

The Overrepresentation of People with Disabilities and Deaf People in Local Criminal Legal Systems



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Executive Summary

Every year, over seven million admissions occur in the 3,116 local jails across the United States. Local mass incarceration disproportionately impacts the most marginalized communities—especially Black, Latinx, and Indigenous individuals; LGBTQ+ people; those living in poverty; and survivors of violence. A significant number of these individuals also have at least one disability, yet this critical aspect of their identities is often overlooked in analyses of mass incarceration and by the criminal legal reform movement. While the prevalence of psychiatric disabilities (often referred to as mental illnesses) is well known, the prevalence of other disabilities—including those that are cognitive, physical, and sensory and Deaf individuals—remain largely absent from mainstream discussions and reform efforts.

This paper begins by discussing disability and Deaf communities and their overrepresentation in the criminal legal system. By tracing the history of involuntary institutionalization and incarceration of people with disabilities, we can better understand the deep disparities of today. We explore the complex, interrelated systems that increase the likelihood of individuals with disabilities encountering the criminal justice system, as well as the systemic features within that system that perpetuate these disparities. Finally, we present policy and practice recommendations aimed at reducing the high incarceration rates and harm experienced by people with disabilities within the criminal legal system. Because well over half of people in jails have a disability, we cannot address local mass incarceration without centering these communities in our collective efforts.

Broadening Our Understanding of Disability

Disability is a common experience and a large umbrella term that includes a wide range of communities. According to the Center for Disease Control and Prevention (CDC), more than one in four Americans report having a disability.¹

While a prominent conception of disability suggests something being broken or aberrant in a person's body and/or mind, disability advocates note that disability

arises when a person's body and/or mind interacts with an environment that has not been built for them. Moreso, advocates describe disability as a culture and a central part of identity, one that illuminates specific knowledge about the world that people without disabilities do not have access to. A robust example of this is the Deaf community, whose members do not consider themselves to be disabled but, rather, a part of a distinct cultural and linguistic group. Using an upper-case “D” in “Deaf” reflects this identity and affiliation.²

This paper takes a cross-disability approach, which means it addresses a broad spectrum of disabilities including:

- Cognitive and intellectual disabilities, which impact memory, attention, comprehension, and/or cognition.
- Physical disabilities, which are conditions that impact a person's mobility, stamina, and/or dexterity.
- Psychiatric disabilities (also known as mental illnesses), which impact a person's thinking, feelings, behavior and/or mood.
- Sensory disabilities, which impact one or more of a person's five senses.

Disabilities can be visible or invisible; not all disabilities are visibly apparent or even discernible by interacting with an individual. Some disabilities, such as Down syndrome, are congenital, which mean they exist at birth. Others, such as those resulting from a stroke, are acquired. Anyone may—and likely will as they age—acquire a disability in their lifetimes. Additionally, depending on a disability and on the individual, manifestations may be temporary, reoccurring, or chronic. No two people with the same disability will have identical traits, symptoms, or support needs.

It is important to note that a person can have more than one type of disability. For instance, people with physical and cognitive disabilities are more likely to have psychiatric disabilities.³ Further, certain conditions do not neatly fit into a single category. For instance, a traumatic brain injury can impact mobility, dexterity, cognition, and/or emotion.

History of the Institutionalization and Criminalization of People with Disabilities

Throughout American history, people with disabilities have been literally locked away from broader society—from the almshouses of the 16th and 17th centuries to the institutions, jails, and prisons of the modern day.⁴ This striking graph demonstrates the interplay between (de)institutionalization and incarceration.⁵ To be clear, although not every person who historically would have been institutionalized ends up in prison or jail (but many do), it exhibits our tendencies towards the treatment of people with disabilities. These practices of criminalization and segregation—many of which were codified into law—are vital to understanding the sky-high disparities we find in the criminal legal system today.⁶

