
Access Justice

I/DD & the Criminal Justice System

Hello!

I am Alex Cogan

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The Arc of Texas

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The Arc of Texas

- ▶ Promote, protect, and advocate for the human rights and self-determination of Texans with intellectual and developmental disabilities (I/DD)
- ▶ Monitor local, state, and national issues that impact people with I/DD
- ▶ Work closely with legislators and gov't agencies to improve the quality of supports and services
- ▶ We work to change laws, systems, and attitudes!
- ▶ 29 local chapters (direct services)
 - Travis County: The Arc of the Capital Area

Communication

Uniqueness

Compounding challenges

Communication

- ▷ Limited vocabulary or speech impairment
- ▷ Difficulty understanding
- ▷ Short attention span
- ▷ Mimicking, repetitive, or nonsensical speech
- ▷ Bluffing greater understanding

Behaviors

- ▷ Easily frustrated
- ▷ Repetitive motions or motor impairments
- ▷ Expression through physical action (i.e. signing)
- ▷ Quickly overwhelmed/overstimulated (i.e. freezing)
- ▷ Appearance of intoxication (i.e. Taylor)

Interactions

- ▷ Easily influenced and eager to please (i.e. Jordan)
- ▷ Varying degrees of socially acceptable affection/actions with peers
- ▷ Over-compliance with authority figures
- ▷ Misunderstanding social cues and body language
- ▷ Under- or -over-engagement with others

Trauma

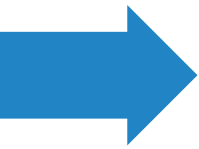
- ▶ Unable to communicate the extent of trauma due to lack of understanding of:
 - healthy relationships
 - healthy sexuality
 - appropriate boundaries
 - consent



Data

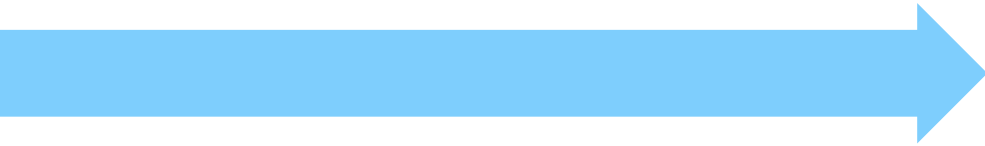
What the Numbers Say

People with I/DD



~2%

General population



> 10%

Jail and prison population

- ▷ More likely to be arrested, convicted, sentenced to prison, victimized in prison, serve longer sentences
- ▷ Less likely to receive probation or parole

