autism. And examples of stimming is like flapping of the hands, or rocking back and forth or repeating phrases. And an officer who isn't familiar with this type of behavior may see this as threatening. When it's actually a symptom of the disability.

So, once the officer realizes the person may have a disability, he or she might think, well maybe there's something else going on here that I need to look into. So, that's one of the biggest challenges that we see because we want to be able to educate officers that there is an important step that might be missed when talking to, or questioning people with disabilities. Or officers need to know if there's signs that they need to be more aware of, that may be related to someone's disability. So, when they have this knowledge, they're able to ask more questions and they hopefully can be, they're able to identify if someone may have a disability and then be able to provide accommodations and supports related to that person's needs.

But I did want to touch on victims issues for a second because it's such a problem in the field of intellectual and developmental disability. And the reason for that is that they face such a higher risk of being victims of crime, and I don't know that officers are really aware of just how high that risk is. Violence among this population, it's widespread across the country. And it's often overlooked within society in general. We know the data from the national crime victims survey reported in 2016, shows that the rate of victimization for people with disabilities was more than three times the rate for those without disability.

And then NPR did a series of stories that highlighted a new statistic from the Bureau of Justice Statistics, that found that people with intellectual disabilities are sexually assaulted at a rate seven times higher than those without disability. And there was also a separate survey in 2012 that found that more than

seven in ten people with disabilities said that they had been abused. So, while we have little data in many ways when it comes to people with intellectual disabilities in the criminal justice system, we do know that this population is at a very high risk of being victimized.

So, some of the things that we do in our trainings is help officers understand how to conduct effective interviews of crime victims with disabilities. And we're currently working with a partner agency to update national publications on this very topic. And I think that officers would be interested to know too, that there's model protocol that some police departments are using right now. For example, in Illinois they created a statewide protocol that provides model guidelines and includes information about investigative procedures and legal considerations around how officers can better serve people with intellectual disabilities who've either experienced sexual assault or domestic violence.

So, we're getting more and more information to officers in a number of different ways to equip them to better be able to serve this population. And then finally, I think officers need to realize that both the rates of reporting and prosecution of these types of crimes are very, very low. That's a huge issue that we continue to grapple with too.

Donelan

12:59

Why is that, Leigh Ann? Is it that the communication? Part of it?

Davis

13:02

Yes. Communication is a big piece to this. But I also think that people with disabilities feel like they won't be believed if they disclose or report a crime. Due to their intellectual disability, they're often not viewed as credible witnesses. That's an issue that this population struggles with due to stereotypes our society holds about people with intellectual disability. While it's true that they may need more support or accommodations to provide testimony, this doesn't mean that they aren't able to give strong, truthful information that can be used in court.

So, we really want officers to have a much deeper understanding of the barriers that crime victims with intellectual disabilities are facing, and know that their involvement is absolutely critical. Without their involvement, people with intellectual disability will never obtain justice. So, much of the time, violence and victimization of this population goes unseen in our communities. So, an officer's proactive response may be the only hope that the victim has.

Donelan

14:10

Thank you, Leigh Ann and Ariel. So that's the victim side of it and I find that information to be stunning. And, and quite frightening that we have so many victims that we don't even know their stories and no one's attending to that, so that training is so critical. But on the suspect side, there are also

misconceptions that I know that you are working on trying to break down. For instance, someone, and this is a misconception, someone with a psychiatric issue is inherently dangerous.

Simms

14:40

Sure. And that is a stereotype that is so common and, and not just in the law enforcement community, too. The larger criminal justice community and to the public, there's lots of myths and stereotypes about what people with disabilities really are and at the end of the day they're really just, just people.

Another misconceptions that we often see and for the sake of our work, we often divide the system up into these two parts, right? Victims issues on one hand, suspect issues on the other, but the reality is, so many people who are victims, so many people who end up going through the criminal justice process have experienced victimization in the past. So it tends to be more of a cyclical system or relationship where people are going in and out of these roles depending on where they are in their life. So that's another misconception that we try to address.

Now, if we're looking at sort of the suspect side and purely at that side, we know that people with disabilities and people with IDD are over represented in every part of the criminal justice process, from first contact with law enforcement who is being arrested all the way through incarceration and how many people are incarcerated. So just to give the audience a sense of how many people with IDD specifically, are incarcerated, they represent 1-2% of the general population, but up to 10% of the incarcerated population.

