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Rate and characteristics of men with an intellectual disability in pre-trial detention

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Abstract

Background Various lines of research point to the overrepresentation of individuals with intellectual disability (ID) in the criminal justice system. Studies have also shown that individuals with ID are vulnerable to mental health problems. To date there have been no Canadian studies of individuals with an ID in the criminal justice system.

Method The present study reports on the sociodemographic, mental health and criminological characteristics of 281 individuals with an ID from a Canadian study of men in a pre-trial holding centre.

Results Almost 19% of the men had a probable ID, and nearly one-third (29.9%) were in the borderline IQ range. As was the case for their non-ID counterparts, the mean age of the probable ID group was in the early 30s, few were employed, and most had low incomes. Individuals in the probable and borderline ID groups had lower rates of high school completion than those in the average intellectual ability range. Over 60% of individuals with an ID had a substance use disorder, and 1 in 5 was intoxicated at the time of assessment. These rates were similar across groups, and to those found in the literature. A large majority of individuals with ID had a previous conviction, and most had previously committed a violent offence.

Conclusions Among other limitations, the sample may not have been entirely representative of the total population of men in the pre-trial detention centre, given the relatively high refusal rate (39.5%). Results are discussed in terms of orienting criminological and mental health services as a function of the level of intellectual and adaptive functioning of individuals with ID.

Keywords: Intellectual disability, prevalence, pre-trial detention, Canada, mental disorder, criminality, male

Introduction

Various lines of research point to the overrepresentation of individuals with intellectual disability (ID) in the criminal justice system (see Holland, 2004, for a review). Several of the earlier prospective longitudinal studies showed that children with lower IQs are at higher risk for delinquent behaviour or criminal conviction (Farrington, 2003; Gibson & West, 1970; Høgh & Wolf, 1981, 1983; Moffitt, Gabrielli, Mednick, & Schulsinger, 1981; Reichel, 1989; West & Farrington, 1973; White, Moffitt, & Silva, 1989) and that this difference between groups was stronger for violent than for non-violent offences (Høgh & Wolf, 1981, 1983), regardless of socioeconomic status, race or police detection (Hirschi & Hindelang, 1977; Lynam, Moffitt, & Stouthamer-Loeber, 1993; Moffitt et al., 1981; Moffitt & Silva, 1988; West & Farrington, 1973). In two longitudinal birth cohort studies, men and women with ID were found to be more likely than individuals from the general population to have been convicted of a criminal offence, with the relative risk being higher for violent offences (Crocker & Hodgins, 1997, N=15,000; Hodgins, Mednick, Brennan, Shulsinger, & Engberg, 1996, N=300,000). No differences were observed in the average number of offences between individuals with ID and their offender counterparts without ID or mental illness (Crocker & Hodgins, 1997).

Prevalence of ID in offender populations

Many reviews have been carried out on the prevalence of ID in offender populations (Baroff, 1996; Day, 1993; Holland, Clare, & Mukhopadhyay, 2002; Lindsay, 2002; Murphy & Mason, 1999; Noble & Conley, 1992; Simpson & Hogg, 2001). Estimated rates in US prisons vary between 0.2% and 14% (e.g., Brown & Courtless, 1968;
Denkowski & Denkowski, 1985; MacEachron, 1979; Petersilia, 1997), with slightly higher rates found in the UK (Birmingham, Mason, & Grubin, 1996; Gunn, Maden, & Swinton, 1991; Murphy, Harnett, & Holland, 1995). More recently, ID rates of 28% have been reported in the Irish prison system (Murrooney, Murphy, Harrold, & Carey, 2004; Murphy, Harrold, Carey, & Mulrooney, 2000). In Australia, Hayes and McIlwain (1988) reported that nearly 13% of prisoners in the state of New South Wales had an ID, with rates of between 0% and 10% reported for the other states (Jones & Coombes, 1990, cited in Hayes, 1997). Studies also show that between 6% and 19% of individuals on probation exhibit indications of ID, but that very few have had actual contact with ID services (Mason & Murphy, 2002a, 2002b).

