

BRIDGING THE GAP

Justice and Intellectual Disability

Myths and Facts Regarding Sexuality and Individuals with Developmental Disabilities

Respond True or False

- _____ Individuals with Intellectual Disabilities are not able to plan offences.
- _____ Individuals who are severely or profoundly delayed are safe from sexual abuse because they live in highly supervised settings and are never left out of the sight of staff or family members.
- _____ Sex education must be given to a child at a certain age to be beneficial.
- _____ Most persons who are developmentally delayed do not have a sexual drive.
- _____ Individuals with Intellectual Disabilities are never credible witness
- _____ Teaching Relapse Prevention Therapy to individuals with developmental disabilities who have sexually offended, is more difficult than with the non-disabled population.
- _____ Individuals with Intellectual disabilities can not give consent for sexual activity.

INTRODUCTION

- Behaviour Management Services of York and Simcoe (BMS-YS)
- Intellectual Disability
- Characteristics
- Prevalence
- Attitudes and Reporting
- Challenges
- Bridging the Gap

BMS-YS

- Behaviour Management Services of York and Simcoe was established in 1977
- Department of York Central Hospital, Mental Health Program
- Provides service to all residence who meet mandate in York and Simcoe region

BMS-YS

- Comprised of clinics in the following areas:
 - Behaviour
 - Sexuality
 - Autism
 - ABA (Applied Behaviour Analysis and ASD)
 - FASD (Fetal Alcohol Spectrum Disorder)
 - Acquired Brain Injury
- Community Based Program **Voluntary**

BMS-YS

BMS-YS

Mandate:

Who do we serve?

- Adult, Adolescents, Children
- Intellectually Disability; IQ 70 and under
- Cognitive Delay of 2 or more years

INTELLECTUAL DISABILITY

- Intellectual disability is a disability characterized by significant limitations both in intellectual functioning and in adaptive behaviour, which covers many everyday social and practical skills. This disability originates before the age of 18.

-AAIDD

BMS-YS SEXUALITY CLINIC

- Sexuality Clinic was developed in 1982
- First community based service for Intellectually Disabled sex offenders
- Offers comprehensive services to adults, adolescents and children with intellectual disabilities who are engaging in sexual concerning or offending behaviours.

BMS-YS SEXUALITY CLINIC

- Our role is the management and reduction of inappropriate sexual behaviours and promotion of appropriate and healthy alternatives
- Followed the path of main stream sex offender treatment models
- Offers individual & group treatment, as well as intensive mediator training
- Provides education and consultation throughout Central East Region

BMS-YS SEXUALITY CLINIC

- Sexuality Team:
 - ❖ Co-ordinator
 - ❖ 2 Consultants
 - ❖ 1 Central East Regional Educator
 - ❖ 1 Behaviour Technician

- External Consultants:
 - ❖ Forensic Psychologist
 - ❖ Adolescent Psychologist
 - ❖ Forensic Psychiatrist
 - ❖ Psychiatrist
 - ❖ External Expert

WHO DO WE SERVE?

Total number of individuals currently serving

York Region:	Adults	=	13
	Children	=	2
Simcoe County:	Adults	=	22
	Children	=	6
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	TOTAL	=	43

Total number of individuals with sexual offending behaviour

N = 32/43 or 77%

WHO DO WE SERVE?

Total number of individuals currently on waitlist:

York Region:	Adults	= 21
	Children	= 12
Simcoe County:	Adults	= 44
	Children	= 24
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	TOTAL	= 101

Total number of Adults that are High Priority = 25

Total number of Adolescents that are High Priority = 11

BMS-YS SEXUALITY CLINIC

- Overview of Service:
 - ❖ Referral
 - ❖ Intake
 - ❖ Waitlist
 - ❖ Assessment
 - ❖ Treatment

BMS-YS SEXUALITY CLINIC

- Referral Behaviours:
 - ❖ Sexual Offending Behaviours
 - ❖ Counterfeit Deviance
 - ❖ Socio-sexual Boundaries
 - ❖ Consent
 - ❖ Social Skill Development
 - ❖ Impulse Control
 - ❖ Confusion regarding sexual preference and acceptance
 - ❖ Paraphilia's

BMS-YS SEXUALITY CLINIC

How to make a referral:

- All adult referral must go through Developmental Services Ontario to determine eligibility for service
- Adolescents and Children referrals can be made directly to BMSYS through phone or fax

BMS-YS SEXUALITY CLINIC

- **Referral Source:**

- ❖ Self
- ❖ Family
- ❖ Support Staff
- ❖ Doctor
- ❖ Teachers
- ❖ Probation/Parole
- ❖ Lawyers

** Regardless of referral source, individuals must be consenting to involvement**

INTAKE PROCESS

- After we receive the referral, we schedule an Intake meeting
- This meeting is done with the potential client and anyone the client feels would be beneficial to have at the meeting

