Youth with Intellectual and/or Developmental Disabilities & the Juvenile Justice System

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(Re)institutionalization of Disabled Youth?

- Background Information
- Research Findings and Limitations
  - National Data
  - Washington State
- What We Don’t Know
- Where Do We Start?
- Your Questions and Thoughts?
Background

• Definitions
  • Youth (ages ≈10-17)
  • Youth with Disabilities (IDEA & Section 504 identified students)
  • Intellectual and/or Developmental Disabilities (I/DD)
  • Juvenile Justice System
    • Juvenile Rehabilitation (JR) within Washington State’s Rehabilitation Administration (RA)
    • Youth in “conflict with the law” include offenders, victims, witnesses
    • Professionals include: police, defense counsel, prosecutors, judges, JR facility staff, probation staff.
  • School-to-Prison Pipeline
    • “Refers to the policies and practices that push our nation’s schoolchildren, especially those most at risk, out of classrooms and into the juvenile and criminal justice systems.” NCD at 5 (2015)

• Focus today is on youth offenders with I/DD – those who have been charged and sentenced to JR facilities.
Youth Sentenced to JR
2015 daily averages*

- Approximately 500 youth sentenced to facilities per year.
  - 400/day residing in one of the 4 locked residential facilities; 100/community facilities.
  - 350/day under parole in the community.
- Washington Residential Facilities
  - Echo Glen Children’s Center (Snoqualmie) ≈131
  - Green Hill School (Chehalis) ≈180
  - Naselle Youth Camp (Naselle) ≈75
  - Camp Outlook (Connell) ≈12
- Youth incarcerated in JR considered “deep end youth that have committed serious crimes or have an accrued extensive criminal history.”*

* https://www.dshs.wa.gov/ra/juvenile-rehabilitation/about-juvenile-rehabilitation
Overview of Offenses and Needs

• Criminal Offenses:*
  • Robbery (21%)
  • Assault (19.9%)
  • Burglary (13.6%)
  • Other Sex Offense (8.2%)
  • Motor Theft (7.3%)
  • Rape/rape of a child (7.1%)

• JR tracks “service needs” in both residential and parole in 5 areas:
  • Mental Health (64% residential youth; 71% parole)
  • Substance Abuse (48% residential youth; 46% parole)
  • Sexual Offending/Misconduct (22% residential youth; 56% parole)
  • Cognitive impairment (48% residential youth; 47% parole)
  • Medically Fragile (0% residential youth; 2% parole)

• Co-Occurring “needs” in over 80% of youth in both residential and parole

• JR does not specifically track youth with I/DD ... question is how they identify “cognitive impairment.”

Cognitive Impairment

- Developmental Disabled
- Mentally Retarded (JR apologized for this term)
- Borderline Intellect
- Autism
- Communication Disordered
- Emotionally Disabled
- Specific Learning Disability
- Traumatic Brain Injury*

*All tracked in a medical database per JR administration email dated June 2, 2015.
Numerous studies have attempted to obtain baseline data but results have varied widely between 30-85% of youth having disability.


Office for Civil Rights in the US Department of Education Civil Rights Data Collection survey (CRDC) administered since 1968.

- Data on key education and civil rights issues in public schools
- Typically collected biennially; 2009-10 data from 85% of public schools (including JRA facilities); 2011-12 data from all schools (99.6% of all students in USA).
- 2009-10 data set included new questions related to students with disabilities (IDEA and 504) re: discipline and law enforcement.
- **LIMITATIONS:** accuracy and can not disaggregate by type of disability—i.e., how many students with I/DD or what race.

Attention is Growing

• Breaking the School-to-Prison Pipeline for Students with Disabilities (National Council on Disability (NCD): June 18, 2015)

  • NCD has concluded that IDEA can and should be an important part of the solution to the School-to-Prison Pipeline crisis.

  • Thus, the recommendations in this report focus on ways to improve existing special education delivery and enforcement systems to better meet the needs of students with disability who risk entering the Pipeline.

  • First and foremost, NCD would like to see a **unified system of education with all students educated in the regular education classrooms** with special education supports. But improved implementation of disability laws in this manner alone will not eradicate the **persistent racial and ethnic disparities within the class of students with disabilities caught in the Pipeline**. Thus the recommendations acknowledge that efforts to break the School-to-Prison Pipeline for students with disabilities must address both **conscious and unconscious racial biases that combine with disability discrimination** to contribute to the crisis. *

Proposed Equity in IDEA Rule


• “Studies reveal that up to 85 percent of youth in juvenile detention facilities have disabilities that make them eligible for special education services, yet surprisingly only an estimated 37 percent receive these services while in school. Disabled youth, particularly students of color, in the juvenile justice and criminal justice systems are deprived of an appropriate education that, if provided, could greatly expand options and opportunities. The proposals by the Department are an important step in correcting the current imbalance. We welcome these changes and remain available to provide guidance or assistance in their implementation.

• NCD applauds the Department of Education for echoing our recommendations in their Equity in IDEA Rule proposal,” said NCD Executive Director, Rebecca Cokley.
Juvenile Justice & Youth with I/DD

• Phase I – State Workgroup Recommendations
  • Summary available to Legislators (February 2012)

• Phase II – DDC/DRW/UCEDD
  • What screening tools exist on intake that would identify I/DD?
  • What training is available for staff?

• Phase III – UCEDD study
  • Analysis of most recent OCR data released (2012) and (2014).
  • Conduct reviews of school records (IEPs) to track the process of moving from school to prison.

