

Advances in Diversion Court Models for Individuals with Intellectual Disability

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Abstract

Diversion or treatment courts have a long track record of success in diverting people with mental health issues from prison into services, helping to prevent crises and violence. This opinion piece advocates for similar diversion programs that would support individuals with intellectual disabilities, who are overrepresented in the prison system, and applauds such a new service in Chester County, Pennsylvania, which is being launched to address this need.

Introduction

A little over a year ago, the Woods System of Care team wrote an op-ed for the Philadelphia Inquirer arguing for new diversion or treatment court models that would address the disparities that people with intellectual disability face in the criminal justice system. This was spurred by the case of an individual served by one of Woods' System of Care partners, Woods Community at Brian's House in Chester County, Pennsylvania. This young man with intellectual disability ended up in prison for a period of time as a result of an attack on his direct care worker, who normally skillfully managed the client's occasional angry outbursts. Fortunately, no serious injury resulted. After much advocacy and significant collaboration among the providers and the Chester County District Attorney and public defender's offices and the Chester County Department of Mental Health/Intellectual Disability, the Brian's House client was released back into the provider's care and has been receiving treatment in the community.

People with intellectual disabilities are overrepresented among the prison population in the United States. Recent estimates suggest that there may be seven times as many people with intellectual disabilities in jails and prisons than would be expected from their representation among the general population. Individuals with intellectual disability may engage in criminal behavior for a variety of reasons, including limited cognitive skills to understand and resist dangerous situations. For similar reasons, people with intellectual disability are at higher risk of becoming victims themselves. Contributing factors may include personality characteristics, insufficient supports and services and absence of needed legal protections. Furthermore, some behaviors of people with intellectual disability are often misunderstood by the general public and result in calls to law enforcement. A person's intellectual disability may have dire consequences if judges and prosecutors do not recognize or understand a person's disability. Prisons are not

equipped to provide treatment or supports for individuals with intellectual disability, including mental health treatment.

There are more than 3,350 treatment courts in the U.S. with the vast majority being drug treatment courts. Despite the plethora of long-standing specialized diversion or ‘problem-solving’ courts which have shown success in diverting adults with mental health and substance abuse disorders away from jail, people with intellectual disability are not always well-served by these courts for many of the reasons described above. There are few, if any, specialized courts that are equipped to handle the complex needs of people with intellectual disability or severe autism.

Chester County, Pennsylvania, has numerous specialty or diversion court programs, all of which serve to divert individuals from prison into needed services in the community or inpatient services. In addition, Chester County has been working diligently to expand the community-based provider network to increase access to mental health and other services, as well as to enhance its capacity to handle emergencies resulting from mental health crises and refer individuals in crisis to the right level of service that will prevent worse outcomes.

Approximately one year after Woods submitted the op-ed to the Inquirer making a plea for expanding specialty court services which would help to identify individuals with intellectual disability who may be appropriate for referral to treatment programs, Chester County Department of Mental Health/Intellectual Disability issued a request for proposals for a Mental Health Assessor Pilot Program to be located at the Chester County Magisterial Court. Woods responded to this request for proposals and has been awarded the contract to provide a Master’s level clinician who can conduct assessments and make recommendations to the right level of care for individuals with mental health challenges and individuals with intellectual disability. Woods strongly applauds Chester County for responding to an urgent need for increased services for these vulnerable populations, and for recognizing the specialized needs of individuals with intellectual disability who otherwise might pass through the court and criminal justice systems unrecognized and their needs unmet.

As part of this new effort, services are needed to help people with special needs understand their rights, including access to accommodations, understand the alternatives to incarceration, and be protected from self-incrimination and exploitation, as well as given access to victim services when needed. Woods also advocates for training for judges, prosecutors, defenders and law enforcement professionals on the needs and complexities of this population, similar to mental health and substance abuse treatment court models. These approaches will go a long way to both protect the community and also effectively protect the rights of those with intellectual disabilities.