INTAKE PROCESS

- The intake interview targets:
 - ❖ The presenting behaviour
 - ❖ The environment and context
 - ❖ Any contributing factors
 - ❖ Individuals history and current living situation
 - ❖ Any relevant information

WAITLIST PLACEMENT

- If someone is eligible for service, the team assesses their priority
- Priority criteria was developed based off the most current research in sexual offending behaviour and risk to the community
- Based on this priority they are positioned on the waitlist

ACTIVE SERVICE AND ASSESSMENT



ACTIVE SERVICE

Components:

- Risk Management
 - ❖ Reducing the risk of offence or re-offence through external and environmental control
- Treatment
 - ❖ Skill building, education and intervention to reduce recidivism and promote a healthy and appropriate lifestyle

ASSESSMENT

- Assessment Process:
 - ❖ Historical Review
 - ❖ Sexual Knowledge
 - ❖ Sexual Attitudes
 - ❖ Age Discrimination
 - ❖ Boundaries
 - ❖ Consent
 - ❖ Abuse Prevention

Note: These are essential components, however, more may be added in specific cases. Example: Phallometric, Actuarial Assessments

RISK ASSESSMENTS

- Risk Assessment
 - ❖ Static 99
 - ❖ STABLE 2007
 - ❖ ACUTE
 - ❖ ERASOR
 - ❖ ARMIDILLO
- Empirically validated measures
- Examine the factors most closely associated with re-offense such as victim access and supervision
- Used with caution with the intellectually disabled population

TREATMENT PROGRAMS

- Based on Assessment:
 - ❖ Treatment goals are identified in the assessment report.
 - ❖ Specific to the persons identified needs and skill deficits.
 - ❖ Triggers are identified to determine when the individual is most at risk.
 - ❖ The Individuals level of functioning is taken into account as well as their Intellectual Disability.

TREATMENT PROGRAMS

- Based on the Individual:
 - ❖ The treatment provider asks the individual what they hope to achieve from the treatment program
 - ❖ Finding or creating motivations for participating in treatment
 - ❖ Gives the individual some control and sense of ownership and responsibility over the treatment outcome
 - ❖ Recognition of their treatment outcomes and how they will impact their quality of life

TREATMENT PROGRAMS



GENERAL CHARACTERISTICS OF INDIVIDUALS WITH AN INTELLECTUAL DISABILITY

- Cognitive Deficits
- Co-morbid disorders
- Culture/Experience
 - ❖ Institutionalization
 - ❖ Sex free or anti sex environments
 - ❖ Abuse or neglectful upbringings

CHARACTERISTICS OF INTELLECTUALLY DISABLED INDIVIDUALS WHO SEXUALLY OFFEND

- Not a homogenous group
- Difficulty learning and retaining abstract concepts
- Difficulty generalizing information and skills
- Lack of opportunity in typical social and living situations
- Lack of opportunity and experience with appropriate relationships

PREVELANCE

- Overrepresentation or Underrepresentation
- Types of crimes
- More likely to get caught?

PREVALENCE OF INTELLECTUAL DISABILITY IN SEX OFFENDING

- 4% of population has intellectual disability
- Up to 51% of sex offending population has an intellectual disability
- Appears to be disproportionately high

PREVALENCE OF INTELLECTUAL DISABILITY IN SEX OFFENDING

- “Unpublished data collected...indicate between 1995 and 1998, the percentage of offenders with an intellectual disability in the prison population has been between 1.4 and 1.8% at any given time”
- This is a far cry from other studies indicating between 4 to 20% of prisoners have an ID
 - Lambrick, 2003

ATTITUDES AND BELIEFS

- Crimes by the intellectually disabled are underreported (Keeling, 2006)
 1. Inconsistent responses by authorities
 2. Belief that behaviour is merely inappropriate

ATTITUDES TOWARDS REPORTING

(MCBRIEN & MURPHY, 2006)

Crime	Should it be reported?	ID perpetrators		Non ID Perpetrators	
		Carers	Police	Carers	Police
Assault	Yes	27 (67.5%)	32 (100%)	38 (95%)	33 (100%)
	No/Not sure	13 (32.5%)	0 (0%)	2 (5%)	0 (0%)
Rape	Yes	33 (82.5%)	32 (100%)	40 (100%)	33 (100%)
	No/Not sure	7 (17.5%)	0 (0%)	0 (0%)	0 (0%)
Theft	Yes	19 (47.5%)	23 (71.9%)	18 (45%)	27 (81.8%)
	No/Not sure	21 (52.5%)	9 (28.1%)	22 (55%)	6 (18.2%)

DIFFERENCES IN REPORTING

- Carers
 - ❖ 67.5% stated ID assaults should be reported vs. 95% of non-ID assaults
 - ❖ 82.5% stated ID rape should be reported vs. 100% of non-ID rape
- Police
 - ❖ 100% stated ID assaults AND non-ID assaults should be reported
 - ❖ 100% stated ID rape AND non-ID rape should be reported

REASONS FOR REPORTING (OR NOT REPORTING) FOR ASSAULT AND RAPE

- Police
 - ❖ ID and non ID need help equally
 - ❖ Report because its wrong and unlawful
- Carers
 - ❖ ID need help and understanding
 - ❖ Report because they need help or are vulnerable

DOES THIS MATCH THE REALITY

- These were the opinions of carers and police on what SHOULD be reported
- Is this what is actually reported?
- Does this match the reality of how crimes are handled?

