

THE INVISIBLE VICTIMS

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INTRODUCTION

Crime against people with substantial disabilities is a problem similar to violence against women; elder abuse and child abuse, but remains largely invisible and unaddressed. Studies consistently show that the level of violent and other major crimes against children and adults with substantial disabilities is from four to ten times higher than against the general public. These studies also show that such crimes are reported at a much lower rate and that there are lower rates of prosecution and conviction.

People with disabilities represent approximately 20% of the population of our country (including, among others, 2% developmental disabilities, 5% adult onset brain impairment, 2.8% severe major mental disorders) or over six million Californians. Over half of all families have loved ones or close friends with substantial disabilities. The number of people with disabilities appears to be growing for a variety of reasons, not the least of which is aging of our population.

Who are people with these disabilities? They include people with developmental disabilities (such as an intellectual disability or mental retardation, autism, cerebral palsy, epilepsy), traumatic brain injury, severe physical disabilities, major mental disorders, degenerative brain diseases (such as Alzheimer's, Parkinson's, Huntington's), permanent damage from a stroke, organic brain damage and other substantial disabilities.

People with such disabilities are among those most at risk of violent and other serious crime.

THE RATE OF VICTIMIZATION

Research consistently finds that people with substantial disabilities suffer from violent and other major crimes at rates many times higher than that of the general population. Sobsey, in a review of the research literature, concluded that the conservative estimate is that this population is over 4 times as likely to be victims of crime than are people without disabilities (Sobsey, 1996a). Sobsey also believes that the more accurate figure is between 5 to 10 times higher (Sobsey, 1996b).

Petersillia (1998) estimates that roughly 5 million crimes are committed against people with developmental disabilities in the United States each year. She compares this with 8,000 hate crimes, 1 million elder abuse victims and 1 million spousal assault victims

each year. The National Committee to Prevent Child Abuse survey indicated that over 1 million cases of child abuse are reported each year. The number of crimes against people with all types of disabilities would be four to five times greater than the number against people with developmental disabilities alone. This means that crime against all people with substantial disabilities may be higher than elder abuse, child abuse and domestic violence combined.

Murry reported that a 1990 study of 150 people with a wide range of disabilities found that they had a 2 to 10 times greater risk of criminal abuse than people without disabilities.

Wilson and Brewer (1992) completed a study in Australia in which they took a sample of 174 adults with intellectual disabilities and compared their rates of criminal victimization to a sample of people without disabilities in that same community. They found that people with intellectual disabilities had a victimization rate for sexual assault 10.7 times higher than that for the non-disabled comparison group and 12.8 times higher for robbery.

These findings are consistent with other research. In a study by Hard (1986) of 95 adults with developmental disabilities in California, 83% of the women and 32% of the men in this sample had been sexually assaulted. Hard also reported that data from other studies indicate that 86% of women with developmental disabilities in these samples had been sexually assaulted. Stromsness (1993) found through structured interviews of 27 women and men with mild mental retardation in four San Francisco Bay Area counties that just under 80% of the women and 54% of the men had been sexually abused at least once. These rates compare to 13% of women in the general population who have been victims of at least one rape in their lifetimes (Kilpatrick, Edmunds & Seymore, 1992).

In addition to these extremely high rates of sexual assault, there is evidence that people with developmental and other substantial disabilities are often sexually assaulted repeatedly. Sobsey and Doe (1991) found that 80% of a sample of 162 people with developmental and other substantial disabilities who had been sexually assaulted had been sexually assaulted more than once, while 49.6% had experienced 10 or more sexual assaults.

It is not just people with developmental disabilities who are experiencing these very high rates. A study of psychiatric inpatients found that 81% had been physically or sexually assaulted (Jacobson & Richardson, 1987). In a survey of health providers who cared for victims of sexual assault with disabilities (Mullan & Cole, 1991), people with both mental retardation and a physical disability were identified as most vulnerable to sexual assault, with mentally ill persons a close second. A study of 278 randomly selected psychiatrically disabled residents of 30 large Los Angeles board-and-care homes found that 33% had been victims of crime over the previous 12 months (Lehman and Linn, 1984). The comparable rate for the general population in Los Angeles County at that time was 3.5%. This is a crime rate 9.5 times higher for this population. Lam and Rosenheck, 1998, in a study of over 1800 homeless persons with mental illness, found that forty-four percent had been victims of at least one crime during the two months prior to being questioned. This is a crime rate 21 times higher than that of the general population.

