

# People with Developmental Disabilities and the Criminal Justice System

J. Gregory Olley  
Carolina Institute for Developmental Disabilities

# Arc of the United States and AAIDD

---

- ▶ Criminal Justice Work Group – Policy Statement
- ▶ People with developmental disabilities are:
  - ▶ Victims
  - ▶ Witnesses
  - ▶ Suspects
  - ▶ Defendants
  - ▶ Incarcerated individuals



# 2012 National Survey on Abuse of People with Disabilities: Summary

---

- ▶ “Abuse is prevalent and pervasive, it happens in many ways, and it happens repeatedly to victims with all types of disabilities.
- ▶ “Nearly half of victims with disabilities did not report abuse to authorities. Most thought it would be futile to do so. For those who did report abuse, nearly 54% said that nothing happened. In fewer than 10% of reported cases was the perpetrator arrested.
- ▶ “When therapy is provided to victims, the therapy is helpful. Unfortunately, about two-thirds of victims were not referred to a therapist.”



# Findings: Prevalence of Abuse

---

- ▶ 1. Over 70% of people with disabilities who took the survey reported they had been victims of abuse.
  - ▶ 2. More than 63% of parents and immediate family members reported that their loved one with a disability had experienced abuse.
- 



# U.S. Department of Justice Office of Justice Programs

---

- ▶ Bureau of Justice Statistics  
Crime Against Persons with Disabilities, 2009-2011
- ▶ Estimates of nonfatal violent victimization (rape, sexual assault, robbery, aggravated and simple assault) against persons age 12 or older with disabilities
- ▶ 2010-2011: Annual average of about 923,000 nonfatal violent crimes



# Types of Disability

---

- ▶ Self-reported victims of abuse:
- ▶ Mental health conditions: 74.8%
- ▶ Speech disability: 67.1%
- ▶ Autism: 66.5%
- ▶ Intellectual or developmental disability: 62.5%,
- ▶ Mobility disability: 55.2%



# Types of Abuse

---

- ▶ “People with disabilities who were victims reported having experienced various types of abuse.”
- ▶ Some 87.2% reported verbal-emotional abuse,
- ▶ 50.6% physical abuse,
- ▶ 41.6% sexual abuse,
- ▶ 37.3% neglect, and
- ▶ 31.5% financial abuse.



# Reports of sexual abuse varied by disability.

---

- ▶ Mental health conditions: 47.4%
- ▶ Intellectual or developmental disability: 34.2
- ▶ Mobility disability: 31.6
- ▶ Autism: 24.9





# U.S. Department of Justice 2011

## Age-adjusted rates of violent victimization

Rates per 1,000

---

### People with Disabilities

- ▶ Rape/Sexual assault 2.7
- ▶ Robbery 8.3
- ▶ Aggravated assault 10.6
- ▶ Simple assault 26.1

### People without Disabilities

- ▶ 0.9
- ▶ 1.8
- ▶ 3.3
- ▶ 13.4



# U.S. Department of Justice 2011

## Age-adjusted rates of violent victimization

Rates per 1,000

---

### **With Disabilities**

- ▶ Males: 42
- ▶ Females: 53

### **Without Disabilities**

- ▶ Males: 22
- ▶ Females: 17



# U.S. Department of Justice 2011 Unadjusted rates of violent victimization

Rates per 1,000

---

2010

2011

|                      |      |        |
|----------------------|------|--------|
| ▶ Hearing            | 10.6 | ▶ 17.3 |
| ▶ Vision             | 24.9 | ▶ 23.5 |
| ▶ Ambulatory         | 19.7 | ▶ 22.7 |
| ▶ Cognitive          | 43.5 | ▶ 51.0 |
| ▶ Self-care          | 17.8 | ▶ 27.8 |
| ▶ Independent Living | 26.4 | ▶ 25.7 |



# Reporting Abuse

---

- ▶ “Among people with disabilities who reported they had been victims of abuse, only 37.3% said they had reported it to the authorities.
- ▶ When families of victims and people with disabilities who are victims are both considered, the rate of reporting increased to 51.7%. This suggests that when a family member learns of the abuse, it becomes more likely that a report will be filed with authorities.”



# What happens when reported?

---

- ▶ When victims with disabilities reported abuse to authorities,
- ▶ 52.9% of cases nothing happened.
- ▶ 9.8% of cases alleged perpetrators were arrested.
- ▶ When reporting by families and people with disabilities who were victims are both considered,
- ▶ 42.8% nothing happened
- ▶ Unfortunately, the percent of alleged perpetrators who were arrested also decreased to 7.8%.



## **Bullying (reported by pwd and families)**

---

- ▶ **Autism (77%)**
- ▶ **Mental health (74.7%)**
- ▶ **Speech (66.8%)**
- ▶ **I/DD (64.3%)**
- ▶ **Mobility (55%)**
  - ▶ Usually happened on multiple occasions.



