

Sexual Offences of Men With Intellectual Disabilities: A View From Private Practice

Abstract

The literature on sexual offenders who have intellectual disabilities is sparse, and in need of additional descriptive statistics in order to begin to formulate relevant research questions. The present retrospective study examines a group of men (N=86) with intellectual disabilities who had committed sexual offences, and received assessment and treatment services in a community setting. Data are provided on their levels of intellectual functioning, additional disabling conditions, charges, classification, treatment and rates of recidivism. Suggestions are made for prospective research studies into the efficacy of various treatments.

People with intellectual disabilities are increasingly integrated into their local communities, but it is access to love, intimacy and sexuality that still seems to be denied to many of them (Rose & Rennie, 2007). Failure to address this issue increases the possibility of undesirable sexual activities and exacerbates the risks that may accompany them. Such dangers may include a lack of understanding of the laws relating to sexual behaviour (O'Callaghan & Murphy, 2007), confusion regarding informed consent (Luckasson & Walker-Hirsch, 2007; Sundram & Stavis, 1994), and vulnerability to abuse (Servais, 2006).

It is also likely that the closing of large residential institutions has led to an increase in the number of men with intellectual disabilities who are incarcerated in the prison system. In fact, the over-representation of this group in prison populations appears to be a major current concern of social science researchers (e.g., Holman, 2007; Lindsay, Hastings, Griffiths, & Hayes, 2007; Talbot, 2007). Although this literature is primarily based on U.S. data, Hayes et al. (2007) noted that of the 140 prisoners in their study, 30.7% had IQ scores below 80, and 43.4% had adaptive behaviour scores in the borderline and mildly impaired categories. Although men with intellectual

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disabilities are incarcerated for a range of crimes, several categories appear to be more common. These are sexual offences, arson and violent conduct (Lindsay et al., 2006; Nottestad & Lineker, 2005). The first of these perhaps exemplifies the risks associated with childhood abuse and the lack of access to education regarding love, intimacy and sexuality.

In the last decade, studies have begun to focus on sex offenders with intellectual disabilities living and receiving treatment in community settings. In a special issue on sexuality, the *Journal on Developmental Disabilities* published two articles concerning sex offenders. However, both of these were theoretical in nature, and did not provide descriptive statistics (Federoff, 2000; Griffiths & Marini, 2000). Furthermore, *Mental Health Aspects of Developmental Disabilities* issued a similar edition with theoretical articles, although two tried to focus on actual offenders by providing case histories (Luisella, 2000; Sherak, 2000). However, it is difficult to generalize from a few examples.

More recent studies have tended to seek professional opinions about the effectiveness of community-based treatment for sex offenders with intellectual disabilities. For example, Nottestad & Linaker (2005) asked Norwegian house managers and probation officers about the services received by men who were deemed not criminally responsible for their offences due to an intellectual disability. The involved professionals were satisfied with the court orders that enabled the men to receive support and live in a secure community setting while they received treatment services.

Riches, Parmenter, Wiese, and Stancliffe (2006) studied sex offenders who were living in a small group home in the community. These men received residential and therapy services but needed ongoing supervision, as they continued to

demonstrate high levels of emotional and behavioural instability.

The results of an earlier study were rather disconcerting and again demonstrate the vulnerability of people with intellectual disabilities. Carlson, Taylor, and Wilson (2000) asked 51 staff and allied professionals about the use of sterilization and the administration of libido-suppressing drugs. While these practices were acknowledged, the respondents were unable to provide information on the incidents and the reasons for these interventions. Furthermore, they did not give information about the decision-making process or the issue of informed consent.

Lindsay et al. (2006) provided one of the few direct studies of people with intellectual disabilities who have broken the law. Their groups of people with intellectual disabilities were sex offenders, other male offenders, and female offenders. While all groups had a high incidence of mental illness, the sex offenders had more daily-living and relationship problems. Overall, community-based forensic services seemed to reduce the risk of recidivism.

Finally, Craig, Stringer and Moss (2006) provided one of the first attempts to evaluate the outcome of a community-based treatment group for sexual offenders with learning disabilities. They found no differences in attitudes toward sexual offending following treatment. However, significant gains in sexual knowledge and honesty of sexual interest were noted. Importantly, there were no cases of recidivism in a one-year follow-up period.

The present study also concerns the treatment of sex offenders with intellectual disabilities in the community. It seeks to provide systematically-collected data in order to further reduce the paucity of information on this interesting and complex group of people.

