There has recently been increased concern that children identified as having disabilities are overrepresented as offenders in all aspects of the juvenile justice system. This population is at a particular disadvantage when in contact with police or the courts because they often do not understand what is happening, and once they are incarcerated, they are highly vulnerable because of their disability.

Federal and state laws require that public schools identify all children with intellectual and developmental disabilities (IDD) and provide them with the individualized supports and services they need in order to benefit from education. The laws are known as the Individuals with Disabilities Education Act (IDEA)—which requires an Individualized Education Program (IEP) for students with special needs in one or more of 13 disability categories who require specialized instruction to benefit from education—and Section 504 of the Rehabilitation Act of 1973—which requires reasonable modifications to allow youth with mental or physical disabilities an equal opportunity to benefit from education. But are youth with IDD actually getting the educational services and supports that they need? Would this population be overrepresented in the juvenile justice system if they were? And are they getting adequate services once they are there?

Sharan Brown, J.D., Ed.D, research professor in the College of Education, adjunct faculty in the School of Law, and associate director of CHDD’s University Center for Excellence in Developmental Disabilities (UCEDD), is collaborating with the Washington State Developmental Disabilities Council and Disability Rights Washington to find answers to these questions. For most of her career, Brown has been focusing on legal advocacy as a way to ensure the human and civil rights of individuals with disabilities.

With funding from the Arc of Washington Trust Fund, a nonprofit organization that promotes the rights of people with IDD, Brown is beginning to investigate whether there is any relationship between the supports and services that a youth with IDD receives—or doesn’t—in special education and their involvement in the justice system. The ultimate goal is to determine whether youth with developmental disabilities who are identified early and given the appropriate services would be less likely to exhibit behaviors that involve the justice system; whether schools would be less likely to call on law enforcement; and therefore, whether incarceration rates would be lower. For those who are sentenced to juvenile facilities, Brown wants to ensure that they are receiving the services they need to successfully transition back into the community.
Two-part study

In the first phase of her two-part study, Brown explored the relationship between school discipline for youth with disabilities served through IEPs or Section 504 Plans and juvenile justice in Washington State. She analyzed data collected by the Office for Civil Rights (OCR) in the Federal Department of Education, which consisted of enrollment statistics in public schools, organized by state. It reported on such factors as race, ethnicity, gender, disability, as well as suspensions and expulsions. This report also included details of disciplinary actions related to students with and without disabilities, incidents of harassment and bullying on the basis of disability, and the use of seclusion and restraint—information that Brown was particularly interested in, as was the number of school-related arrests and police referrals for students with disabilities. As she analyzed the report, Brown discovered that the data was largely unreliable due to the apparent inconsistency in the way schools were reporting the data—i.e., clear discrepancies between the OCR data and other data sources. However, Brown believes that there is value in looking at the report—which is updated annually—over a number of years. In doing so, she hopes to find the patterns that stand out over time. In particular, she wants to see if there is a correlation between IDD and school-related arrests or referral to police. Because research into understanding the connection between students with disabilities and juvenile justice has been limited, the first step is to determine how many youth with IDD are in fact involved in some way with the juvenile justice system. This data collection is complicated by the inconsistent definition of developmental disabilities.

The second phase of Brown’s study involves exploring the special education history of a youth with IDD prior to their entering a juvenile rehabilitation facility. She is continuing to review special education files of youth with IDD incarcerated at Echo Glen, a correctional facility in Washington State for serious offenders. Brown will look for any factors or patterns that may help explain the relationship between special education and involvement in the juvenile justice system. She also wants to see if there are incarcerated youth who were not identified as having IDD by their school but who were later identified as such upon their incarceration. Finally, Brown plans to look at the services available to youth with IDD during their incarceration.

Looking forward

After her study, Brown aims to broaden her scope and expand her investigation to a national level. She plans to work with other UCEDDs across the country and continue researching the connection between youth with IDD and incarceration in the juvenile justice system. In addition, the Association of University Centers on Disabilities, the professional organization to which UCEDDs belong, has recently formed a special interest group that is investigating this issue, and Brown plans to participate. Ultimately, Brown wants to identify where changes need to be made to ensure that we are not punishing youth because of their disabilities: in the juvenile justice system, the public schools, the broader community, or all three; and she plans to work on making those changes. “It’s just the beginning,” says Brown, “but I think it’s important that the conversation is getting started.”