# Getting Therapy

---

- ▶ “Some 65.4% of people with disabilities who were victims of abuse or bullying did not receive counseling or therapy.
- ▶ “More than 63% of victims of physical abuse and 52% of victims of sexual assault did not get therapy.”
- ▶ “When therapy was provided, 83% of people with disabilities who were victims say that it was helpful to them.



# Frequency of Abuse

---

- ▶ More than 90% of people with disabilities who were victims of abuse said they had experienced such abuse on multiple occasions.
- ▶ Some 57% of these victims said they had been victims of abuse on more than 20 occasions,
- ▶ with 46% saying it had happened too many times for them to even count.





# Vulnerability

---

“People with disabilities are significantly more likely than others to be victims of violence and are often more emotionally impacted when they are taken advantage of, new research indicates.”

*(Findings from an analysis of the 2009-2010 British Crime Survey)*



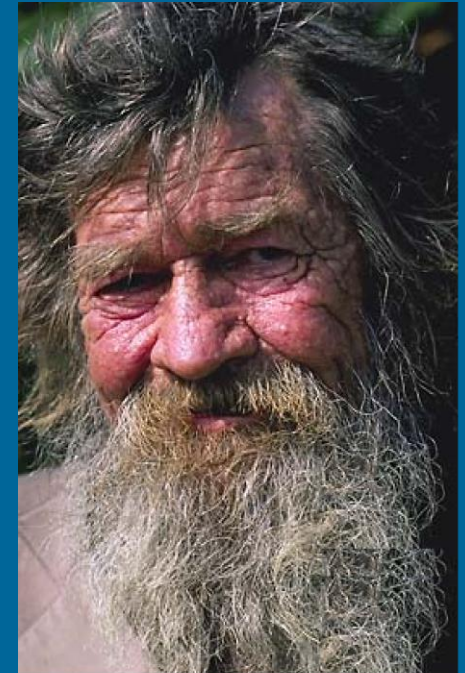
# The Adverse Childhood Experiences

## (ACE) Study



The largest study of its kind ever to examine over the lifespan the medical, social, and economic consequences in adults of adverse childhood experiences.

(>17,000 participants)



# Prevalence of Adverse Childhood Experiences

---

|   | Prevalence (%) |
|---|----------------|
| <b>Abuse, by Category</b>                 |                |
| Psychological (by parents)                | 11%            |
| Physical (by parents)                     | 28%            |
| Sexual (anyone)                           | 22%            |
| <b>Neglect, by Category</b>               |                |
| Emotional                                 | 15%            |
| Physical                                  | 10%            |
| <b>Household Dysfunction, by Category</b> |                |
| Alcoholism or drug use in home            | 27%            |
| Loss of biological parent < age 18        | 23%            |
| Depression or mental illness in home      | 17%            |
| Mother treated violently                  | 13%            |
| Imprisoned household member               | 5%             |

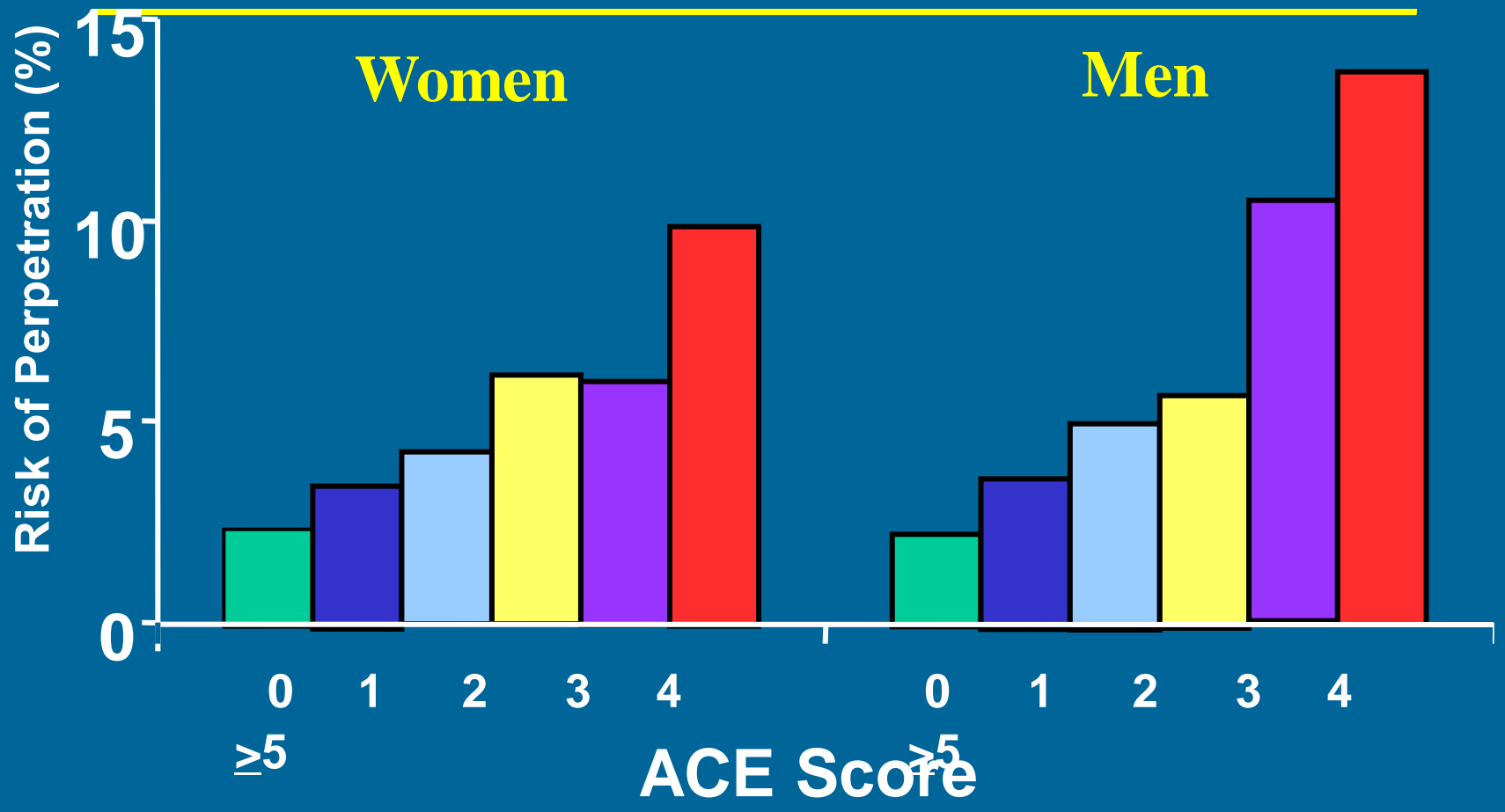
# Higher ACE Score Associated with many negative outcomes:

