

DISABILITY AND JUSTICE INVOLVEMENT: INTERSECTIONAL CONSIDERATIONS

Topic

The overrepresentation of people with disabilities in the criminal-legal system is one of the key areas of needed reform. Not only are people with certain disability types dramatically overrepresented in justice involvement (particularly mental health, intellectual and developmental disabilities, and learning/emotional disabilities), but the cumulative risk of justice involvement is even larger for people of color with disabilities, and for other individuals with multiply marginalized identities (e.g., LGBTQI+ individuals, homeless individuals, people without citizenship status). Despite commonly held beliefs about the relationship between mental health or cognitive disabilities and crime, there is no evidence that people with, for instance, mental health or intellectual and/or developmental disabilities commit more crime when controlling for other factors. The logical conclusion, then, is that the overrepresentation of people with disabilities in prisons, jails, and other types of justice interactions results from structural inequalities, potentially both within society and within the justice system itself.

Relevance of Topic to System-Involved Youth with Disabilities

There are many “models” of disability in society that consider disabling attributes of society, rather than focusing only on an individual’s “impairment”. These models view the cause of disability not as something inherently “wrong” with the person or individual “deficits”. Rather, the focus is instead on the ways that individual diversity and difference *interact with* environmental factors, such as discrimination and lack of economic opportunity, to create disability. For instance, when someone is entering a building, a mobility limitation is only disabling if the building does not have an accessible entrance. Acknowledging and addressing these “socially constructed” barriers to access and inclusion are the key aspects of what is referred to as the Social Model of disability. These principles can be extended beyond examples of physical accessibility.

In the criminal legal system, research has shown that people with certain disabilities are more likely to be arrested and more likely to receive long sentences or parole denials, despite the offense. This suggests possible disability awareness, sensitivity, and communication gaps among law enforcement, court, corrections, and probation personnel. Additionally, disability traits and characteristics are often interpreted differently by practitioners on the basis of race, gender, and other identities. A simple example involves the ways that law enforcement and corrections personnel interpret “compliance” along lines of race and disability - deeming people of color and/or individuals with disabilities as more threatening than whites and/or nondisabled people who engage in the same behaviors. Additionally, some consequences of justice involvement can further hinder societal participation for justice-involved people with disabilities, by creating new barriers to education, housing, healthcare, employment, mental and physical health, and economic security.

Recommendations for Creating Systems Change

- Personnel in law enforcement, courts, corrections, and probation could benefit from training on disability awareness, sensitivity, and communication. This training needs to be done through an intersectional lens that considers the whole person and how all of their identities influence their everyday lives, including how they experience and are perceived by various systems.



- Training and service delivery needs to recognize the prevalence of nonvisible disability types, as well as people who may not have formal diagnosis and/or have not received the educational and community supports they need.
- It's essential to be aware of the potential mental health and trauma issues associated with past and present systems interaction.
- States and localities can continue the work of decriminalizing existing offenses that disproportionately impact homeless populations, where there is a large intersection with certain disability types. As many states are currently doing, efforts to abolish unnecessary arrest and community removal of youth is crucial too, since the overrepresentation of youth with disabilities who were already under-supported in their educational environments is well known, particularly in juvenile justice.
- Justice interactions that create further educational interruptions are particularly damaging, and the provision of supplemental educational services and/or disability-focused job training and other services might have a much more positive impact than removing youth from the community. Restorative practices that take place in schools are a growing practice in some states, especially as alternatives to arrest or incarceration.

Learn More

[Saleh, Matthew & Cook, LaWanda H. \(2020\). *Serving Justice-Involved Youth with Disabilities*. Vocational Rehabilitation Youth Technical Assistance Center, U.S. Department of Education's Rehabilitation Services Administration](#)

[Henry, Daja E., & Rapanut, Kimberly. "How Schools and the Criminal Justice System Both Fail Students with Disabilities." *Slate*.](#)

[Lewis, Talila. "Disability Justice in the Age of Mass Incarceration." *Affect*. 2017.](#)

Moore, Leroy, Jr., Tiny aka Lisa Gray-Garcia, and Emmitt H. Thrower. "Black & Blue: Policing Disability and Poverty Beyond Occupy." In *Occupying Disability: Critical Approaches to Community, Justice, and Decolonizing Disability*, edited by Pamela Block, et al., 295-318. Dordrecht: Springer Science and Business Media, 2016.

Presenter Information

LaWanda Cook is a Senior Extension Associate with the Yang-Tan Institute at Cornell University where she is Principal Investigator for the Y-ReCONNECTS initiative and a project lead for the Yang-Tan Institute's work related to systems involved and systems impacted individuals with disabilities. She teaches courses in disability studies and leads the Institute's projects related to workplace wellbeing. LaWanda also supports various stakeholders in learning about and implementing the Americans with Disabilities Act in local communities. She has extensive experience in employment and independent living services for youth and adults with disabilities.

Matthew Saleh is Co-PI for the Y-ReCONNECTS initiative and a research associate at the Yang-Tan Institute on Employment and Disability. Matt's research focuses on career pathways for youth with disabilities and barriers to employment, such as justice involvement. Matt teaches Cornell undergraduate courses in the disability studies and a course in the Government Department on mass incarceration in the United States. Matt is a project lead for the Yang-Tan Institute's work related to systems involved and systems impacted youth and adults with disabilities.