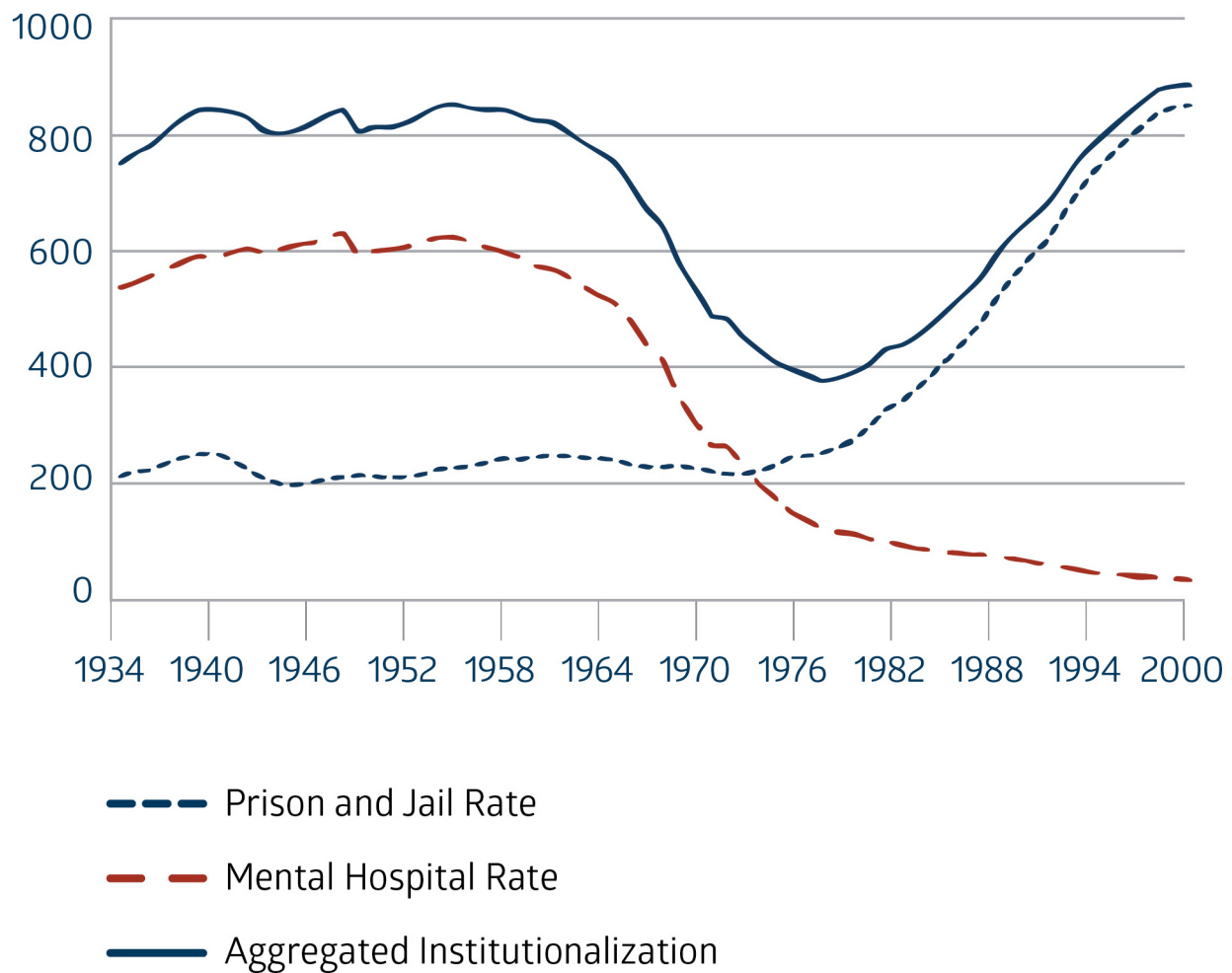
The Growth of Prisons and Asylums

The first institutions of confinement, those that preceded prisons, jails, and psychiatric hospitals, were almshouses. These facilities housed a range of people deemed in need, including the poor and unemployed; those with psychiatric, intellectual, and other disabilities; and sometimes people convicted of crimes. Almshouses mixed everyone society viewed as morally corrupt or inferior in some way the same place.

In the 18th century, an interest in curing people with psychiatric and intellectual disabilities led to the creation of psychiatric hospitals, called asylums. At the same time, incarceration became increasingly used as punishment, and jails and prisons were constructed. This shift towards incarceration began in the 1820s and was fueled by the belief that a punishment based on time away from society was the most reasonable response to crime. This era also saw the rise of pseudo-scientific beliefs like eugenics (explained more below), which falsely linked criminality and disability to genetics and race. Eugenics created a seemingly incontrovertible justification for segregating individuals deemed undesirable or unfit for general society.

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**Figure 2: Rates of Institutionalization in the United States
(including jail populations)⁵**



Institutionalization

As cities grew during the Industrialization Era, informal community systems of support could no longer be relied on for people with disabilities. With people no longer working where they lived (i.e., farms), they could not care for their loved ones with disabilities in cities as they had in rural areas. As a result, asylums became the default to house people with psychiatric, intellectual, mobility, and sensory disabilities. Asylums were often recommended by physicians and considered the height of scientific advancement, as they mistakenly thought disabilities could be treated, cured, and eradicated.

Eugenics and Ugly Laws

Eugenics, a pseudoscience founded in America in the 18th century, sought to “improve” the human population by controlling reproduction and eradicating disabilities, criminality, and other traits deemed undesirable. Followers of eugenics promoted segregation, sterilization, and even the murder of people with disabilities, people of color, people convicted of crimes, and the poor.