Method

Participants

This retrospective study concerned the files of sex offenders with intellectual disabilities who had been referred to a community-based psychology clinic from 1994 to 2006. In order to be admitted to the study, each person had to have committed at least one sexual offence that involved a police report.

Procedures

Participants' files were perused for information concerning referral source, additional disabilities, offences, punishments, treatment and recidivism. Diagnoses of intellectual disabilities came from written reports of intelligence testing, which was completed prior to the person being referred to the clinic. Diagnoses of additional disabilities were contained in the reports of medical specialists which were sent to the clinic at the time of referral.

A further diagnosis on the type of sexual offender was made by following the classification of Johnson (1996), which contains three mutually-exclusive categories. Males whose file indicated they had committed only one sexual offence, had no other legal problems, and did not meet the DSM-IVTR requirements for a diagnosis of Pedophilia (First, 2000) were classified as having a Learning Problem. Those with sexual and non-sexual offences against adults, together with either a history of early childhood abandonment and neglect and/or a psychiatric diagnosis such as Schizophrenia, Fetal Alcohol syndrome or Autism Spectrum Disorder were deemed Emotionally Disturbed. The final category was reserved for those people who met the DSM-IVTR requirements for a diagnosis of Pedophilia (Exclusive Type). In other words, they are sexually aroused *only* by children.

Data Analysis

Data was accumulated on a simple actuarial basis, and converted to percentages where this appeared to clarify their meaning.

Results

Referral Sources

A survey of the clinical files revealed 86 male offenders who also had intellectual disabilities. Forty-four (51%) of this population comprised referrals through clinical service contracts with two out-patient clinics operated by the Forensic Psychiatric Services Commission. This department of the Provincial Government of British Columbia provides services for individuals with mental health concerns who have faced criminal charges in court. A further 22 (25.5%) were referrals through clinical service contracts with a number of Community Living B.C. offices located across the Lower Mainland of the province. Community Living B.C. is operated by the Provincial Government and is mandated to provide a range of services for children and adults who have intellectual disabilities. The remaining 20 (23%) referrals were generated by private individuals. These were typically the parents of young people with disabilities who were willing to pay privately for the services of a psychologist. Many of them had Extended Health Plans, which financed part, or all, of their child's treatment.

Age

At the time of referral, 73 (85%) of these males were adults, while 13 (15%) were still minors. The age range was from 14 to 41 yrs, but 68 (79%) were between 18 and 24. The mean age was 23.14 yrs.

Disability Diagnoses

The Fourth Edition of the Diagnostic and Statistical Manual of Mental Disorders –

DSM-IVTR (First, 2000) was used to rate the levels of intellectual disability in these men (see Table 1). Most fell within the upper levels of *mental retardation*, with 30 (35%) in the Borderline category and 31 (36%) with Mild disabilities. The Moderate category included 18 (21%) of the men, and 7 (8%) were in the Severe category.

Twenty six (30%) of the men had the simple dual diagnosis of intellectual disability and sex offender (see Table 2). However, the rest had additional diagnoses. For example, 13 (15%) had some form of organic brain damage; 12 (14%) had a Personality Disorder; and 9 (10.5%) had been diagnosed

with Fetal Alcohol syndrome. Among the less frequently-occurring disorders were 8 (9.5%) men with Autism Spectrum Disorder, 6 (7%) with Down syndrome, 6 (7%) with Schizophrenia and 5 (6%) with speech problems.

There were also a number of additional conditions that occurred very infrequently. For example, in terms of sensory disorders, two men were deaf and one was blind. There were also single cases of Marfan's syndrome, William's syndrome, and Kabuki Make-up syndrome.

Legal Issues

In the legal system, there is not always a clear connection between the type of sexual behaviour and the resulting charge. For example, 6 (7%) of the men were charged with Common Assault when their offences were clearly sexual in nature (see Table 3). Consequently, the following information may not fully describe the actual behaviour related to the charge. Although 34 (39.5%) of the participants had committed a Sexual Assault, this offence can cover a range of behaviours. It is clear that it includes sexual penetration of any part of the victim's body, but it can also include fellatio, cunnilingus, and masturbation of the victim. However, the Criminal Code of Canada includes an offence named Invitation to Sexual Touching, and this was committed by 24 (28%) of the offenders. Sexual Interference generally seems to mean fondling, and this was the offence in 5 (6%) of the cases. Sixteen (18.5%) of the group had committed Indecent Exposure, making this another large offence category. Finally, there were two cases of voyeurism.