And going back to policing, we have some pretty alarming statistics that have come out in the past couple of years that really highlight some of the difficulties when people with intellectual and developmental disabilities are interacting with law enforcement. Between a third and a half of people killed by police each year, are people with disabilities and about 25% of those are psychiatric disabilities. And we don't know the breakdown of all the other kinds of disabilities out there because we don't have good data in this area. We're constantly trying to get good data and relying on the media to help us figure out what is the scope of the problem.

On the arrest front, we know that people with disabilities by age 28 face a 43% chance of arrest, compared to 29% for those without disabilities and as you can imagine, the greatest risk of arrest falls to men of color with disabilities. 55% of men of color with disabilities will be arrested by age 28. And that statistic is frightening on so many levels. But, also highlights the very real nature of human bias in policing, right? And in policing practice. And also the need for advocates like myself and Leigh Ann to really focus in on these intersectional identities that are impacting how the criminal justice system interacts with people with different marginalized identities.

And these statistics also highlight a very common problem when we look at the disability piece, that when officers are interacting with these folks, they don't always understand what constitutes a disability related behavior versus a criminal behavior and we've seen that over and over again in the media. For example, somebody who is deaf who is not responding to the officers' command, you know, the officer

assumes that person is not being compliant, you know, or is being difficult, right? Even though the person can't actually hear the commands. With people with Autism, sometimes people with Autism self-stimulate, they have some sort of behavior they do to, kind of, calm themselves down when they're feeling anxious.

There's been situations where that behavior has been interpreted as drug use and people are arrested for that. We've seen it with the diabetic community and someone experiencing insulin shock may be interpreted as someone who is intoxicated. So we just see this kind of situation happening over and over where officers aren't prepared to identify a disability behavior versus a criminal behavior.

Donelan

18:34

Sure. This topic, knowledge and education and training seem to be so key to the issue. You know the best kind of news is good news. The next best kind of news is news you can use. So, what are the key messages and Leigh Ann, I'm going to start with you. What are the key messages that you give law enforcement that they need to remember when they're working with people with intellectual and developmental disabilities?

Davis

18:59

One of the key messages that we highlight in our training is that, first of all, people must be treated fairly and with dignity and respect. And that includes people with intellectual disabilities. And secondly, another message is to focus on crisis prevention first and not crisis intervention. And the reason for this is that, as we've been doing training over the past five years with law enforcement, we've seen how people define crisis differently depending on if they're an officer or a person with a disability, or the parent of someone with disabilities. And so, what looks like a potential crisis situation to an officer, may not look that way to someone in the disability field who is used to seeing certain types of behaviors that may look threatening to someone who is, doesn't have any experience working with people with disabilities.

So, we need to get on the same page about defining what pre-crisis behavior really looks like. And then lastly, I would say something that's really important in the disability community, is this phrase, nothing about us without us. That means that anything that is about someone with disabilities, should actually include people with disabilities. So for example, if a police department is doing a training on this topic, then people with intellectual disabilities should be included in that training so that this philosophy is being modeled for the officers.

It's an exciting time in the area of policing a disability, as we're really beginning to think outside of the box about how we can include people with disabilities in the world of policing, in ways that we haven't done before.

Donelan

20:42

Ariel, can you continue on with Leigh Ann's thoughts in terms of what messages that you present to law enforcement that hey, you need to remember this when working with people with intellectual and developmental disabilities.

Simms

20:55

So in addition to reminding officers about, you know, stereotypes that exist in helping them understand and break down those stereotypes, another really important message for officers is that they do actually have legal obligations toward the disability community. People with disabilities are a protected class. They're protected from discrimination and discrimination can take many, many forms, so when officer's interacting with a person with a disability, they have to keep in the back of their mind that, you know, this person is a protected, a member of a protected class and they do have to modify their behavior to ensure that that person is being treated fairly and treated like people without disabilities, too. And that, that's so key.