Around the same time, cities around the U.S. enacted what came to be known as “Ugly Laws”. These laws criminalized the public presence of people who had disabilities or illnesses, further marginalizing them from the community. As just one example, Chicago’s law stated, “Any person who is diseased, maimed, mutilated, or in any way deformed, so as to be an unsightly or disgusting object, or an improper person to be allowed in the or on the streets, highways, thoroughfares, or public places in the city, shall not therein or thereon expose himself or herself to public view.”⁷ The law goes on to list monetary fines as well as arrest and institutionalization as sanctions for violations. Disability as criminality was codified.

Deinstitutionalization

By the mid-1900s, institutions were vastly overcrowded and understaffed and increasingly resembled jails and prisons. The aim to cure people of their disabilities never materialized of course, and so people did not leave institutions as new ones came in. Their horrific conditions were largely unknown to the public until several exposés in the mid-20th-century revealed the neglectful and abusive treatment taking place within them. Public outcry led to a legislative response. President Kennedy and his administration passed the Community Mental Health Act to shut down these institutions and establish community mental health centers in their place. However, later administrations, particularly those of Presidents Nixon and Reagan, cut funding for these centers despite the shuttering of nearly all institutions. Thus, many with disabilities found themselves without homes or resources, leading to increased homelessness and incarceration. This cycle perpetuated the marginalization of these individuals, criminalizing them while gutting resources and supports.

Educational Segregation

Before the 1970s, most young people with disabilities in the U.S. were deprived of schooling. The exception was schools for children with vision and hearing disabilities, which had been in place since the 1800s. These schools were run by nondisabled people and mostly focused on vocational training rather than a full, traditional educational curriculum. They were also racially segregated institutions. Schools for children of color with disabilities were underfunded and there was little interaction between students at white schools and those for Black students. In fact, this segregation led to two forms of sign language: American Sign Language (ASL) and Black American Sign Language (BASL).

In 1975, the Education for All Handicapped Children Act was passed. This law mandated that children with disabilities be educated by the public education system and so, for the first time, it was not expected that children with disabilities would either go to separate schools or not attend school at all. Currently, students with disabilities make up 17 percent of public school enrollment.⁸