At earlier stages of the criminal justice process (in police custody or at local courts), estimated rates vary between 4.8% and 23.6% (Hayes, 1997; Lyall, Holland, Collins, & Styles, 1995). Lyall et al. found that between 4.8% and 10.5% of people arrested and screened in custody of a UK police station could have learning difficulties.

In Canada, among individuals remanded for mental health assessments (Crocker, Eizner-Favreau, & Caulet, 2002; Kunjukrishnan, 1979), rates of ID of between 3.7% and 9% have been reported, with up to 13.2% in the borderline intelligence range (based on file information rather than through any formal testing). To date, no Canadian study has reported on the rate of ID in the prison, gaol or pre-trial detention system.

Mental disorders and substance use problems

Individuals with ID are more likely than individuals from the general population to suffer from a range of mental health problems (Ryan, 1994; Szymanski et al., 1991). In a review, Rojahn and Tassé (1996) noted that between 20% and 40% of individuals with ID also have a co-occurring mental health problem. In addition, those with dual disorders are more likely to exhibit various forms of aggressive behaviour (Borthwick-Duffy, 1994a, 1994b; Rojahn, Borthwick-Duffy, & Jacobson, 1993). In fact, aggressive behaviour is often perceived as a symptomatic expression of psychotic or organic mental disorders among individuals with ID (Gardner & Moffatt, 1990). This aggressive behaviour may result in police involvement (Crocker et al., 2006), so that individuals with ID may find themselves facing the complex criminal justice system. Yet even less research has looked at mental health problems of individuals with ID within the criminal justice system. Hayes (1997) found that 81.2% of individuals surveyed in local courts in Australia reported that they had consumed alcohol on the day of the offence, and 79.4% reported that they were intoxicated, with no differences found between ID and non-ID groups. Chan, Hudson, and Sigafoos (2003) found that 6.2% of individuals coming before an Australian Mental Health Review Tribunal had been identified as having a borderline, mild or moderate ID as well as a psychiatric disorder. Of these, 65% had a criminal history, 59% had a psychiatric history, and 41% had a history of drug or alcohol abuse. Although the small number of individuals limits the generalisability of these results, it is likely that many individuals with an ID go undetected in the criminal justice system (Holland et al., 2002). The rates found in Chan et al.’s preliminary study are thus probably quite conservative.

There does not seem to be a consensus on the actual prevalence rates of individuals with ID who find themselves in contact with the criminal justice system. Further, most studies have been conducted with convicted prisoners evaluated during their incarceration. However, by this stage of the criminal justice process, the system has already filtered out part of the criminal population, so that individuals who are sentenced to other than a prison term are not taken into account. The same holds true, at least in part, for individuals found either not criminally responsible on account of mental disorder or unfit to stand trial. In addition, prevalence rates of ID in the criminal justice system may vary as a function of general rates of incarceration, jurisdiction, and the IQ test used (Baroff, 1996; Holland et al., 2002; Simpson & Hogg, 2001; Spruill & May, 1988). There have yet to be any published Canadian studies. Furthermore, few epidemiological studies of mental disorders in the criminal justice system have included a measure of intellectual disability, while studies of ID have tended not to include thorough mental health assessments. Thus, relatively little is known about the association between sociodemographic characteristics, co-occurring mental disorders (including substance use), criminality, and ID among individuals in the criminal justice system.

Understanding these relationships has important implications for service delivery as well as for policy development, since individuals with ID have specific vulnerabilities when they come into contact with the justice system, from the initial point of arrest to incarceration. They are more susceptible to suggestibility and false incrimination (Clare & Gudjonsson, 1993, 1995; Hayes, 1996), and once in gaol, they are more likely to be physically, sexually, emotionally or
intellectual disability and pre-trial detention


The purpose of the present study is therefore to further our understanding of intellectual disability within the criminal justice system, by reporting on the rate, sociodemographic and criminological characteristics of individuals with ID, as well as the presence of co-occurring mental and substance use disorders, in a sample of Canadian male pre-trial detainees.