In another study of the lives of women with disabilities, a disabled women's action group conducted research on the subject of crime and found that 70% of women with cognitive or physical disabilities had been victims of violence (Stimson and Best, 1991).

And there is a growing body of research that crime rates are even higher in institutions, group homes and other segregated facilities. The Roeher Institute in a 1993 publication found that, "...people with disabilities may be at particular risk of victimization in these "safe" arrangements." Sobsey and Mansell (1990) concluded that the risk of being sexually abused was two to four times higher in an institutional setting than in the community.

Children with disabilities also suffer higher rates of criminal abuse than children without disabilities. A recent and methodologically sound study of over 50,000 children in Omaha schools during 1995 to 1996 found that children with disabilities suffered a rate of abuse 3.44 times greater than children without disabilities (Sullivan and Knutson, 1997). This large study found that children with behavior disorders suffered a relative rate of physical abuse 7.3 times higher than that of non-disabled children. The relative rates for sexual assault was 5.5 times greater with the relative rates 6.7 times higher for neglect and 7 times higher for emotional abuse. These findings are consistent with other studies that find that children and adults with psychiatric disabilities have some of the highest rates of criminal victimization and criminal abuse among people with disabilities.

The Roeher Institute in Canada did a review of the research literature on sexual assault against children with intellectual disabilities (mental retardation) in 1988. They report that from 16 to 30% of boys and from 39 to 68% of girls with intellectual disabilities will be sexually abused before the age of 18.

In addition, a reanalysis of data from a sample of 500 abused children in Baltimore between 1973 and 1984 revealed that children with disabilities had a rate of criminal abuse 4.43 times higher than those without disabilities (Sobsey and Doe, 1991). Finally, in a study of 55 hearing impaired multiply handicapped children examined by otolaryngologists through the Boys Town Center for Abused Handicapped Children, Brookhouser, Sullivan, Scanlan, and Garabino (1986) reported that 96 percent of the children had been sexually abused.

There is a large body of research on criminal abuse against children with disabilities, and it appears that as individuals grow older, the chance that they will be victims of violent crime increases relative to the general population. This increase may be attributed to the differences in vulnerability, as children grow older. Children with more substantial disabilities and children without disabilities, at infancy, have very similar degrees of vulnerability. This continues for toddlers but begins to diverge soon thereafter. By adolescence, the gap has grown much wider, and by adulthood, has grown to the large differences reflected in the different rates discussed above.

REPORTING OF CRIMES

In addition to these high rates of victimization, there is evidence that crimes against people with substantial disabilities are often not reported (result in a crime report). The components of the criminal justice system cannot take necessary action when they are not informed of crimes. Every police department, sheriff's office and district attorney that we have consulted in California reported that they have very few cases involving victims with substantial disabilities, dramatically less than the relative rate of violent and other major crime would predict. This is a practical and concrete indication that major crimes against people with substantial disabilities are being reported at a much lower rate than for the general population.

I estimate that less than 4.5% of serious crimes committed against people with disabilities in California have been reported compared to 44% for the general population. This is based on an analysis of California's Adult Protective System data compared to National Crime Victimization Survey data.

There are other studies that support this conclusion. The Seattle Rape Relief Project program for victims of sexual assault with developmental disabilities concluded, based on their clinical experience, that there is underreporting of sexual assaults of victims with developmental disabilities that exceeds underreporting with other populations (Anderson, 1985). A study of 162 people with a range of disabilities found infrequent reporting of crimes to authorities (Sobsey & Doe, 1991). In the Wilson and Brewer (1992) study, 71% of crimes against people with more severe mental retardation went unreported. This compares with 56% of violent crimes that go unreported for the general population (National Crime Victimization Survey, 1999).