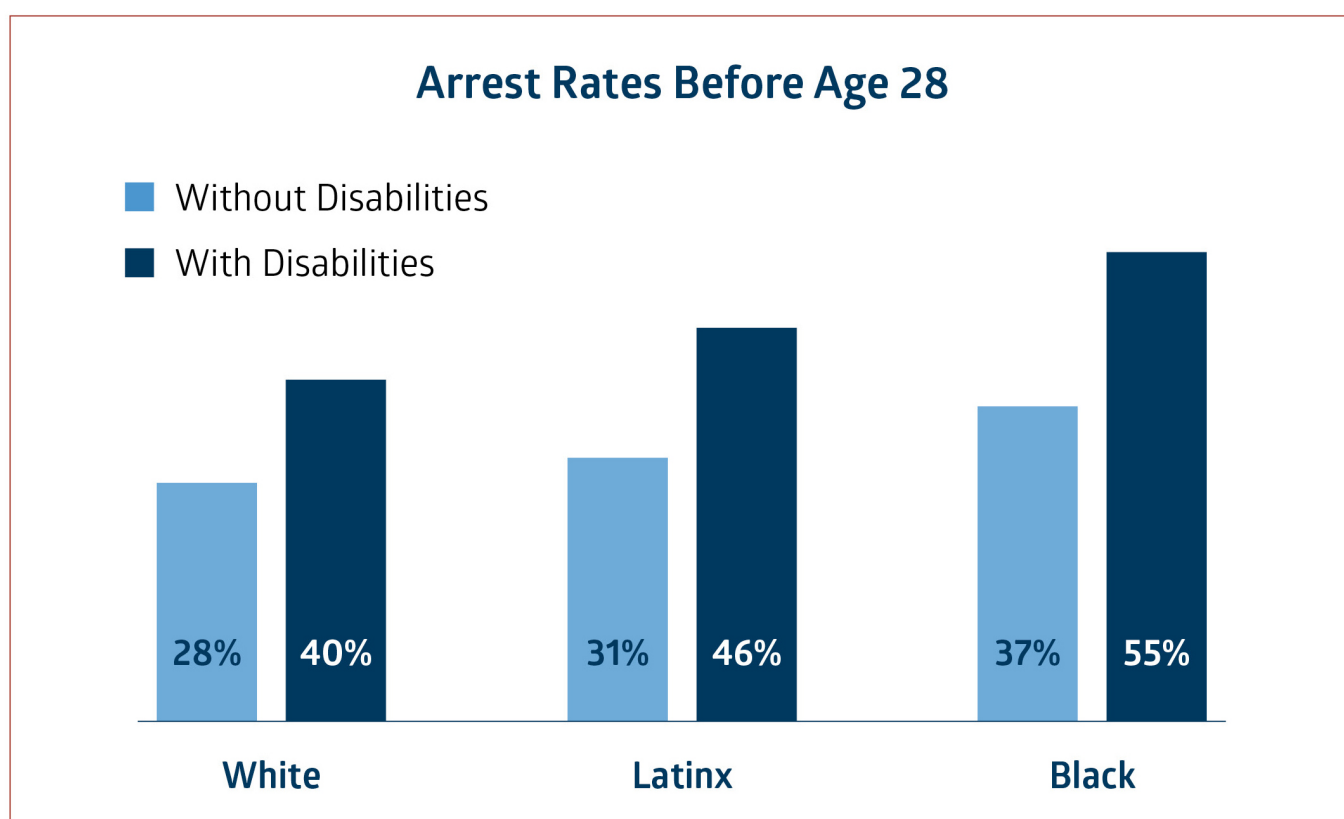
“Olmstead” Decision

As a result of deinstitutionalization and the erasure of community mental health centers throughout the mid-20th century, many people with psychiatric disabilities began cycling between living independently in the community, including in supportive housing, and being placed in temporary involuntary commitment. In 1995, Tommy Olmstead, Commissioner of the Georgia Department of Human Resources, filed a suit on behalf of Elaine Wilson and Lois Curtis. Both women had psychiatric and/or intellectual disabilities and had been institutionalized yet asserted they could live independently. After an assessment, it was agreed that Elaine and Lois could indeed live within their communities with supports in place.

The lawsuit resulted in the *Olmstead* decision, a Supreme Court ruling that institutionalizing people with disabilities who can live independently is discrimination and a violation of the Americans with Disabilities Act (ADA). Despite this ruling, most states are not in compliance with the *Olmstead* settlement, though many are currently working on *Olmstead* plans.

Disability and Deaf Disparities in the Criminal Legal System

Today, the segregation and criminalization of Deaf people and people with disabilities have resulted in their overrepresentation at every stage of the criminal legal system. Starting at the entry point of the system, people with disabilities are arrested at significantly higher rates than people who do not have disabilities.^{9 10} These disparities are much higher for Black and Latinx people. A full two-thirds of Black men with disabilities will be arrested before their 28th birthdays.



The Bureau of Justice Statistics (BJS) reports that people in jails are four times more likely to have a non-psychiatric (cognitive, sensory, and/or physical) disability than the general population.¹¹ For instance, cognitive disabilities are found at rates seven times higher, and rates of vision disabilities are four times higher. Deaf and hard of hearing people are three-times more represented in jails than they are in the community.

People can have multiple disabilities, and there is significant overlap between psychiatric and other types of disabilities.¹² However, the federal government collects data about psychiatric and non-psychiatric disabilities in jails separately, which does not lend itself to a cross-disability analysis. Psychiatric disabilities are also vastly overrepresented in jails; almost two-thirds of people in jail surveyed in the latest BJS study indicated that they were currently experiencing serious psychological distress and/or had previously received a diagnosis from a mental health professional.¹³ Further, the trauma and harsh conditions imposed by incarceration both exacerbates existing and develops new mental health issues, such as anxiety, depression, and post-traumatic stress disorder.¹⁴

Unlike jails, the data collection methods used by BJS for state and federal prisons enable researchers to conclude who in prison has a psychiatric disability, who has a non-psychiatric disability, and who has both. Taking this holistic analysis, 80 percent of women and 65 percent of men in prison have at least one disability.¹⁵ In terms of broad categories, non-psychiatric disabilities are more prevalent than psychiatric disabilities amongst people in prisons.

It should be noted that there are limitations to these data. The data are old: BJS has not published data on non-psychiatric disabilities in jail since their 2011–2012 analysis and prison data is from 2016. Further, the authors of these reports state that their figures may be an undercount since some incarcerated people may not have been able to consent to completing the survey due to their disability or a serious health issue, and the survey may have not been fully accessible to people with particular disabilities, such as hearing disabilities.¹⁶ Smaller, more focused studies reveal very high rates of certain disabilities. For instance, a meta-analysis of people incarcerated in Wisconsin prisons found that two-thirds of women and half of men had at least one prior traumatic brain injury—a rate five times higher than the general population.¹⁷

Disability and health disparities also carry over to community supervision populations. A large study of almost 80,000 people on probation and parole found higher rates of vision, cognitive, mobility, and hearing disabilities amongst people on supervision as compared to the general public.¹⁸ Rates of chronic diseases such as HIV and diabetes are higher as well.

Inequities in the Community That Drive System Contact

The immense overrepresentation of Deaf people and people with disabilities in local criminal legal systems is in part driven by many intertwined inequities in our communities. This section describes some of the key social disparities that lead to high rates of system contact.