The situation is further complicated by the inconsistent responses of the legal system. All of these men had committed sexual offences, but only 44 (51%) of them actually faced legal charges in court. It is noteworthy that none of this group

Table 1. Level of Intellectual Disability (N=86)

Disability Level	Number (%)
Severe	7 (8%)
Moderate	18 (21%)
Mild	31 (36%)
Borderline	30 (35%)

Table 2. Common Additional Disabilities (N=86)

Condition	Number (%)
Organic Brain Damage	13 (15%)
Personality Disorder	12 (14%)
Fetal Alcohol Syndrome	9 (10.5%)
Autism Spectrum Disorder	8 (9.5%)
Down Syndrome	6 (7%)
Schizophrenia	6 (7%)
Speech Impairments	5 (6%)
No Additional Condition	26 (30%)

Table 3. Sexual Offences (N=86)

Offence	Number (%)
Assault	6 (7%)
Sexual Assault	34 (39.5%)
Invitation to Sexual Touching	24 (28%)
Indecent Exposure	16 (18.5%)
Sexual Interference	5 (6%)
Voyeurism	2 (1%)

was charged with more than one offence. However, many of them faced several counts of the same offence.

Three (3.5%) of the men who were charged were found to be Not Criminally Responsible Due to a Medical Disability (NCR-MD). This category has perhaps the most serious consequence in that the person can be detained for an indeterminate length of time, that is, until they are deemed cured by the British Columbia Review Board.

Of the 44 people who were charged and found guilty, 13 (29%) spent time in jail, followed by a lengthy period of probation. Jail sentences were generally for periods of less than two years, and consequently the time was served in provincial penal institutions. Two men had longer sentences that were served in Federal prisons, while one was declared a Dangerous Offender and is likely to spend the rest of his life in jail.

Imprisonment was not the punishment for 28 (64%) of those found guilty of committing sexual offences. These men were given periods of probation ranging from one to three years. Although there was considerable variation in the severity of the conditions attached to the probation orders, all of them included a provision for psychological treatment. The strictest orders said that the offender could not leave his home unless under supervision, and could not speak to other people unless they had been approved by the probation officer, that is, they had been fully informed of the nature of the man's offences.

The charges of three people were diverted. Under this arrangement, the individual agrees to several undertakings over a period of months, and his compliance is

monitored by a probation officer. If the person complies with the order, the case does not proceed to court and he does not have a criminal record.

Classification of Offences

As shown in Table 4, for 30 (35%) participants, the individuals' intellectual disabilities were deemed to have prevented them from fully understanding the gravity and consequences of their behaviours, and were placed in the Learning Problem category. Another 47 (54.5%) men fell into the category where emotional disturbance was deemed to be the reason underlying their offending behaviours. Finally, 9 (10.5%) participants met the DSM-IVTR definition for Pedophilia (Exclusive Type).

Recidivism

Of the original 86 male sex offenders, 64 (74.5%) were referred for assessment and treatment, and 20 (25.5%) were referred for assessment alone.

Treatment success was measured by whether or not the man had committed another sexual offence. Of the 63 men who were treated, six (9.5%) had re-offended at the time of writing, 46 (72%) had not been charged with further offences, and the post-treatment history of 11 (17.5%) was

Table 4. Offender Classification (N=86)

<i>Classification</i>	<i>Number (%)</i>
Learning Problem	30 (35%)
Emotional Disturbance	47 (54.5%)
Pedophilia	9 (10.5%)

Table 5. Recidivism for Three Classification of Offenses Categories (N=63)

<i>Classification</i>	<i>Number Treated</i>	<i>Number Re-Offending</i>
Learning Problem	23	1
Emotional Disturbance	33	5
Pedophilia	7	0

unknown. Three men were still under 24-hour supervision. Recidivism for the three categories of offenses is shown in Table 5.

For the group as a whole to date, time without another sexual offence ranged from one to eleven years ($M=4.79$ years). It is the group of men with additional disabilities such as personality disorders, Fetal Alcohol syndrome, and brain damage who seem to be at the highest risk to re-offend. It is noteworthy that only one person with a simple learning disability has re-offended. Furthermore, none of the seven men who meet the DSM-IVTR diagnosis for Pedophilia (Exclusive Type) have committed another offence. This group includes a man with approximately 150 victims who has remained offence-free for eleven years

Discussion

It was interesting to note the age of the participants who committed sexual offences. Of the 86 offenders, 13 were 14-17 years of age, and another 68 were 18-24. This suggests that the inappropriate sexual behaviour, for the vast majority, was related to a time of life when rapid sexual development occurs and when the male sex drive is very strong. The question of whether or not these boys and men had opportunities to engage in more appropriate sexual activity was beyond the scope of this project, but needs to be explored in future research.