Method

Participants

This study is part of a larger study on the prevalence of mental disorders in French-speaking Canadian male pre-trial detainees (Côté, Fourouzan, Fournier, Caulet, & Toupin, 2002). Participants were recruited from the Montreal pre-trial holding centre and a pre-trial unit of the Montreal gaol to which some detainees had been transferred due to overcrowding. Data collection spanned over 8 months during the mid-1990s. Inclusion criteria were (i) to speak French; and (ii) to have not been fully assessed in a previous detention. Of the sample pool of 895 men, 749 met the inclusion criteria, but 75 could not be approached due to lack of time. Of the 674 remaining, 266 (39.5%) refused to participate, 46 could not be assessed for administrative reasons (e.g., they were released or transferred the same day, or had an appearance in court, etc.), details of 26 individuals were lost due to computer/technical problems, 10 were considered too dangerous, 9 were too disorganised, and 9 others were unable to participate for miscellaneous reasons (e.g., they had to meet with a physician or a lawyer). Finally, 27 potential participants did not complete the intelligence test described below. Thus a total of 281 individuals completed the full assessment process. All 281 participants signed a consent form and authorised the research team to consult all relevant institutional files.

The protocol, procedures and consent forms were approved by the Research Ethics Board of the Philippe-Pinel Institute in accordance with federal ethical guidelines (Canadian Institutes of Health Research, Natural Sciences and Engineering Research Council of Canada, & Social Sciences and Humanities Research Council of Canada, 1998), and the authors have no financial interest in publication of the data.

Recruitment procedure

For each day of the data collection period, a research assistant looked over the list of inmates who had arrived 4 days previously. All individuals on the list were assigned a temporary file number. Using a random numbers table, 15 individuals were randomly selected over every 96 hours. Only those who were still present in the detention centre were then assigned a study number. All participants were assessed on the fourth day following admission to the detention centre.

Measures

Sociodemographic information collected included: age, gender, ethnic background, residential status, marital status, children, education, employment history, income, family of origin, divorce or separations in the family, number of siblings, and significant relationships.

Level of intellectual ability was measured using 3 of the 11 subscales of the Épreuve Individuelle d’Habilité Mentale (EIHM – Individual Mental Ability Scale: Chevrier, 1989, 1993). The EIHM is the only intellectual ability scale that has been standardised in the province of Québec. Norms are established up to 86 years of age (Chevrier, 1993). The full test is comprised of 11 subscales (information, comprehension, digit span, similarities, arithmetic, vocabulary, picture completion, coding, object assembly, picture arrangement, and block design) that yield, as with other intelligence tests, a full scale IQ score, a performance score and a verbal score. In the present study, the similarities, vocabulary, and block design subscales were used to yield an extrapolated full scale IQ. A complete IQ assessment was carried out with a subsample of 23 individuals who had scored below 85 on the subtests. In all 23 cases, the full IQ test revealed a score below 85.

Diagnoses of major mental disorders and substance use disorder were established using the Expertal expert system. The knowledge base of this French artificial intelligence module uses the DSM-IV classification system (American Psychiatric Association, 1994). In a previous version of the system, 1,114 patient files with 47 psychiatrists and physicians were used for validation. Agreement between clinicians and the expert system was 83% (Ohayon & Caulet, 1992). Prevalence rates of major mental disorders and substance use disorders in the present sample using Expertal were comparable with what has been observed elsewhere (Côté et al., 2002). For the purpose of the present study, mental disorders were classified into 4 categories: (i) Schizophrenia spectrum disorders included schizophrenia, schizoaffective disorder, psychotic disorder not otherwise specified, schizophreniform disorder and
delusional disorder; (ii) Mood disorders included bipolar disorder and major depression; (iii) Anxiety disorders included all phobias (with or without panic disorders), post-traumatic stress disorder, as well as generalised anxiety disorder and anxiety disorder not otherwise specified; (iv) Substance use disorder included alcohol and/or drug abuse or dependence. Intoxication indicated alcohol or drug intoxication at the time of assessment. Of the 281 participants, 158 were reassessed by a second psychologist within 48 hours of their initial evaluation in order to establish inter-rater agreements on mental disorders. This constitutes one of the most stringent reliability tests and is rarely reported. For the various mental disorders, the average kappa coefficient was .55 (Côté et al., 2002), which according to categorisations by Landis and Koch (1977), is considered a fair to substantial agreement rate. This corresponds to an average rate of agreement of 81% across mental disorders. IQ was not retested because of the test learning effect.