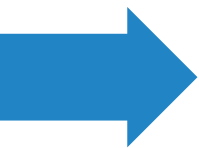
 > 754,000

Texans with ID

 > 500,000

Texans with DD

Autism Spectrum Disorder



1 in 59

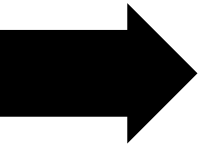
Children diagnosed w/ASD

Rules

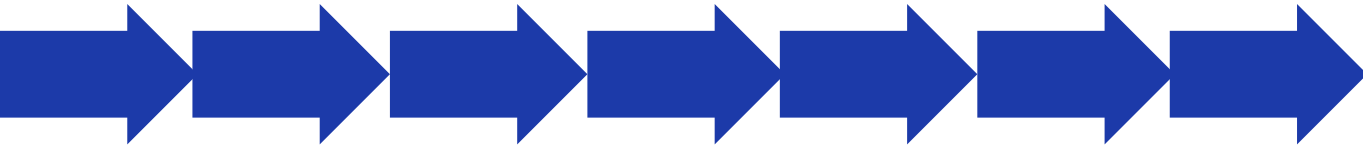
Regulations

Expectations

Social behavior



People without disabilities



7x

People with disabilities are 7x more likely to interact with law enforcement

People with I/DD

 **2.5x** More likely to be victims of violent crime

 **10x** More likely to be victims of abuse and other crimes

90% Will experience sexual assault in their lifetime

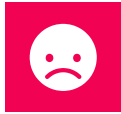


Victims, Suspects, Witnesses



Denied the right to testify

Not deemed credible



Forfeit their rights

Unknowingly give up rights



Not be taken seriously

Perceived to be under the influence



Unable to assist in own defense

Challenge in recalling details



Under guardianship

Barrier to investigations



Falsely confess

Due to lack of full understanding

Cascade of injustice

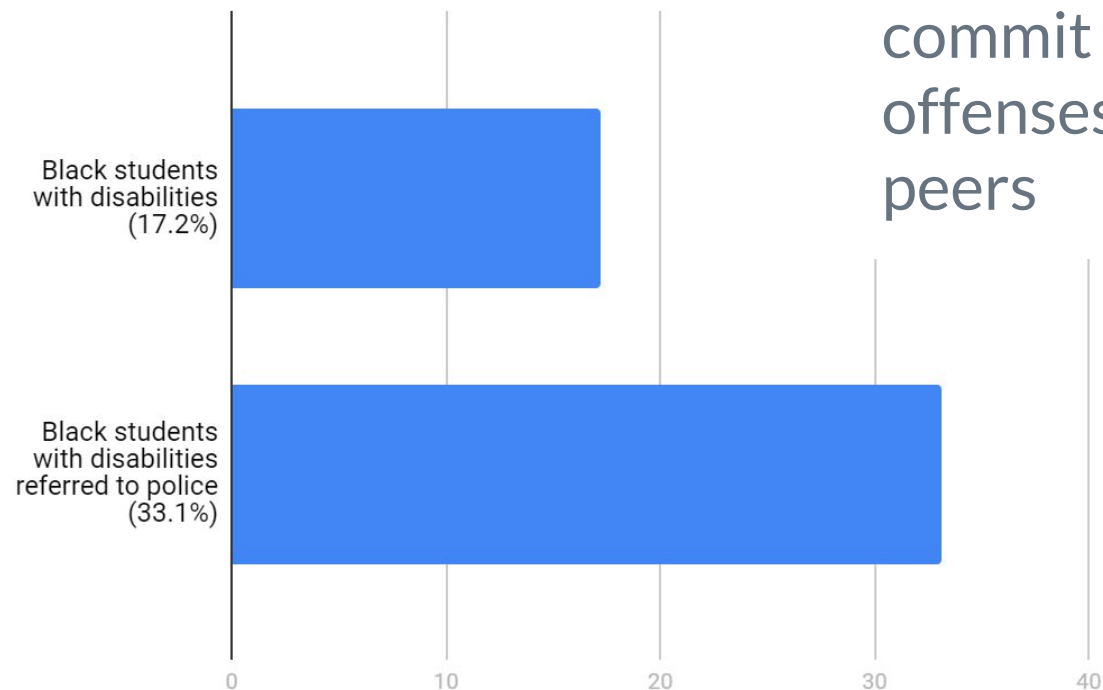
- ▷ Not recognizing that abuse is wrong
- ▷ Not being able to disclose abuse
- ▷ Not having disclosure understood or believed
- ▷ Not having the abuse reported or investigated
- ▷ Not having investigations lead to trial
- ▷ Not being recognized by the courts as a competent witness
- ▷ Not receiving therapy for the effects of abuse
- ▷ Not having therapy appropriate to needs

Students with disabilities

- ▷ Behavior Improvement (Intervention) Plans (BIPs)
 - Developed by teachers, parents, and support staff to address unique needs of student
 - Teachers must implement behavior support
- ▷ 500,000 (9%) Texas students in special education classes
 - Higher rates of school suspension

Breaking the Cycle

Students with Disabilities = 100%



Students of color do not commit more discipline offenses than their white peers

Accommodation Shifts

Reminders for 1st responders

- ▶ Use simple language, pictures, objects to illustrate your words
- ▶ Reduce distractions to “quiet the environment”
- ▶ Ask closed- and open-ended questions
- ▶ Give extra time for processing
- ▶ Check for understanding
 - “Tell me in your own words what I just told you?”
 - “Tell me what _____ means.”

Reminders for 1st responders

- ▷ Consider specific needs
 - I.e. iPad, communication board, etc.
- ▷ Explain written material in simple language
- ▷ Ask one question at a time
- ▷ Acknowledge the desire to please
 - It's okay to say, "I don't know"
- ▷ Use fewer pronouns to avoid confusion
- ▷ Avoid abstract concepts

Traditional Version	Modified Version
You have the right to remain silent.	I want you to know that you have rights. You don't have to talk to me about what happened.
Should you give up the right to remain silent, what you say can and will be used against you in a court of law.	But if you do talk to me, I can tell the court whatever you tell me. The judge will find out what you say to me and decide if you did something wrong or not. Can you tell me in your own words what I just told you?
You have the right to an attorney present during questioning.	You can talk to a lawyer if you want to. Your lawyer will help you and is your advocate when you become a suspect of a crime. You can talk to a lawyer before I ask you questions. Your lawyer can be with you when I ask you questions. Can you tell me in your own words what I just told you?
If you want an attorney, but cannot afford one, one will be appointed for you.	If you don't have enough money to hire a lawyer to help you, we will get one for you. You don't have to pay. You can have the lawyer for free. Can you tell me in your own words what I just told you?
Do you understand these rights as I have explained them to you?	Do you have any questions about what I have just told you? Do you want me to get you a lawyer?

Support Resources

Pathways To Justice®

- ▷ Created by a Sheriff who has a child with Autism
- ▷ Nationally recognized, field-tested criminal justice and disability training program
 - Provides training to:
 - Law enforcement
 - Legal professionals
 - Victim service providers
- ▷ The community addresses key barriers to justice for people with I/DD and discusses practical solutions that work best for them

Fort Worth & San Antonio Winter 2020

New Texas Laws

86th Legislative Session

New Texas Laws

HB 3116 Task-force to study jail standards for individuals with I/DD

HB 3540 Discretion to not arrest individuals with I/DD at ICF/HCS

HB 4531 Consent to sexual assault forensic examination

HB 3630 Aversive restraints cannot be used as behavior modification

SB 1707 Relating to the duties of school resource officers

HB 3116

Creates a task-force to study jail standards for individuals with I/DD

- ▶ The Arc of Texas has a seat at the table



HB 3540

Law enforcement has discretion to *not* arrests individuals with I/DD at ICF or HCS group homes



HB 4531

Individuals with I/DD, regardless of guardianship, can provide consent to a sexual assault forensic exam



HB 3630

Aversive restraints cannot be used as a behavior modification

SB 1707

Relating to the duties of a school resource officer (SRO)

- ▶ Tasked only with duties related to law enforcement intervention and *not* tasked with behavioral or administrative duties



Your Experiences

What needs change?

Share your experience

- ▷ What's happening in your home?
- ▷ What needs changing?
- ▷ What can be improved?
- ▷ What do you need to do your job effectively?

Thanks!

Any questions?

You can find me at:

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