Depression, Suicide Attempts

Smoking, COPD, Work performance, Liver  
Disease, Heart Disease, Promiscuity,  
Hallucinations, Impaired Memory of  
Childhood, Alcoholism, IV Drug Use

Social  
function:

# ACE Score and the Risk of *Perpetrating* Domestic Violence



## 2. People with Developmental Disabilities as Witnesses

1. When they are victims
2. As witnesses to another crime

# Offenders with ID

- Prevalence estimates in U.S. prisons varies 2 to 10%
- Higher risk for violent offences

## In addition to common characteristics of ID, people with ID who commit crimes

- Have mild ID, are not receiving services
- Come from poverty backgrounds
- Are isolated from their family and community
- Are lonely, often homeless
- Are lacking in any productive activity during the day
- Have substance abuse problems that affect their financial situation
- Have high recidivism
- Have high risk of mental illness (Hayes, 2012)



# More characteristics

- Similar to other offenders
  - Lacking a loving family home
  - Dysfunctional childhoods
  - Poverty
  - Abuse & neglect
  - Witness to parental violence
  - Family offending
  - ADHD

# 3. People with Developmental Disabilities as Suspects

- Understanding Miranda rights and Miranda statement
- Given to people in custody
- “The person in custody must, prior to interrogation, be clearly informed that he/she has the right to remain silent, and that anything the person says will be used against that person in court; the person must be clearly informed that he/she has the right to consult with an attorney and to have that attorney present during questioning, and that, if he/she is indigent, an attorney will be provided at no cost to represent him/her.”

# People with Disabilities as Suspects

- The danger of false confessions



## 4. People with Developmental Disabilities as Defendants

- Competence to Stand Trial

- *Dusky v. United States* (1960)

- The court ruled that to be competent to stand trial defendant must have a "sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding" and a "rational as well as factual understanding of the proceedings against him."

# People with Developmental Disabilities as Defendants

- *Atkins v. Virginia* (2002)  
U.S. Supreme Court prohibited the death penalty for people with mental retardation (a.k.a. intellectual disability) as a violation of their 8<sup>th</sup> Amendment right to protection from cruel and unusual punishment.

## *Atkins v. Virginia* (2002)

- “...they have diminished capacities to understand and process information, to communicate, to abstract from mistakes and learn from experience, to engage in logical reasoning, to control impulses, and to understand the reactions of others.”

Justice J. P. Stevens, writing for the majority

## *Atkins v. Virginia* (2002)

- The Court left to the states the decision how to define and determine the presence of mental retardation, although they referenced by footnote the definitions of the American Association on Mental Retardation (1993) and the American Psychiatric Association (2000).

# 5. People with Developmental Disabilities as Incarcerated Individuals

- Vulnerability to exploitation from other prisoners
- Alternatives to sentencing
  - Community-based corrections
- Specialized prison programs
  - e.g., Pender Correctional Institution
- Training for corrections officers