Similarly, several studies suggest 80-85% of criminal abuse of residents of institutions never reach the proper authorities (Powers, Mooney & Nunno, 1990). A University of Alberta study suggests one reason for this. It found that 40% of those criminally abused and 40% of non-abusing staff of care facilities studied are reluctant to come forward with criminal abuse issues for fear of reprisals or retribution from administrators (Helm, 1990). Administrators may find themselves in a situation that to report a violent crime can lead to negative publicity which may involve questions about their competence, damage their career or even lead to losing their jobs. Minimizing the severity of the reported abuse or deciding that it was unlikely that a crime occurred avoids such risks.

Reporting to "proper authorities" often includes reports to non-law enforcement agencies that result in administrative actions such as licensing sanctions or the firing of the suspect. The law mandates reporting of serious crimes but administrators often determine were to send such reports by their interpretation of what actually occurred. Reports of incidents diverted from the criminal justice system are not part of the crime reporting data and represent an unequal remedy when compared to arrest, prosecution and incarceration.

James found a much higher rate of non-reporting in a study of people with developmental disabilities, a finding that is consistent with the idea that people with more severe disabilities are more vulnerable and less likely to report a sexual assault. This study found that only 3% of cases of sexual assault involving people with developmental disabilities are ever reported to authorities (James, 1988 as reported in Tharinger, Horton & Millea, 1990). This compares with a reporting rate of sexual assaults of from 16% (Kilpatrick, Edmunds & Seymore, 1992) to 28.3% (National Crime Victimization Survey, 1999) for the general population.

There is a widespread perception among people with developmental and other more substantial disabilities and their advocates that reporting crimes may often be useless (Sobsey and Doe, 1991).

POLICE FOLLOW UP AND PROSECUTION

There is also expert opinion and empirical evidence that, when reported, there are lower rates of police follow up, prosecution and convictions in these crimes. A range of possible explanations offers themselves. These cases are inherently difficult to investigate, prosecute and try. Criminal Justice personnel often lack the special skills and special training required for these cases. The cognitive and communication difficulties for some of these victims present special challenges including the unfounded assumption that such victims almost always make incompetent witnesses. Negative stereotypes and prejudices can interfere with fair consideration by the criminal justice system.

Sobsey (1994) reviewed a number of research studies on this topic and reported that they all agreed that convictions of offenders were rare in spite of the chronic and severe nature of the criminal abuse. A survey of 119 cases of sexual assault against people with intellectual disabilities in Britain was consistent with these findings. It found that no action was taken in almost half the cases and prosecution or disciplinary action took place in only 18.5% of the cases (Brown & Turk, 1994). Another study (Sobsey and Varnhaggen, 1991) looked at sexual assaults of people with disabilities. It reported that 65% of cases reported to the police were not prosecuted because the police declined to press charges usually citing the victim as an incompetent witness. In another 18% of these cases, the prosecutor refused to pursue charges. In another 18%, the offender was never found. Many of the victims were dissatisfied with the legal action taken or denied.

In another study of known sexual assaults of people with intellectual disabilities in Britain, police investigated only 21% and only 9% were referred by police for prosecution. Just two of these (less than one per cent) proceeded to court, and only one resulted in a conviction (Brown and Stein, 1997). This is consistent with a Boston Globe (6-10-2001) survey that found that only 5% of serious crimes against people with disabilities were prosecuted compared to 70% for similar crimes against people without disabilities. Sobsey (1996b) stated that overall there is not good prosecution of these cases but that it varies greatly across different criminal justice systems.

The worst danger is that predators may also believe they are unlikely to be successfully prosecuted. I was told by a clinician at Atascadero State Hospital, a forensic facility in

California, that he overheard two sex offenders talking. One said to the other, “Get a job in the D.D. (developmental disabilities) system when you get out, it’s easy pickings.” Unfortunately, such people probably also hold that perception about the mental health system and other systems providing care for people with substantial disabilities.

CONCLUSION

The personal experience of people with substantial disabilities and their families, as well as empirical research, paints a picture of very high rates of violent and other major crime directed against citizens with disabilities. People with substantial disabilities represent a sizable portion of our population, suffer violent crime at substantially higher rates than most citizens and are less protected by the criminal justice system than other persons because of lower reporting rates for violent crime and lower prosecution and conviction rates. This is a situation that cannot be allowed to continue.

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