

Disability Forensic Assessment & Treatment Service



Tie Me up Tie Me Down: A discussion on the complicating factors of Intellectually Disabled clients In the criminal justice system

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Legislation

- Intellectually Disabled Persons' Services Act 1986
- Disability Act 2006
- Sentencing Act 1991
- Serious Sex Offender Monitoring Act 2005

Intellectual Disability

- Persons with an intelligence not higher than two standard deviations below the population (less than 70 FSIQ)
- Score below the second percentile of people of the same age and cultural group of adaptive functioning.

Prevalence of ID in Justice System

- 1% in the general population of males in Melbourne are in prison
 - 3905 (2006)
- Mixed views of levels of ID in prison
- Conservative estimate is 3% - 4% of prison population have ID

WHY NO FIRM FIGURES?

- Continuum of ID: Low IQ high functioning
- ABI / extensive AOD history
- Unregistered
- Unwilling to be assessed
- Malingering
- Crimes are easier to detect
- BUT difficulties in getting convictions
- Limited treatment options
- Misunderstanding of ID and offending behaviour

Aetiology of offending

- **Intellectual Disability**
 - interpersonal / communication issues
- **Mental Health**
 - Disinhibiting factors, instability
- **Context**
 - Living situation, peer groups, impoverished
- **Trauma**
 - Historical psychological issues

Legislative issues

- Disability Act 2006
- Least restrictive options
 - Dignity of risk
 - Alternatives to be more involved in the community
 - Need for justification for restrictive practices
 - Needs of client vs. risk to community

Legislative issues

- - Sentencing Act 1991
 - Rehabilitation
 - Community safety
- Serious Sex Offender Monitoring Act 2005
 - Risk based
 - Monitoring and rehabilitation

Risk Factors and ID

Common assessment tools

- **Static**
 - Relationship less than 2 years
- **SVR 20**
 - Mental health
- **Stable**
 - Intimacy deficits
 - Impulsivity

Case Example A

- 40 Year old male
- Moderate ID
- Routined / fixated / institutionalized
- Unable to meet requirements of parole
- Short sentences
- Offences of contextual assault / theft
- Less restriction leads to putting client and community at risk

Case Example B

- 35 year old Male
- Long history of sexual and non sexual offending
- Absconding history (Treatment and residential facilities)
- Involved in multiple interventions over a significant time period
 - Treatment (group and individual)
 - Medication
- 10 year ESO
- No unrestricted access to community
- How to prove that risk has reduced?

Risk and Protective factors

RISK

- Denial of risk
- Interpersonal difficulties
- Mental health
- Impulsivity
- Lack of realistic goals
- Unstructured life

PROTECTIVE

- Stable employment
- Intimate relationship
- Conflict resolution
- Motivated to “fit” back into non offending society

Non ID Agency Involvement

- Non ID
 - CCO / Parole officer
 - Child protection
 - Psychologist / GP / Psychiatrist
- All have similar goals

Intellectual Disabled Agency Involvement

- CCO / Parole Officer
 - Child Protection
 - DHS Case Manager
 - Psychiatrist
 - Psychologist
 - Housing officer
 - Supported accommodation staff
 - Supported Employment Staff
 - VCAT
 - Office of the Senior Practitioner
 - Advocates
 - Family
 - State Trustees
- Similar goals but competing interests and a variety of skill levels / knowledge

SUMMARY

- Legislation can be a blunt tool
- Issue of different interpretations
- ID clients have higher incidence of historical risk factors
- ID clients have more difficulty obtaining protective factors
- Multiple groups leads to greater complexities

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