



Assessment of people with learning difficulties and disabilities in police custody

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Background

People with mental health problems and learning disabilities are overrepresented in the criminal justice system (CJS). The Criminal Justice Joint Inspection Report published in January 2014 revealed that the identification of people with learning disabilities, both by Police Custody Staff and Custody Healthcare Staff, is extremely poor.¹ This has been reinforced by empirical research within the custody setting.^{2,3} Lord Bradley's 2009 report states that 'The Police stage in the offender pathway provides the greatest opportunity to effect change'.⁴

The identification and assistance of people with a learning disability in Police Custody has been brought into focus more recently. Lord Adebowale's Independent Commission on Mental Health and Policing⁵ and Dame Elish Angiolini's Independent Review of Deaths and Serious Incidents in Police Custody⁶ both identify and make recommendations for training for people working in this environment.

Learning Disability

Learning Disability (LD)* is described in the World Health Organization International Classification of Diseases (ICD) version 11 as a "disorder of intellectual development" and is characterised as a condition 'originating during the developmental period characterised by significantly below average intellectual functioning and adaptive behaviour'.⁷ The UK prevalence of LD is estimated to be 2-2.5%.⁸

CJS estimates are however higher than this. Estimates of LD in the UK adult prison population range from 1-10%.^{9,10} A study in the North West of England found that 7% of prisoners have an IQ less than 70, and a further 25% scoring between 70-79.¹¹ Estimates in police custody also vary from 3-7%,^{2,12} which underlines its significance in this arena.

Another significant proportion have 'learning difficulties'*** and associated conditions such as dyslexia. Although they remain in the normal intellectual functioning range, such difficulties can still cause a variety of issues during the criminal justice process.¹³

Autism and associated conditions

People with autism spectrum conditions in contact with the CJS are now starting to receive more attention. Whilst one quarter to one third of people with LD also meet the criteria for autism,¹⁴ it also needs to be acknowledged that autism exists in individuals with normal intellectual functioning. The core features of such disorders include difficulties in social and reciprocal communication, and thus this can have significant ramifications for situations where there is verbal interaction such as a formal police interview.

For further advice and guidance about people with autism in the criminal justice system please see [Autism: A guide for CJ professionals](#).

Other co-occurring disorders

LD is associated with significant psychiatric and physical co-morbidity.¹⁵ More severe learning disabilities frequently co-exist with genetic syndromes and multiple physical disabilities. Offenders with LD tend to have IQ scores nearer the borderline intellectual functioning (IQs around or just above 70)¹⁶ although a high rate of co-morbidity remains.

Additionally, mental health conditions are prevalent among people with LD, and can be exacerbated due to cognitive vulnerability in CJS settings. Schizophrenia is three times more common in people with LD¹⁷; bipolar disorder, depression, ADHD, anxiety disorders and personality disorders are also overrepresented. Epilepsy is also commonly encountered.¹⁸ Sometimes there can be 'diagnostic overshadowing' whereby either mental health problems are unrecognised due to the existence of the LD, or vice-versa.

Contact with the police

People with LD and autism can come into contact with the Police in a number of ways. Contact with the Police may occur because of presenting mental health difficulties, and Health Care Professionals (HCPs) should consider this. The police may be called to behavioural disturbances in family homes or crises in care placements. Challenging behaviours associated with the learning disability may lead to offences such as assault and damage to property. Poor awareness of societal norms and boundaries can lead to offending of all types. Although sexual offending and fire setting have received considerable academic attention with respect to the need for adapted treatment strategies, it is not possible to conclude that these offences are encountered more commonly among the LD population.¹⁹ Acquiescence and suggestibility may also render individuals vulnerable to criminal exploitation. Examples of this have been seen in clinical practice through 'mate crime' and the practice of 'cuckooing' to facilitate 'county lines'. Although rare, homicide by people with LD has also been reported.²⁰

* Learning disability is the terminology used in this document as it tends to be used in the UK. The internationally recognised terminology that is increasingly being used in the UK is 'intellectual disability'.

** Part of the diagnostic criteria for a learning disability is an IQ less than 70. IQ between 70 and 79 are frequently referred to as borderline intellectual functioning and are associated with impaired educational abilities and some maladaptive behaviours in common with people with lower IQs.

*** It is important not to confuse Learning Disability and Learning Difficulties. Learning Disability is a UK term synonymous with Intellectual Disability; organisations supporting such people are moving over to that terminology. Learning Difficulties describes educational issues such as dyslexia, dyscalculia and dyspraxia, but may also include problems relating to deficits of attention and hyperactivity, where there is no impairment of general intelligence.



Approaches to identification

The identification of LD and autism is poorly served by standard police risk assessments.³ These are not standardised across UK police forces and are generally conducted without adaptation for detainees who do not fully understand the questions or require privacy. As referral for healthcare assessments are frequently made on the basis of the risk assessment there is likely to be a substantial proportion of detainees with LD who are never seen by a HCP. Training for custody staff should therefore ensure that LD and autism awareness is included.

Identification of detainees with LD and Autism

Screening tools for learning disability have been developed to ascertain which people require further assessment. The Learning Disability Screening Questionnaire (LDSQ) takes 5-10 minutes with sensitivity and specificity between 80- 90%.²¹ The Hayes Ability Screening Index (HASI) performs similarly. It entails more objective tests than the LDSQ and takes a little longer to complete.²²

More recently, the Rapid Assessment of Potential Intellectual Disability (RAPID) screen has been developed.²³ However, these tools will not provide absolute assurance about the presence or absence of conditions such as autistic spectrum disorder/ADHD/acquired brain injuries or associated psychiatric conditions.

