

Feature Issue on Engaging Communities Underrepresented in Disability Research

The Criminal Justice Advocacy Program

Author

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The Arc of New Jersey is the state's largest organization advocating for and serving children and adults with intellectual and developmental disabilities (IDD) and their families. Formed in 1949 by families and caregivers of children with IDD who yearned for camaraderie, support, and the desire to advocate for their family member's needs, the group met in local churches, clubs, and event halls. They realized their efforts would create more change if they collaborated, and in 1972, as they gained momentum, they formed the Citizen Advocacy Program to provide one-to-one assistance and training. This expanded as the community's needs became more evident. Noticing that individuals with IDD often became entangled within the criminal justice system, many times inadvertently, the program began providing training geared to law enforcement. Later, this work became the Criminal Justice Education Project, a precursor to the Developmentally Disabled Offenders Program (DDOP). The goal of this program, similar to the present day, was to facilitate understanding among personnel within the criminal justice sector of the specific needs, interests, and characteristics of individuals with IDD. This outreach included probation, parole, and correction officers, as well as judges, public defenders, and prosecutors. The program's efficacy and unique focus continued to garner attention from the IDD community and beyond. In the early 2000s, DDOP changed its name to the Criminal Justice Advocacy Program (CJAP).

Program Need

Individuals with IDD are significantly overrepresented in the criminal justice system. In a 2000 [paper](https://www.bit.ly/3Z6Xc6W) (<https://www.bit.ly/3Z6Xc6W>), Stanford University Professor Joan Petersilia estimated that people with developmental disabilities comprise up to 10% of the U.S. prison population and a higher percentage in jails, despite accounting for just 2 to 3% of the general population. In 2021, the U.S. Justice Department issued a report showing that 23 percent of state and federal prisoners reported a cognitive disability, the most prevalent type of disability. That [report](https://www.bit.ly/3XdSAud) (<https://www.bit.ly/3XdSAud>), based on a 2016 Bureau of Justice Statistics survey of prison inmates, reported that about 27 percent of white inmates, 22 percent of Hispanic inmates, and 20 percent of Black inmates reported a cognitive disability.

Several factors contribute to this overrepresentation. Among them are susceptibility of people with IDD to commit unlawful acts with peers without realizing the implications or to gain friendship, and a lack of understanding that engaging in certain behaviors is illegal. People with IDD, more frequently than the general population, may also be victimized before perpetrating the act, especially in sexual offenses. Along with these concerns, once in the system,

individuals with IDD tend to face harsher punishments (<https://www.bit.ly/3ZKKfjy>), such as longer stints in solitary confinement and longer sentences, and are more vulnerable to becoming victims of crimes committed by other inmates, according to The Arc.

Objectives, Evaluation, and Data Collection

Currently, CJAP serves 107 clients throughout the criminal justice system. Through October, 35 client cases have been closed in 2022 with positive outcomes, such as charges being dismissed, plea deals, conclusion of probation or parole, or expungement. Between 2016 and 2022 there have been nearly 200 cases closed, with approximately 80% resulting in positive outcomes. The most prevalent charges are sexual-related offenses and assault. Co-occurring diagnoses, such as IDD and mental illness, are present in 50% of the current census, clearly indicating the need for integrated treatment services. A noticeable uptick in individuals diagnosed with fetal alcohol syndrome disorders was also recently observed.

New Jersey is vastly diverse ethnically, religiously, racially, and culturally, and the majority of CJAP's clients are from historically marginalized communities. Many are between the ages of 18 to 21, often a time of limbo in the service delivery system as people with disabilities transition to adult services. CJAP is actively working towards cohesive and comprehensive data collection regarding equity and inclusion practices to best serve impoverished and underserved communities. The program has begun using a new case management software to better track data, including comorbidity rates, ethnicity, and socioeconomic status, and to better assess future training needs. Revision of the program's intake and referral form and other documentation will assist in obtaining critical information. New survey, focus group, and interview practices will be deployed in 2023.



Robyn Holt reviews CJAP intake materials with a colleague.

CJAP is one of a few programs in the United States, and the only one in New Jersey, that provides alternatives to incarceration for defendants whose primary disability is IDD. The program works with adults charged with indictable offenses, including violent and threat crimes, such as manslaughter, aggravated assault, arson, and terroristic threats. The program also assists in sex-related cases, including sexual assault, lewdness, and cybersex offenses, as well as theft, property, and weapons charges. We provide advocacy, education, and case management services and resources that bridge gaps between systemic organizations.