According to DSM-IVTR, more than 70% of the men in this study had Borderline or Mild mental retardation, while less than 30% fell in the Moderate and Severe categories. This is hardly surprising, given that population estimates suggest there are many more people with minimal intellectual disabilities than there are with more significant impairments. Nevertheless, the 8% of men in this study with severe intellectual disabilities have

committed sexual offences. This includes one man who meets the DSM-IVTR criteria for Pedophilia (Exclusive Type).

It is interesting to note that 25 (29%) of the referrals concern people with personality disorders and organic brain damage that originated during the developmental period. In addition, 9 (10.5%) had Fetal Alcohol Syndrome. This indicates that almost 40% of these men were seriously impacted by adverse environmental factors during their developmental years.

Perhaps understandably, the exact legal status of sexual offences is often difficult to define. A good example of this occurs when an adult persuades a child to engage in mutual masturbation. Is the offence Indecent Exposure, Invitation to Sexual Touching, Sexual Interference, or Sexual Assault? In some cases, it is probable that the offender had an effective lawyer, who got the charge reduced to Common Assault. Clearly, this study does not provide reliable information about the exact nature of offences committed by this population.

About half the men in this study committed sexual offences, but were not charged. This was probably due to police officers becoming aware of their intellectual disabilities and deciding not to proceed with formal charges. Not being charged may be a disadvantage to the offender with an intellectual disability. Under these circumstances, due to his inefficient learning abilities, he may not fully understand the seriousness of his offence. Alternatively, the process of arrest, charge, court appearance, and punishment may provide a far better concrete learning experience.

In terms of punishments, only 29% of those men charged spent time in jail. This figure may represent the Courts' concerns about the over-representation of men with intellectual disabilities in a

non-therapeutic prison system (Federoff, 2000; Griffiths & Marini, 2000). However, more than 90% of those charged were put on probation, either immediately after appearing in court or following their release from jail. In all cases, one of the conditions of the probation order was that the person must attend and participate in treatment, as directed by their probation officer. In other words, they were sentenced to treatment in the community. For some, failure to comply with this or any other condition of their probation orders resulted in the charge of Breach of Probation, followed by a period of incarceration. In many ways, this approach produces an ideal setting for treatment, with the psychologist as the supportive person and the probation officer as the enforcer.

It appears that the classification system proposed by Johnson (1996) distinguishes among three types of sex offenders with intellectual disabilities. For example, the group classified as faulty learners appeared to fit the profile of men who did not fully understand the nature and seriousness of their sexual behaviours, until they learned otherwise. Likewise, the group labeled as pedophiles also seemed very distinct. However, it was the group where the men have some form of emotional disturbance that is the most heterogeneous and appears most difficult to treat. This may be due to the fact that 70% of these men have additional diagnoses such as Fetal Alcohol Syndrome, Organic Brain Syndrome, Personality Disorder, and Schizophrenia. Consequently, future researchers may wish to focus on the relationship between each of these conditions and treatment success. Furthermore, it is likely that this classification category should be further sub-divided into more meaningful offender groups.

As with many programs of a clinical nature, treatment success is difficult to define in

this study. Of 63 men who were treated, six (9.5%) re-offended and the outcome for eleven others (17.5%) is unknown. This means that 46 (73%) had not re-offended over a mean period of 4.79 years. Given the severity of their sexual disability, it also seemed rather surprising that none of the nine treated pedophiles had repeated their offences. However, much work remains in discovering and assessing the most effective ways of delivering those treatment components which are most effective for specific groups.

This study was limited in that it is retrospective in nature and does not use a between-participants or repeated measures research design. Consequently, the data are descriptive in nature and apply only to those in the sample living on the West Coast of Canada.

However, the study does raise several additional research questions. How do group and individual therapies compare in terms of treatment outcomes? Are closed, time-limited treatment groups more effective than ongoing, open-ended ones? How do maintenance groups extend the effects of a treatment program? Answers to these questions will surely help to improve the quality of life for both sex offenders with intellectual disabilities and their potential victims.

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