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How CACs and MDTs Can Best Serve Children with Disabilities

Staci Whitney, LMSW

FIND
• FORENSIC INTERVIEWING FOR INDIVIDUALS WITH DISABILITIES

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Realities for Children with Disabilities

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History of Disabilities

- Ancient Rome
 - Commodus
- 1940's
 - "Lebensunwertes Leben"
- 2009
 - Wounded Warrior Event



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Woman Pleads Guilty After Urging People Not to Help Choking Son

- She tried to stop people from helping her son who has an intellectual disability and was choking at a restaurant.
- Foigelman admitted to shouting "let him die" when he was choking on food at Boulevard Family Restaurant back in June.
- Other customers helped, but Foigelman attempted to stop them

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Bureau of Justice Statistics – 2021 Report

Average Annual Rates: 2017-2019

- Violent victimization for persons with disabilities was **almost four times** the rate among persons without disabilities
- The rate of rape/sexual assault for persons with disabilities was **more than four times** than that for persons without disabilities
- Rate of violence for males with disabilities was **more than three times** the rate compared to males without disabilities.
- Rate of violence for females with disabilities, was **more than four times** the rate compared to females without disabilities

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Bureau of Justice Statistics – 2021 Report

Average Annual Rates: 2017-2019

- Violent crime against persons with disabilities was **less likely to be reported** to police than violence against persons without disabilities
- For persons with disabilities, family members account for **double** the violent victimization compared to persons without disabilities.
- Sexual assaults against persons with disabilities are reported to police **at half the rate** compared to persons without disabilities
- Persons with intellectual disabilities had **the highest rate of violent victimization** from 2009 to 2019

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Children with Intellectual Disabilities

- According to studies including almost 160,000 individuals: Children with Intellectual Disabilities are:
 - 2.9 - 3.7 times as likely to have been neglected
 - 3.4 - 3.8 times as likely to be emotionally abused
 - 3.8 - 5.3 times as likely to be physically abused
 - 4.0 - 6.4 times as likely to be sexually abused
 - (Spencer et al., 2005; Sullivan & Knutson, 2000)

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Reporting, Prosecutions, and Convictions

- Underreporting
 - Estimated only 3% of sexual abuse cases involving people with developmental disabilities are ever reported
 - Some research suggests that over 70% of crimes against individuals with severe intellectual disability are unreported
- A study in Boston suggested that only 5% of serious crime against people with disabilities were prosecuted compared to 70% general population.

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Bias and Assumptions

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Myths about Sexuality and Relationships

- Myths:
 - Individuals with disabilities are not sexual
 - Individuals with disabilities don't need sexual education
- Results of myth:
 - Lack of knowledge/ education surrounding sexuality, healthy relationships or intimate partner violence
 - Less likely to understand what constitutes abuse
 - Unable to recognize abuse
 - Less empowered to report
- Individuals with disabilities experience most if not all the same physical and emotional changes as their peers.

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Considering Gender and Sexual Identity

Due to lack of inclusivity persons can feel targeted, discriminated, or unsafe throughout the forensic process

LGBT

Considerations:

- Assumptions
- Validations
- Use of words for body parts
- Be open-ended in questioning as to not assume sex, gender, or body parts involved in any crime, including sex crimes

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Bias/Assumptions

- Infantilization
- Low intelligence
- Assumption of Inability
 - Unable to accurately report
 - Unable to participate in court proceedings

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Assumption: Low Intelligence

Impaired speaking

Physical appearance

- Strategy-
 - **Intentionally assume normal intelligence**

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Assumption: Inability

- True or false: "You can't get reliable information from an individual with an intellectual disability"
- Why people believe this is true:
 - Difficulty communicating what happened
 - Remembering the order of events that led to the crime
 - Difficulty naming people, places, and times
 - Providing consistent testimony

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Assumption: Inability

- The Truth is:
- All witnesses have difficulty with some of the above
 - Research demonstrates individuals with mild and moderate ID can recall information accurately.
 - (Brown, D., Lewis, C., & Lamb, M., 2015; Brown, D., Lewis, C., Lamb, M., & Stephens, E., 2012)
- Do not dismiss an individual because they have difficulty with one or more

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Assumption: Inability

- Recent research suggests: The current findings not only challenge negative perceptions regarding the abilities of CWID to provide credible statements in forensic settings, but also document greater narrative capacities than suggested by previous research. (Brown, et. al., 2018)


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Bias and Assumptions

- Be aware of your own individual biases
- Be aware that interviewees may also have biases
- How might your role, biases, etc. affect the MDT investigative process?



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Pre-Interview Considerations

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Language and Perspective

- **Person-First language**
- **Identity-First language**

- Preference of the individual
- When in doubt, ask the person how they like to be described.



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Intake Process

- Who has first contact with the family?
- What questions are they asking?
- Do you have a formal intake process?
- Does the interviewer (or someone else) have a chance to speak with someone prior to the child coming in for an interview?

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People to Consider Speaking with

- Guardian, parents, caregivers
- Service providers
 - 1:1 aides
 - Occupational therapists
 - Physical therapists
 - Behaviorists
 - Speech therapists
 - Nurses
 - Residential staff




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Language and Perspective

- Use of the terms:
 - “functions like a 5-year-old”
 - “has the brain of a 3-year-old”
 - “capacity of a 5-year-old”



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Language and Perspective

- Use the following prompts:
 - Do they need assistance with Activities of Daily Living?
 - If so, which ones?
 - How are they assisted?
 - What is their level of independence?
 - What are their best skill sets?
 - What are their support needs?
 - What are their behavior needs?