Education

The school-to-prison pipeline describes how the U.S. education system funnels students into the criminal justice system through overly punitive practices, school militarization, and failures to keep some students in school. These practices, however, have disproportionate impact on both students of color and students in special education. In 2020-2021, 17 percent of American students had disabilities, yet they made up 29 percent of students who had at least one out-of-school suspension and 21 percent of expulsions.¹⁹ Further, students referred to law enforcement and those who were arrested within educational contexts are more likely to have a disability. These rates are worse for students of color. Black students with disabilities lose almost three times the number of instructional days due to suspension than white students with disabilities.²⁰ These practices relate directly to how people end up in the juvenile—and ultimately the adult—criminal legal systems. Youth with disabilities make up five times the population of juvenile detention facilities than they do public schools.²¹

Poverty and Unemployment

Poverty, unemployment, and under-employment—related to both educational disparities and discriminatory job markets—are well-known drivers of criminal legal system involvement. Indeed, 57 percent of incarcerated men and 72 percent of women had annual incomes under \$23,000 prior to their arrest.²²

Unemployment as a driver of system contact directly relates to the over-incarceration of people with disabilities. The Bureau of Labor Statistics reports that

just 23 percent of people with disabilities are employed, as compared to two-thirds of people who do not have disabilities.²³ Broadly, people of color with disabilities have even higher rates of unemployment. Relatedly, 25 percent of people with disabilities are living below the poverty line compared to 10 percent people without disabilities.²⁴

Poverty also impacts one's ability to find stable housing. Recent analysis found that over 4 million Americans aged 18-64 with disabilities received Social Security Income (SSI), but there is not a single housing market in the country in which a person living on SSI can afford a safe, decent home.²⁵ Housing options are even more limited for people with mobility related and other physical disabilities, as most homes are not built with accessibility in mind. The relationship between lack of housing and jail incarceration is cyclical. People without housing are more likely to come into contact with law enforcement and face incarceration; and they face greater odds of homelessness after release, a key driver of revocation and recidivism.²⁶

Race, Class, and Intersectionality

There are deep connections between race and disability that contribute to higher incarceration rates for both people with disabilities and people of color. For instance, Indigenous and Black people have disabilities at rates significantly higher than other races and ethnicities.²⁷ There are a range of reasons disability rates are higher within these communities of color, most of which are related to poverty, such as a higher likelihood of living near environmental toxins, inadequate access to nutritious foods, and a lack of access to quality healthcare, including preventative care. Overall, people of color are more likely to be in special education, to live in poverty, and to become incarcerated, particularly those with disabilities.

Higher Rates of Victimization and Violence

The Department of Justice reports that people with disabilities are almost four times as likely to be victims of a violent crime than those without disabilities.²⁸ A third of robbery victims have a disability, and people with intellectual or developmental disabilities have the highest rates of victimization. Gender is also an important factor: women with disabilities experience victimization at rates four times higher

than women who do not have disabilities. There are racial differences as well. Latinx, Indigenous, and multiracial people with disabilities face the greatest odds of victimization.

Further, research shows that crimes against people with disabilities are both less likely to be reported and to be followed up on.²⁹ Only 38 percent of violent crime and 19 percent of sexual assaults against people with disabilities are reported compared to 45 percent and 36 percent of people without disabilities.³⁰ These crimes are particularly prevalent for people, including children, with intellectual or developmental disabilities, who are four to ten times more likely to be victimized.

There are a range of reasons people with disabilities are more likely to be victims of crime.³¹ Perpetrators may view people with disabilities as weak and less likely to report crimes. These communities are more often isolated and live in environments that make abuse easier to hide. Further, people who do not communicate verbally or need higher levels of community support are at highest risk of victimization but are least likely to be able to report and to be believed if they do report.

Inequities in the Criminal Legal System That Drive Disparities

As described above, inequities in the community lead people with disabilities and Deaf people to experience higher rates of un- and underemployment, poverty, housing stability, and victimization, all which place them at heightened risk of police contact and system involvement. Once entangled in the system, they face unique barriers and forms of discrimination. These cause both harm to these individuals as well as worsen their legal outcomes, pushing them deeper into the system and entrenching disability disparities.

Increased Criminalization, Misunderstanding, and Punishment

Starting at the first point of system contact, law enforcement's overall lack of understanding of disabilities and their manifestations—intensified by communication barriers—means that people experience harsher treatment and even risks to their

lives. When law enforcement overlook disability, related behaviors can become criminalized. For example, people who walk with an atypical or slow gait and people unable to make sustained eye contact have been wrongfully arrested for driving under the influence.³² Troublingly, a study of people who were exonerated found that at least a quarter of people who falsely confessed to crimes had indicators of intellectual disabilities.³²

Even when people describe their disabilities to law enforcement, these disclosures can be met with suspicion. People with disabilities report that officers have perceived them as manipulative or even lying when they have disclosed their disability or requested accommodations.³⁴ This distrust can escalate interactions, leading to higher levels of arrest or violence. Research shows that when police interact with Deaf people and people with disabilities, they are more likely to use force. Although this dynamic is overlooked in media coverage of police violence, between 30-50 percent of people killed by law enforcement have disabilities.³⁵