• Phase IV Planning – UCEDD/DDC/DRW
  • JR/VR Early Transition Planning and Implementation for all incarcerated youth.
  • Exploring funding proposal for a 5 year study to track fidelity to IDEA due process requirements when students with I/DD receive school discipline.
UCEDD Study
Analysis of Washington State CRDC Data

- 2012 pilot project to investigate the special education connection between students with I/DD and JR (ArcTrust Fund support).
  - Data Analysis of the 2009-10 CRDC for Washington State
  - Review of 5-10 IEPs of youth with I/DD sentenced to Echo Glen
- Questions asked of CRDC included:
  - How many students served with IEPs were suspended, expelled, referred to law enforcement or arrested at school?
  - How many students on IEPs received seclusion and restraint?
  - How many students with IEPs served in JR facilities?
  - How many students with I/DD incarcerated in JR facilities?
- Review of the IEPs—on-going
  - Barriers – identifying students with I/DD, parental consent, student assent
    - 2 students reviewed – still continuing
- On-going analysis of CRDC data as the reports are released
  - 2011-12 CRDC data analysis supported by Harlan Hahn Award 2015
2011-12 CRDC Findings re: Disability*

- Students with Disabilities (IDEA) Suspended Out of School
  - More than twice the rate (13%) of nondisabled students (6%)
  - Washington State reported 14% and 5%.
- Arrests and referrals to law enforcement by disability (IDEA)
  - IDEA students are 25% of the population referred to law enforcement or arrested at school; 12% of the school population.
  - Washington State reported 28% referred/arrested; 11% of population.
- Physical Restraint of students with disabilities (IDEA)
  - 75% of those restrained are on IEPs (12% of the population).
  - Washington State reported 66% restrained; 11% of the population.
- Seclusion of students with disabilities (IDEA)
  - 58% of those receiving seclusion; 12% of the population.
  - Washington State reported 77% receiving seclusion; 11% of the population.

* Civil Rights Data Collection: Issue Brief No. 1 Data Snapshot (School Discipline) (March 2014)
Washington State Total Student Enrollment
Percentage of IDEA Washington State Students by Eligibility

Percentage of IDEA Served Washington State Students by Eligibility
2011-12 Civil Rights Data Collection (CRDC)
Student Eligibility in all JR Facilities

Combined JDC Facilities

- IDEA: 32%
- 504: 0.40%
- Other Enrollment: 67%
Number of Reported Washington State Students with Disabilities Receiving Specific Disciplinary Actions
2011-12 Civil Rights Data Collection (CRDC)

- school related arrest
- referral to law enforcement
- expulsion zero tolerance
- expulsion w/o services
- expulsion w/services
- 1+ out-of-school suspension
- 1 out-of-school suspension
- 1 in school suspension
- Corporal Punishment

IDEA
Section 504
Number of Reported Washington State Students Residing in JR Facilities Receiving Disciplinary Actions
2011-12 Civil Rights Data Collection (CRDC)
JR Initiative: Incorporating Vocational Planning

• All youth (including those identified as having disability) participate in individualized vocational planning.
• Process begins during initial JR intake for all youth.
• Proposed process includes 6 components (following slide).
• Youth do not need to complete all components or take them in any particular sequence.
• Some services/supports available only for youth identified as disabled.
• All youth are released with an Exit Portfolio that includes the vocational/educational plan.
Vocational Planning Components

1. **INTAKE**
2. Reentry Team Meeting
3. Vocational Assessment
4. Career Exploration
5. Work Skill Development
6. Exit Portfolio
7. Release to Community Facilities or Community
What We Do Not Know...

• How many youth with I/DD are suspended and/or expelled in Washington State.
• How many youth with I/DD are subject to isolation or restraint in Washington State.*
• How many youth with I/DD in Washington State are involved with the juvenile justice system.
• What supports and services youth with I/DD get once they are detained and charged.
• What modifications are made to the evidence based interventions provided during JR sentences.
• Is there any connection between special education services prior to involvement with JR—i.e., is there something that systemically could change to prevent involvement.

* Recent amendments to RCW 28A.600.485 now require reporting of the use of isolation and restraint to OSPI.
What We Do Know

• The majority of youth incarcerated in this country have disabilities.
• The majority of youth incarcerated in this country are minority youth.
• The majority of youth incarcerated in this country are not receiving IDEA or Section 504 services.
• Minority youth (excluding Asian youth) are disciplined and incarcerated at disproportionate rates when compared to Caucasian youth.
• Youth incarcerated in juvenile facilities are at higher risk for incarceration in the adult corrections system.
We can hypothesize

- That up to 50% of youth sentenced to JR facilities identified as having cognitive impairment have I/DD.
- That only some of them are receiving IDEA services ... and others are not receiving appropriate services.
- That to the extent there are “behavioral” issues related to impairment for some of these I/DD youth, special education services prior to JR were not adequate.
- That some youth with I/DD will not benefit from the interventions provided at JR facilities if not modified.
- That many of these youth with I/DD will be minority youth.
- That JR facilities are the default institutional setting for youth with disabilities.
Where Do We Start?

• Growing recognition that not only are minority youth disproportionately disciplined in school and involved with juvenile justice—but so are youth with disabilities.
• Ensure accurate and consistent data collection both in school and the juvenile justice system.
• Track children in special education over school career to understand the pipeline from school to prison
  • Early identification
  • Supports and Services provided
  • Examination of the disciplinary actions – and follow-up
  • Supports provided once involved in criminal system
  • Transitions once return to community.
  • School outcome data need to include involvement with DOC.
• Ensure successful system reform efforts so JR youth with disability receive appropriate supports (educational and otherwise) to be successful when they transition to the community
Your Questions and Thoughts?