CHALLENGES TO JUSTICE SYSTEM

- Challenges to the Police:
 - ❖ Training
 - ❖ Consent
 - ❖ Interference and contaminated evidence
 - ❖ Communication with population

CHALLENGES TO JUSTICE SYSTEM

- Challenges to the Courts:
 - ❖ Lack of experience with population
 - ❖ Lack of proper documentation and assessments
 - ❖ Assumption of naivety
 - ❖ Assumption of deviance
 - ❖ Reliability of witnesses

CHALLENGES TO JUSTICE SYSTEM

- Challenges to Probation:
 - ❖ Appropriate conditions
 - ❖ Enforcement of conditions
 - ❖ Vastly different environments and cultures
 - ❖ Limited living options

QUALITY ASSURANCE MEASURE (QAM)

- Ontario Regulation 299/10
- Came into effect January 2011
- Applies to:
 - ❖ Residential services and supports.
 - ❖ Activities of daily living services and supports.
 - ❖ Community participation services and supports.
 - ❖ Caregiver respite services and supports.
 - ❖ Professional and specialized services.
 - ❖ Person-directed planning services and supports.
 - ❖ Any other prescribed services and supports. 2008, c. 14, s. 4 (1).

QUALITY ASSURANCE MEASURE (QAM)

What it means for all?

- All agencies must have policies and procedures on abuse that promote a **Zero Tolerance** on all forms of abuse
- Regulation 200/10 requires that all abuse be reported to the police
- The consent of the person is not required

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- Need for clarification:
 - ❖ Roles
 - ❖ Rules
 - ❖ Responsibilities

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- What it means for the justice system?
 - ❖ Increased reporting
 - ❖ Dealing with potential evidence contamination
 - ❖ Increase in charges, prosecution and convictions

GOING FORWARD

1. Can individuals with intellectual disabilities serve as credible witnesses in court?
2. Can individuals with intellectual disabilities be charged and convicted of crimes?

WITNESSES

“People with learning disabilities can make effective witnesses at trial if all those members of the CJS who come into contact with them understand and make adjustments to meet their needs. A scheme developed in Liverpool, Witness Support, Preparation and Profiling (WSP&P), is enabling people with a learning disability to give evidence in court when otherwise they would not have been able to be used in a prosecution...The success rate in terms of trials resulting in a conviction is 94%.”

-A Life Like Any Other? Human Rights of Adults with Learning Disabilities (Joint Committee on Human Rights)

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- Witness Support
 - ❖ Preparing witnesses for court process
 - ❖ Environmental alterations and preparations
 - ❖ Creating profiles of clients based on assessment
 - ❖ Assist in establishing consent and culpability through

INTELLECTUALLY DISABLED OFFENDERS

- ✓ Can they be arrested for sexual crimes?
- ✓ Can they be prosecuted and convicted?

RATES OF ARREST AND CONVICTION

- The prevalence of developmental disability in Canada is approximately 3.5% (Statistics Canada, Participation and Activity Limitation Survey, 2001)
- In a sample of 281 individuals in pre-trial detention, 18.9% had an intellectual disability (Crocker et al., 2007)
- In a sample of 90 probationers, only 7% had an intellectual disability (Mason and Murphy, 2002)

PROSECUTION AND SENTENCING

- “Legal prosecution of men with intellectual disabilities who sexually offend is rare”
- “One study of sexual offenders in a secure hospital suggests that men with intellectual disabilities may be detained for relatively less serious offences”

-Thompson & Brown, 1997

PROSECUTION AND SENTENCING

Liverpool Witness Support, Preparation and Profiling
Investigations Support Unit

- 10 individuals with Intellectual Disabilities served as defendants in trials for variety of crimes
- Provided assistance to the courts in preparing clients to stand trial

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- Offender Consultation:
 - ❖ Clinicians within police and courts to provide clinical perspective
 - ❖ Case by case basis to assess for issues such as consent, capacity and deviance
 - ❖ If possible, provide historical or contextual information to facilitate legal process

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- Education:

- ❖ Unique challenges of ID
- ❖ Monthly education on diagnosis and implications in crime and response
- ❖ Police providing education to clinicians on procedures and laws
- ❖ Clinicians providing training to police on diagnosis, behaviour and how to support
- ❖ Share best practice risk assessment and research

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