The lack of understanding of disability and Deaf communities extends past policing and takes place at every point in the system. As is true for some learning and intellectual disabilities, acquired conditions such as traumatic brain injury and stroke can lead to slower processing of verbal information, delayed responses, or slurred speech. System actors often misperceive these manifestations. It may be assumed that people exhibiting these symptoms are lying, concealing something, or intoxicated.³⁶ Certain effects related to disability such as lack of or unexpected facial expressions can be falsely interpreted as a person being uncooperative, uninvested in the process, or lacking remorse.³⁷ These misinterpretations mean that people with disabilities are more likely to receive punitive responses and harsher—even erroneous—legal outcomes. A study of correctional officers, for instance, found that they perceived incarcerated people with ADHD as intentionally not listening and more defiant in nature and thus were more likely to take disciplinary measures against this population.³⁸

Inadequate, delayed, and denied accommodations

Many if not most criminal legal agencies—ranging from pretrial services to public defense offices—as well as service providers and nonprofits that offer supports to

system-impacted people do not have systems in place for asking about or providing accommodations to Deaf people and people with disabilities. If and when people do assert their legal right to accommodation, many criminal legal agencies are unprepared to meet these requests swiftly and fully. Sometimes agencies opt for accommodations that are viewed as easier or cheaper to secure but do not fully meet the needs of the individual.³⁹ When accommodations are inadequate, justice is denied and the Americans with Disabilities Act (ADA) is violated.

Although in general court systems have more provisions in place to meet the mandates of the ADA, access varies widely and is often incomplete.⁴⁰ Further, it is insufficient to relegate accommodations and communication aids solely to courtroom settings. When people are mandated or sentenced to programs such as pretrial supervision, probation, or addiction treatment, they are set up to fail, risking additional incarceration, when these programs are unprepared to meet their communication and access needs.

In May of 2024, the ACLU and others settled *Cobb v. Georgia Department of Corrections*, a class action lawsuit representing Deaf and hard of hearing people on community supervision in the state. The lead plaintiff, Brandon Cobb, is a Deaf man who was denied his request for in-person American Sign Language and Deaf interpreters for meetings with his parole officer. “Going from prison to parole was really hard. The parole system has many complicated rules I’m supposed to follow, but they didn’t bring in any interpreters so I could understand what they were telling me...They expected me to follow rules they didn’t explain to me, and I had to sign forms that I couldn’t understand. I found out later those forms were waiving many of my rights. I wound up getting put back in prison because of all this,” Cobb explained.⁴¹

Harsh and Dehumanizing Treatment in Jails

Jails are tough places for all people who pass through them, but Deaf people and people with disabilities face higher odds of neglect, violence, and mistreatment during incarceration.

Due to the acute needs of people in their custody as well as the constant flux of people being admitted and released, jails struggle to meet the complex mental and

physical health needs of people in detention.⁴² Many people come into jails in urgent need of medical and mental healthcare to enter a space that exacerbates their conditions. For instance, it is common for people to experience disruption in their medication regimens, which can worsen both physical and mental illnesses.⁴³ Due to close quarters and overcrowding, contagious diseases spread quickly, as made clear by the COVID-19 pandemic.⁴⁴

On the whole, jails are not accessible spaces, and moreover, accommodations are often denied.⁴⁵ People with disabilities and Deaf people routinely report being denied assistive devices by jail staff under the guise that they pose a threat to safety. People with prostheses have had their limbs confiscated; blind people have been refused canes; and people with mobility disabilities have had walkers taken away, denying them access to even the most basic of provisions such as showers and meals.⁴⁶ People with physical disabilities have been placed in solitary confinement when standard cells cannot accommodate them. And Deaf people have reported being punished with isolation because they cannot hear or respond to verbal cues and when their signing is perceived as a physical threat.⁴⁷

Mistreatment and misunderstanding can come from other incarcerated people as well. People with intellectual, psychiatric, and developmental disabilities in particular are more susceptible to exploitation, manipulation, and violence from other incarcerated people.⁴⁸ As one troubling example, people in serious psychological distress are five times more likely to be sexually assaulted by another incarcerated person while in jail.⁴⁹

While incarcerated, Deaf people and people with disabilities often face obstacles with being able to communicate with the outside world. Telephones may be literally out of reach for people who use wheelchairs. Unless jails make available reliable video phones, Deaf people have no option for making or receiving calls. People who are blind or have low vision may not have help using phones or reviewing written materials, including important documents from their attorneys and loved ones. These barriers interfere with maintaining contact with their support networks and defense counsel, restricting their abilities to aid in their own defense.