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Language and Perspective: "Nonverbal"

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graph TD
    A["Non-Verbal"] --> B["No universal understanding"]
    B --> C["It may mean the individual doesn't speak and to others it may mean that they only speak a few words."]
    C --> D["Removing assumptions and biases: 'functions like' and 'non-verbal' Allows the investigation to follow best-practices in gathering reliable information."]
    D --> E["Sends the case down a trajectory where the individual is dismissed as being unable to provide information."]
  
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Communication - Verbal Behavior

- Types of Verbal Behavior
 - Expressive Vocal Verbal
 - Speaking
 - Includes Paralinguistic
 - Tone, Cadence (Speed and Rhythm), Volume, Intensity
 - Receptive Vocal Verbal
 - Understanding / Responding Contingently to Vocal Speech
 - Expressive Non-Vocal Verbal
 - Gestures, Facial Expressions, Body postures, etc.
 - Receptive Non-Vocal Verbal
 - Understanding / Responding Contingently to Gestures, Facial Expressions, Body Postures, etc.

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Language and Perspective

- Use the following prompts:
 - How do they communicate?
 - Do they speak?
 - Do they use gestures?
 - Do they write?
 - Do they draw?
 - Do they text?
 - Do they type?
 - How do they get their needs met?
 - Do they understand you?
 - Do they use any augmentative or alternative communication devices?
 - Is there anything else I need to know how they communicate?

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Communication Device: iPad

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PECS

backpack	school	no school
play dress up	play dress up	lunch time
time out	time out	check schedule
pencil sharpener	etch a sketch	dump truck

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Picture Board

I, me	want	go	bedroom
you	don't want	play	outside
friend	give	present	park

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Massachusetts Supreme Court

- In re McDonough, 457 Mass. 512, 930 N.E.2d 1279.
- Ruby McDonough, sexually assaulted, 10 years earlier stroke
- Court Ruled
 - Ruby's rights had been violated when she was deemed incompetent to testify
 - Established brand new rules to ensure that the rights of all crime victims with disabilities will be better protected
 - Individuals with disabilities not only have a right to physical accessibility (e.g., wheelchair ramps to ensure they get IN to the courthouse), they have a right to accommodations that will enable their "full and equal" testimonial and participatory rights as witnesses in criminal cases
 - Allowed Ruby to use gestures and answer only "yes" and "no" style questions

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Alternative Communication Testimony

- Ohio - State v. Woods, 2014-Ohio-3892
 - Ricardo Woods, 35, was convicted of fatally shooting David Chandler
 - Police interviewed Chandler while he was hooked up to a ventilator, paralyzed after being shot in the head and neck as he sat in a car. He was only able to communicate with his eyes and died about two weeks later.
 - Prosecutors showed jurors a videotaped police interview in which they say Chandler blinked three times for "yes" to identify a photo of Woods as his shooter.
 - Judge Myers watched the video and said that she found the identification reliable
 - She noted that Chandler's identification was made by pronounced, exaggerated movement of the eyes and not by involuntary movements.
 - A doctor who treated Chandler also testified that Chandler was able to communicate clearly about his condition

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Pre-Interview Considerations

- Location
 - Ensure the audio and video equipment adequately captures the communication of the individual
- Individual Considerations
 - Device Preferences
 - Interpreter

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Pre-Interview Considerations

- Location
 - ADA compliant
 - Edges, electrical outlets, exits, choking hazards and other safety concerns
 - Furniture and the size of the room should accommodate wheelchairs, walkers, canes or other devices
 - Be aware of harsh lighting or the buzzing of fluorescent lights

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Individual Considerations

- The team should inquire from caregivers (when possible/appropriate):
 - What the individual knows about the appointment
 - Whether the individual may benefit from a multi-session interview
 - About any physical safety and known behaviors
 - Any possible strategies for overcoming behaviors, if necessary
 - Any needs: physical, cognitive, emotional, mental/psychological, communication, environmental, and social support
 - Be cautious of labeling and biases
 - Maintain objectivity and flexibility with the individual

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Individual Needs

- Comfort items
 - Pillows
 - Weighted blankets
 - Manipulatives
 - Drawing/coloring
- Physical space
 - Chairs
 - Space for wheelchair
 - Door spaces
 - Stairs?
- Sensory
 - Color
 - Sound
 - Lighting
 - People
 - Doors being open/closed
- Communication
 - Devices
 - Other AAC

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Social Story/Social Script:

You will walk into the waiting area. There are toys, books, and chairs there. You can read, play, and relax while you wait. The adult you came with will fill out paperwork. There are snacks and drinks if you want them.

The waiting area is a safe place.


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Informed Consent

- Teams should offer:
 - A tour of the facility
 - Details on each step in the process
 - Information on rights to consent including rights to revoke consent at any point
- Individuals should be aware of their ability to take a break, end the interview, the purpose of recording, right to not be recorded, etc.



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Thank you!

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Check out MCG's podcast
Podcast: "Forgotten Victims: The Forensic Interview"

Staci Whitney, LMSW sw@modellconsultinggroup.com



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