The program acts as a clearinghouse for information about the unique characteristics of offenders with IDD. CJAP also serves as a liaison between the criminal justice and human services systems, and monitors the quality of care and service provided to those with IDD, as they move from one system to another. CJAP creates Personalized Justice Plans (PJP), which are documents used to educate and inform courts and associated parties about individuals' services and support needs. The PJP is presented to the court system as an alternative to incarceration and can be used throughout the progression of an individual's involvement with the system. The plan emphasizes the use of the least restrictive community-based alternatives as early as possible in the criminal justice process, while holding individuals accountable for their behavior. When presented as a special condition of probation or parole, the PJP can help stabilize the individual in the community by recognizing, coordinating, and monitoring support services. The PJP addresses employment, housing, mental health needs, socialization, and additional critical domains of life that can affect the ability to live offense-free in the community. When accepted by the court, a PJP is instrumental in addressing the individual's needs, while acknowledging the individual's culpability for criminal actions.

Due to the nature of their disabilities, people with IDD encounter myriad pitfalls and gaps in the justice system. Community resource coordinators (CRC's) attend court hearings and related meetings to ensure that accused or convicted offenders with IDD receive fair and equitable treatment. CJAP staff provide advocacy and training for members and groups within the state to improve understanding of IDD generally, but specifically regarding the unique characteristics of specific disabilities, including autism spectrum disorder, fetal alcohol syndrome disorder, cerebral palsy, traumatic brain injury, spina bifida, Down syndrome, intellectual disability, and many more. CJAP offers training for law enforcement, court personnel, community professionals, families, schools, and government officials. CJAP's *Equal Justice Talks* is a monthly webinar series that highlights crucial issues facing victims, witnesses, and defendants with IDD in a forum for change.

CJAP is participating in a grant-funded project by the Bureau of Justice Assistance and executed by the New Jersey Department of Corrections in collaboration with Rutgers University Behavioral Health Care. The project, the Collaborative Crisis Response Training Program, focuses on the need for a sustainable curriculum to address officers' response to behavioral health crises amongst individuals with IDD and other mental health diagnoses. CJAP staff members will also facilitate research and develop initiatives regarding sexual violence against individuals with IDD under a grant from the U.S. Department of Justice. Work with state policymakers has focused on improving the way people with IDD are treated in the judicial system.

Barriers and Challenges

The harsh realities of antiquated, fractured systems are particularly problematic for individuals with IDD, who, as mentioned earlier, often are diagnosed with co-occurring disabilities or medical issues. These individuals need biopsychosocial, holistic, and integrated approaches. Traditional practices based on the medical model are still actively used, however. This becomes challenging, as practitioners often do not communicate or propose unified interventions. The already intricate nature of diagnoses is magnified with the additional layer of criminal justice involvement. State systems tend to view these classifications of diagnoses within completely separate entities, one designated for IDD, and the other for mental illness. With the high prevalence of co-morbidities, however, the

separation of the two systems causes barriers to effective treatment. Once an individual with IDD is indicted or in the process of navigating the criminal justice system, most direct service and community professionals are not trained in addressing these matters, ultimately leading to less favorable outcomes for the client.

Inconsistencies and subjectivity in the application of legal guardianship from county to county add to the list of concerns, particularly for clients and guardians from historically marginalized communities. Many times, if a client has cases within several courts for various charges, the legal guardian's role varies. In one court, the legal guardian may be mandated to appear alongside the individual and asked for their involvement. Another court may completely dismiss the guardian's role altogether, and will speak directly to the individual without referring or requesting input from the guardian. Without consistency in application, issues and confusion occur pertaining to competency of the client, which is compounded when there are language or other barriers.

CJAP is dedicated to identifying and providing specifically tailored services to individuals from underrepresented and marginalized communities. Our training and advocacy efforts have earned acknowledgement from various programs, social service organizations, the justice system, and from families and individuals with IDD. Our program recognizes the need for further systemic and organizational change in the criminal justice system overall, however. Our aim is to coordinate, plan, and educate those in influential sectors of New Jersey, and more broadly, the nation, to advocate for change on a legislative and policy level. We acknowledge the immense gaps and inequalities that exist for marginalized populations with IDD, and our goal is to leverage the relationships we have forged with elected officials, law enforcement, and the court system to raise awareness about these inequities.

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