These harsh conditions of confinement not only have a lasting impact on physical, mental, and emotional wellbeing, but they can result in further system entrenchment. For instance, pretrial incarceration is directly linked to the prominence of guilty pleas in the current system, as this can be the fastest mechanism to achieve case resolution.⁵⁰ While there is not good data on the intersection of disability and plea deals, we can assume that the immensely difficult conditions in jail can make a legal compromise—even one that comes with a lifetime of collateral consequences—seem like the best path to resolution. Similar to the high rates of false confessions, we can see how people with disabilities may be compelled or coerced into accepting disadvantageous plea deals due to harsh conditions of confinement and inaccessible legal processes.

Recommendations for Increasing Disability and Deaf Equity Within Local Criminal Legal Systems and in Reform Efforts

This section discusses policies and practices for increasing disability equity and access within criminal legal systems and efforts to reform these systems. Policy solutions related to wider social systems that would address community-based disparities related to education, housing, transportation, employment, and healthcare are outside the scope of this paper. However, it is critical to note that at present our criminal legal system propagates and intensifies these very marginalizations. Even brief stints in jail results in greater housing and employment instability, worsened poverty, disrupted community connections, and diminished physical and mental health. True equity for disability and Deaf communities cannot be achieved without ending their criminalization and mass incarceration.



The Americans with Disabilities Act (ADA), as specified in Title II, applies to local governments, including every criminal justice agency that comprises legal systems ranging from law enforcement to public defense offices to detention facilities. This means that no office or agency that relates to the criminal legal system—including service providers and nonprofit organizations—can discriminate against, exclude, or deny equal opportunities to people who have disabilities. Fully complying with the ADA is not just the law, it lays the foundation for the deeper equity work required for ending disability disparities.

Provide System-Wide Education and Training

Despite disability disparities, many people working in criminal legal systems report receiving little-to-no training about working and communicating with Deaf and disability communities. As they are the first point of system contact, this is especially vital for law enforcement and other first responders. Agency- and system-wide education efforts can help foster a deeper understanding of Deaf and disability communities and reduce biased and discriminatory treatment. Training should be inclusive of all types of disability and Deaf communities, provided to staff at all levels, and account for the fact that many people with disabilities interact with the criminal legal system—not just people facing criminal charges but also victims, witnesses, and the broader public.

One-off trainings can begin to set the foundation for disability and Deaf equity. But ultimately, respectful treatment of people with disabilities needs to be infused into everyday agency culture, such as being integrated into onboarding training for new staff and ongoing professional development.

Offer Key Information and Processes in Multiple and Accessible Formats

Criminal legal systems are inherently complex to navigate and are set up in ways in which people moving through them can get punished and incarcerated for failing to comply with a single mandate, even if that mandate was never clear to them. It is vital that key written and informational materials—ranging from applications to obtain public defense representation to intake forms to court summonses—are made as accessible as possible to the widest range of users. This means both that formatting is accessible and that content is written in a way that is most easily understood.

It is important to note that written documents will be inherently inaccessible to many who pass through the system. A large study found that half of incarcerated adults lack basic document literacy, and people with vision and learning disabilities are overrepresented in local criminal legal systems.⁵¹ Agencies and programs need to be prepared to offer key information in alternative formats such as reading information aloud to participants, offering supplemental explanation, working with sign language and spoken language interpreters, and supporting access for people who use assistive technology such as screen-readers.

Establish Transparent and Low-Barrier Methods for Asking About and Providing Accommodations at Every Point of the System

As mandated by the ADA, all agencies must provide accommodations, including communication aids, to people who need them. An accommodation is a modification or adjustment that enables a person to fully communicate and/or equitably participate in a process or program. Some accommodations such as providing large print written materials or allowing someone to bring a support person to an intake appointment can be done at little-to-no cost. Others, such as securing sign language interpretation, require more coordination and resources. It is a violation of the ADA to put access-related costs onto the individual who needs them or to use cost as a reason not to provide an accommodation.

There is no way to know if people need accommodations, including communication aids and services, without directly asking them. All agencies and programs that work with system-involved people—government and nonprofit alike—need to establish procedures for asking *all* people what they need to participate and communicate. Procedures for requesting accommodations need to be clear and made easily available. There should be multiple methods for making accommodation requests. If the only method for making a request is making a phone call, this will be inaccessible to some.

Relatedly, agencies must be prepared to quickly and sufficiently meet accommodation requests. This includes building anticipated costs into operating budgets; building partnerships with other offices and agencies that can help fulfill requests; and training all staff on relevant policies and procedures.

Apply Lenses of Disability and Deaf Equity in the Development of All New Reforms

Universal design is an approach for creating places and systems that can be easily accessed and understood to the greatest extent possible by all people that use them. In all circumstances, it is easier to build disability access into a new building, program, or process from the start, rather than retrofitting for access on the back-end. For this reason, disability and Deaf communities should be included in the development and implementation of all emerging criminal legal initiatives. Not doing so often results in policies that—even if unintentional—exclude these communities from fully benefiting from reforms put in place.