Criminal history was obtained from the Royal Canadian Mounted Police Finger Print Services criminal records. Violent offences were defined according to Statistics Canada categories, and included: murder, attempted murder, sex offences, assault, aggravated assault and robbery.

**Results**

**Intellectual ability**

Of the 281 participants, 18.9% (n=53) were in the probable ID range (extrapolated full scale IQ \( \leq 70 \)); 29.9% \((n=84)\) were in the borderline ID to average IQ range (extrapolated full scale IQ of 71–85); 48% \((n=135)\) were in the average IQ range (extrapolated full scale IQ of 86–110); and 3.2% \((n=9)\) had an extrapolated full scale IQ of above 110. For the purpose of analyses, the two latter groups were pooled together to form an average to above average intellectual ability group \((n=144)\), comprising 51.2% of participants.

**Sociodemographic characteristics**

As can be observed in Table 1, with the exception of schooling, there were no significant sociodemographic differences between groups. Individuals in the average to above average intellectual ability range were significantly more likely than the ID or borderline group to have completed high school \((\chi^2(2, 281)=17.42, p=.001)\), whereas those in the ID and borderline group had quite low rates (20%) of high school completion. As was the case for the two other groups, individuals with ID were predominantly in their early 30s, few were in employment at the time of arrest, and approximately half had an annual income of between CA$5,000 and CA$15,000. Although almost 40% of individuals in the probable ID group were single, compared to approximately 30% in the two other groups, this difference did not reach statistical significance. Around 40% of individuals in all three groups said they had children, and approximately 92% of all participants said that their parents were their biological parents. Rates of parental divorce or separation were similar across groups (between 43% and 52%), and individuals in the probable ID group, as for the other two groups, came from relatively large families (4–5 siblings on average). One in five (probable ID group) to one in four (borderline ID group) were living in a residential setting in which there was dependence on others (e.g., family, group