So, one of our goals whenever we train or we're communicating with officers is to make sure that they feel empowered to work with the disability community in very positive ways so that there never really is an issue of, sort of, legal compliance with the Americans with Disabilities Act or other civil rights laws and we do that for, through a variety of, sort of, practical tools and tips and resources. And, one particular model I'll mention that we use is called the ADA model. And it's stands for Assess, Dialogue, Assist, but is also meant to remind officers that, if they believe they're interacting with someone with a disability, they need to kind of slow down the situation, assess for safety, challenge their assumptions about the person they may be interacting with, have a dialogue with that person about what that person may actually need from the officer and then in the assist phase, respond appropriately.

Donelan

22:33

It seems like time is so critical and, you know, slowing it down, when possible. In these last few minutes that we have together, I want to start with you, Leigh Ann, by phone, regarding your training goals, who are you working with to create training and how is your training different than others?

Davis

22:50

So, we're working with both national level and local partners in this training effort. And we understand that we can't possibly have all the answers in the disability community. So, our goal is to partner with law enforcement and other criminal justice professionals who are working throughout the system to come up with solutions that are site specific and that really work. And I did want to mention too, first

and foremost, that our goal is both officer and citizen safety. And that one is not more important than the other. They're both equally important.

So, step one is creating safer encounters. That really creates a stronger respect of people with disabilities, and better understanding about this population. And also better relationships between officers and people with disabilities, as well as within the larger disability community.

Donelan

23:45

Perfect, thank you. It's not one size fits all. Ariel . . . Pathways, talk to me just a little bit about that as we wrap up here.

Simms

23:54

Sure, so, Pathways to Justice is, sort of, our signature training but as Leigh Ann said, it's really more than training, it's about creating a disability response team, getting everybody together at the table who has a stake in this issue, and getting them to move forward with concrete action steps and a couple of things I would highlight about our training, or sort of our approach whenever we're working with criminal justice professionals compared to other trainings that already exist. We're always coming from that bright space perspective. Reminding officers that they have legal obligations, but again, giving them really practical strategies for compliance, not sort of coming in and banging them over the head with this civil rights law, but to say, you know, here are really concrete ways that you can make sure that you're treating people with disabilities with respect and in compliance with civil rights law.

Our trainings focus on the broader developmental disabilities community. When you meet one person with a disability you've met one person with a disability. So you really need to think about the broader disability community and focus training efforts more broadly.

We include self advocates as trainers. This is huge difference from other trainings that we see. Again, it's about including people with disabilities in things that are about people with disabilities. And we really try to focus in on individuals and not just on diagnoses. Because for officers, a diagnosis probably doesn't mean much, what's important is the individual in front of them and how that person is interacting and what that person might need in that particular moment.

Donelan

25:28

As we wrap up here, ladies, I just want to tell you how greatly we appreciate you bringing this topic to the forefront, talking about it, getting conversations going. Let me just ask you really quick, Ariel, can people contact the Center for more on this topic? And if so, how would you prefer to be contacted?

Simms

25:44

They can check out our website first for information and resources. You can find a link there to follow us on Facebook, where we highlight stories from the system every day, real life stories. That website is W-W-dot-T-H-E-A-R-C-dot-O-R-G-forward slash-N-C- C-J-D. That's www.thearc.org/NCCJD.

If officers are interested in trainings or need other technical assistance, there's a form on our website called the Request Assistance form that they can fill out and reach out to us. Or you can email us at NCCJDinfo@thearc.org. That's N-C-C-J-D-I-N-F-O-at symbol-T-H-E-A-R-C-dot-O- R-G.

Donelan

26:32

Perfect. And, Leigh Ann, thank you for joining us. Any resources you want to make sure that people have and that we share with the audience as well?

Davis

26:40

Yes, as we mentioned, the Pathways to Justice training is on our website. But we also have other publications on a number of different topics related to people with intellectual disabilities in the criminal justice system. And we also have one-page tip sheets for officers too. The tip sheets for law enforcement are one-page, double-sided handouts that provide an overview of our law enforcement training module and can be used in roll calls or other brief training opportunities. And so, we've got some really great resources for officers and we hope that the listeners will check these out.

Donelan

27:17

Perfect. Thank you ladies both for joining us. That's Leigh Ann Davis of The Arc's National Center on Criminal Justice and Disability and Ariel Simms of The Arc's National Center on Criminal Justice and Disability. Thank you so much for listening to *The Beat*.

Disclaimer: *The Beat* Exit

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Voiceover: Disclaimer

28:30

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