Because Deaf people and those with disabilities are overrepresented at every stage of the criminal legal system, there is no system intercept or reform that does not apply to them. Applying a lens of disability and Deaf equity means that people with lived experience of disability and system involvement are included in the reform process from the get-go and that a wide range of disability experiences inform the initiative. All components, such as eligibility criteria and processes, programming, and day-to-day operations need to account for these communities. If a reform includes connecting participants to community-based programs and supports, disability and Deaf organizations should be included in this provision.

Ensure That That All Forms of Deflection and Diversion Equally Benefit Disability and Deaf Communities

Diversion programs meant to reduce jail incarceration such as specialty courts and prosecutorial diversion initiatives typically have narrow eligibility criteria and cap the number of participants. Because at *least* forty percent of people in local criminal legal systems have a non-psychiatric disability, establishing one or even several specialty programs centered around these forms of disabilities will be insufficient for meeting the needs of such a large and diverse population. Put another way, discrete initiatives meant to divert a small number of people with disabilities from the system may do some good for some individuals, but they alone will not put an end to disability disparities.

Instead, *every* system off-ramp ranging from pre-arrest deflection to bail funds to restorative justice and reentry programs must be built in ways that Deaf people and people with disabilities can equally participate in and benefit from. This includes behavioral health initiatives that seek alternative responses to people with mental health conditions. Due to the significant overlap and intersections of non-psychiatric and psychiatric disabilities, they must be able to fully serve Deaf participants and those with intellectual, cognitive, physical, and sensory disabilities.

The criminal legal reform landscape offers a wide range of examples of diversion programs and other alternatives to the conventional criminal legal process that support people with psychiatric disabilities, addictions, and in rarer instances, disabilities like autism. But there is an imperfect parallel between connecting people to behavioral health services and supports for non-psychiatric disabilities. Most diversions related to behavioral health seek to change the behavior of their participants, whether it is maintaining compliance with psychiatric medication or abstinence from drugs and alcohol. Many types of disabilities are congenital (e.g., Down syndrome); permanent (e.g., Fetal Alcohol Syndrome); and/or progressive (e.g., dementia). No program can ‘un-do’ these disabilities, nor should they try. Instead, the focus must be on providing supports and accommodations at every decision and deflection point, so individuals have a greater chance of meeting their criminal legal obligations and successfully exiting the system.

Form Partnerships and Alliances with Disability and Deaf Organizations and Include These Constituencies in Community Engagement Efforts

Disability organizations—including those that serve local communities and those that work at the national level—can be key allies in advancing disability equity and ending disparities in local criminal legal systems. Some focus on a particular disability, such as organizations that serve blind and low-vision people, and others work on behalf of all disability types.

Partnerships with disability and Deaf organizations can enhance reform efforts in myriad ways. These organizations can lend their expertise towards all the activities described in the section above ranging from designing and providing agency trainings to helping think through accommodation policies. Further, they can provide key insights into existing and developing criminal legal reforms to ensure that they are not inadvertently excluding their communities. Disability advocates can assist with community engagement efforts, helping government and other partners reach key constituencies, and they can lend support to people with disabilities who have come into contact with the system. Once partnerships are made, these organizations can be included in referral lists, reentry collaboratives, and other mechanisms through which system-impacted people are connected to community supports.

Integrate Disability into Data Collection and Program Evaluation

At both community and national levels, there is a dearth of data about Deaf people and those with disabilities in local criminal legal systems. We cannot reduce disparities without developing a deeper understanding of these disparities, as well as tracking the outcomes of initiatives meant to reduce them. Beyond jails, all agencies that comprise the system should develop both qualitative and quantitative approaches to understanding how their policies and practices impact disability and Deaf participants in order to ensure equitable outcomes. Members of these communities should have real input on both defining and measuring success, and all evaluations of reforms should account for disability and Deaf identities.

Conclusion

In its present form, there is much about the criminal legal system that is odds with principles of disability and Deaf equity. The enormous churn of people through these systems means that many crucial processes are hastily rushed, and at other points there are deep delays, both of which hinder justice. It is common that people moving through these systems—those with disabilities as well as those without—do not understand what is happening with their cases or why, and they are punished for failing to comply with system mandates even when they never understood those mandates. Further, there is a strong ethos pervasive in the system that a one-sized-fits-all approach is how fairness is achieved. Yet true disability and Deaf equity requires a human-centered and individualized approach. It requires working with individuals to understand and provide what they need, and it requires those working in the system to ensure they are being understood. Applied in full, integrating principles of disability equity throughout the criminal legal system will increase fairness, transparency, and justice for all those who encounter it.

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Endnotes

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