Liaison and diversion (L&D) services are now becoming well established within police custody and court settings. Whether or not they are having the desired impact on offending and diversion of mentally disordered offenders has not yet been fully established.²⁴ It is also uncertain whether L&D services have the requisite skills to identify and signpost those with LD.^{25,26} It is likely that specific training will be required not only for police staff, but also for the range of health care professionals working in police custody.

General approach

Organisations providing healthcare services to Police forces and Courts should ensure that all healthcare staff are trained in LD and autism awareness, and additionally have skills in completing initial screening. A general principle when assessing people with LD and autism is that questions need to be kept as simple as possible and that understanding is frequently checked. People with LD are often suggestible, keen to please, and prone to simple 'yes' or 'no' answers that hide their level of impairment.

It will be necessary to make some reasonable adjustments to the approach to people with LD or autism with adaptations to personal communication style. For example, using simple language in short sentences and avoiding abstract concepts, idiom and metaphor. People with LD or Autism may present with rigid robotic answers to questions, have poor eye contact, and lack spontaneous speech. They may also struggle to understand abstract concepts, double negatives and other metaphors. The use of jargon should be minimised as these terms are often exclusively related to the CJS, and have little meaning in everyday language. There should also be consideration for the impact of the custody environment due to the sensory profiles e.g. handcuffs/noise/bright lights than might negatively impact on their ability to engage.

Asking a detainee about contact with Learning Disability services will detect some people with LD, but in isolation it will miss a large proportion of impaired detainees. Many do not use learning disability services⁸ which in some areas may be due to community LD services catering only for people who have moderate to severe LD, or those unable to use mainstream services even with reasonable adjustments. Some LD services also operate with strict referral criteria for people with IQs under 70; this excludes those with offending behaviour who are on the borderline of intellectual functioning, but who require an adapted approach to offence related treatment and prevention.

For all detainees, screening questions around schooling and qualifications as well as employment history should be asked to assure the HCP that this is not a person that requires more detailed screening. The ability to read and write is a good discriminator if individuals are asked to demonstrate these skills. However, the custodial population have often left school early, without formal qualifications due to behaviour issues and have struggled to find work. These cases should prompt a careful search for an underlying learning disability. It has also been highlighted that elsewhere in the CJS, people of Black, Asian or Ethnic Minority (BAME) backgrounds with LD are less likely to be identified than their white counterparts.²⁷



What to do if you suspect person to have LD or Autism

If you suspect that an individual has a learning disability then there are steps that you can take to assist them and ultimately the justice process.

Level	Actions	Rationale
Statutory obligations	<ul style="list-style-type: none"> • Provide an Appropriate Adult • Make Reasonable Adjustments 	<ul style="list-style-type: none"> • Safeguarding • Facilitate equitable access to justice
Service level adjustments	<ul style="list-style-type: none"> • Have accessible information available such as EasyRead, Audio or large print • Flag and alert other professionals about the learning disability • Refer to Liaison & Diversion services / Health Care Professional 	<ul style="list-style-type: none"> • Facilitate understanding and equitable access to justice • Information sharing
Interpersonal skills	<p>Communication:</p> <ul style="list-style-type: none"> • Use short, simple sentences • Allow time to process information and formulate replies • Avoid technical words, jargon, idiom and metaphor • Allow frequent rest breaks • Check understanding through paraphrasing • Beware the environment could increase distress and reduce effective communication (flicking lights, noise, temperature etc.) Make changes where possible • Behaviours such as hand flapping, spinning, rocking and humming can be self-soothing 	<ul style="list-style-type: none"> • Facilitate communication and understanding, reduce suggestibility and acquiescence

The table below provides some useful pointers in ascertaining the presence of a learning disability (adapted from Bradley and Lofchy (2005)).¹⁴

Early Development	What year did you get to in school? How old were you when you left? Did you repeat any years? (Note many of the custodial population will have been excluded for behavioural problems. However behind many behavioural issues will be a learning disability that has been unrecognised by education services)
	Were you told you had special educational needs at school or were you given a "Statement"? Did you need extra help or go to a special school? Did you have any tests by learning disability workers or psychologists? What did they say? (This may be attendance at a Special Educational Needs school, schooling in a unit attached to a mainstream school / support in lessons within mainstream or getting a Statement of Special Educational Needs etc.)
Current Functioning	Can you tell the time? (ask for demonstration using an analogue clock or watch)
	Do you go out alone? Can you catch a bus or a train alone? Get the person to describe a journey they have undertaken recently.
	If you are going to a new place, do you need someone to show you how to get there?
	Can you read a newspaper? Which one? What sections do you like? Tell me about something you have read recently? Similar questions with television – can they repeat a plot of a soap story/film?
	Do you look after your own money? How (and who) pays your bills? How are you managing at home? Who does your laundry?
	How much does a packet of crisps cost? A can of cola? A house? This will reveal poor money skills and an inability to estimate well.
	Do you have a job? Did someone help you get it? What do you do? Do you need help to do it?
Things to look out for	Can you use a mobile phone? Do you have one? Who pays the bills?
	Rigid robotic answers to questions
	Unusual eye contact (too much or none)
	Lack of spontaneous speech.
	Inability to follow the flow of conversation (in absence of obvious intoxication)
There should also be consideration for the impact of the custody environment due to the sensory profiles e.g. handcuffs/noise/bright lights than might negatively impact on people with LD or Autism.	



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