<table>
<thead>
<tr>
<th>Characteristic</th>
<th>Probable ID ((n=53))</th>
<th>Borderline ID ((n=84))</th>
<th>No ID ((n=144))</th>
<th>Total sample ((N=281))</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mean age (SD)</td>
<td>31.28 (9.73)</td>
<td>31.07 (8.45)</td>
<td>31.06 (9.74)</td>
<td>31.30 (9.61)</td>
</tr>
<tr>
<td>Single</td>
<td>21 (39.6%)</td>
<td>25 (29.8%)</td>
<td>41 (28.5%)</td>
<td>87 (31 %)</td>
</tr>
<tr>
<td>High school (completed)</td>
<td>11 (20.8%)</td>
<td>17 (20.2%)</td>
<td>63 (43.8%)</td>
<td>91 (32.4%)</td>
</tr>
<tr>
<td>Employment at arrest</td>
<td>10 (18.9%)</td>
<td>24 (28.6%)</td>
<td>35 (24.3%)</td>
<td>69 (24.6%)</td>
</tr>
<tr>
<td>Income</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>&lt;CA $5000</td>
<td>8 (15.1%)</td>
<td>19 (22.6%)</td>
<td>29 (20.1%)</td>
<td>46 (19.9%)</td>
</tr>
<tr>
<td>CA $5,000–15,000</td>
<td>25 (47.2%)</td>
<td>37 (44.0%)</td>
<td>74 (51.4%)</td>
<td>136 (48.4%)</td>
</tr>
<tr>
<td>&gt;CA $15,000</td>
<td>20 (37.7%)</td>
<td>28 (33.3%)</td>
<td>41 (28.5%)</td>
<td>89 (31.7%)</td>
</tr>
<tr>
<td>Residential dependence</td>
<td>11 (20.8%)</td>
<td>20 (23.8%)</td>
<td>22 (15.5%)</td>
<td>53 (18.9%)</td>
</tr>
<tr>
<td>Children</td>
<td>22 (41.5%)</td>
<td>34 (40.5%)</td>
<td>56 (38.9%)</td>
<td>112 (40.0%)</td>
</tr>
<tr>
<td>Biological parents</td>
<td>48 (92.3%)</td>
<td>77 (92.8%)</td>
<td>132 (96.5%)</td>
<td>262 (94.6%)</td>
</tr>
<tr>
<td>Parental separation</td>
<td>22 (43.1%)</td>
<td>41 (51.9%)</td>
<td>70 (49.6%)</td>
<td>133 (49.1%)</td>
</tr>
<tr>
<td>Mean no. of siblings (SD)</td>
<td>4.49 (3.20)</td>
<td>4.83 (2.76)</td>
<td>4.43 (3.08)</td>
<td>4.56 (3.00)</td>
</tr>
</tbody>
</table>

1Extrapolated full scale IQ \( \leq 70 \); 2Extrapolated full scale IQ of 71–85; 3 extrapolated full scale IQ >86; \(p\leq .001\).
home), compared to just over 15% of those in the non-ID group, who tended to live in more autonomous settings. Again, this apparent difference did not reach statistical significance.

**Mental health**

Figure 1 shows the rates of mental disorder and substance use disorder by group of intellectual ability. Again the three groups were remarkably similar. However, the low rates for schizophrenia spectrum, mood and anxiety disorders were prohibitive of any statistical testing. Individuals with ID were as likely as those with borderline ID or average intellectual abilities to have a substance use disorder, with rates of 60.4%, 61.9% and 61.1% respectively, while 18.9% of individuals with ID, 17.9% of those with borderline ID, and 22.9% of those with higher level intellectual ability were intoxicated at the time of assessment.

**Criminal history**

As can be observed in Table 2, 84.9% of individuals with a probable ID had a previous criminal conviction according to their Federal criminal record. Thus in this pre-trial detention centre, only 8 (15.1%) of the men with an ID were at their first offence. However, there were no statistically significant group differences for rate of previous conviction (84.5% for

| Table 2. History of convictions |
|-------------------------------|----------------|----------------|----------------|----------------|
| Type of offence               | Probable ID (n=53) | Borderline ID (n=84) | No ID (n=144) | Total sample (N=281) |
| Any previous conviction       | 45 (84.9%)        | 71 (84.5%)        | 130 (90.3%)   | 247 (87.9%)      |
| Violent offence               | 35 (66%)          | 53 (63.1%)        | 96 (66.7%)    | 184 (65.5%)      |
| Murder/attempted murder       | 2 (3.8%)          | 2 (2.4%)          | 4 (2.8%)      | 8 (2.8%)         |
| Sex offence                   | 5 (9.4%)          | 4 (4.8%)          | 14 (9.7%)     | 23 (8.2%)        |
| Assault                       | 22 (41.5%)        | 28 (33.3%)        | 43 (29.9)     | 102 (33.3%)      |
| Aggravated assault            | 11 (20.8%)        | 18 (21.4%)        | 31 (21.5%)    | 60 (21.4%)       |
| Robbery                       | 14 (26.4%)        | 16 (19%)          | 31 (21.5%)    | 61 (21.7%)       |
| Non-violent offence           | 41 (77.4%)        | 67 (79.8%)        | 125 (86.8%)   | 233 (82.9%)      |
| Fire setting                  | 2 (3.8%)          | 0 (0%)            | 8 (5.6%)      | 10 (3.6%)        |
| Drug offences                 | 26 (49.1%)        | 41 (48.8%)        | 81 (56.3%)    | 148 (52.7%)      |
| Mischief                      | 23 (43.4%)        | 38 (45.2%)        | 59 (41%)      | 120 (42.7%)      |
| Fraud                         | 12 (22.6%)        | 25 (29.8%)        | 42 (29.9%)    | 80 (28.5%)       |
| Theft                         | 32 (60.4%)        | 52 (61.9%)        | 91 (63.2%)    | 175 (62.3%)      |

1Extrapolated full scale IQ<70; 2Extrapolated full scale IQ of 71–85; 3Extrapolated full scale IQ >86; *p<.001.
the borderline ID group and 90.3% for the non-ID group). Groups were also similar regarding type of offence history: 66% of individuals with a probable ID had previously been convicted of a violent offence, a rate very similar to their non-ID counterparts (63.1% for those with a borderline ID and 66.7% for those with no ID). Although there was a tendency for a higher proportion of individuals with ID to have a history of assault, this did not reach statistical significance (with a sample size of 281, the power to detect a statistically significant difference was 28% for this small an effect size). Fire setting was a rare type of previous conviction for all three groups, whereas theft and drug-related offences were common.

Regarding criminal versatility, 232 (82.6%) of individuals in the present sample had a previous conviction for more than one type of offence. Here again, the three groups displayed similar patterns, with 44 (83%) of those in the probable ID group, 64 (76.2%) in the borderline ID group, and 124 (86.1%) in the non-ID group exhibiting criminal versatility ($\chi^2(2, 281) = 3.64, p = .162$).

**Discussion**

This is the first Canadian study to report rates and characteristics of men with ID in a pre-trial detention centre. Five main limitations must be taken into account in interpreting the results. First, the definition of intellectual disability in the present study was limited to IQ testing and did not include a measure of adaptive functioning. Some differences regarding adaptive behaviour could have affected the categorisation and may have led to an overestimation of the number of individuals with an ID, which is why the term “probable ID” rather than “ID” was used to define this group. Second, given the relatively high refusal rate (39.5%), the sample may not have been entirely representative of the total population of men in the pre-trial detention centre. In a study on the prevalence of mental disorders in Canadian penitentiaries, refusal rates varied across provinces from 24% to 44.7% (Motiuk & Porporino, 1992). The rates of mental disorders in the current sample were comparable to those of other studies conducted in pre-trial settings (see Côté et al., 2002, for a full discussion). Third, some individuals charged with an offence and identified by the authorities as having a mental disorder may have been remanded to the forensic psychiatric institution for assessment of fitness to stand trial or criminal responsibility, rather than to the pre-trial detention centre, and would thus not appear in this sample. An earlier study conducted in institutions indicates that approximately 20% of men ordered to undertake fitness to stand trial assessment are remanded to the forensic psychiatric institution, while 80% are assessed within the pre-trial holding centre (Crocker et al., 2002). Fourth, the relatively small number of individuals suffering from a severe mental illness limited the possibility of conducting statistical analyses on mental disorders across groups. The average power to detect a small effect size between groups was between 25% and 30%. Larger epidemiological studies would provide greater insight into similarities or differences regarding the mental health of individuals falling under the three categories of intellectual ability for these small effect sizes. Finally, the drug or alcohol intoxication of approximately 20% of the participants at the time of assessment might have had some effect on the diagnosis or IQ scores (Côté et al., 2002). This is a problem affecting most studies conducted shortly after arrest. In order to address this issue, a separate frequency distribution was carried out among individuals who were not intoxicated at the time of the interview ($n = 223$). No significant differences with the total sample were found (19.1% in the probable ID range, 30.9% in the borderline ID range, and 49.8% in the average to above average intellectual functioning range, compared to 18.9%, 29.9% and 48% respectively in the total sample), indicating that intoxication did not affect group constitution.

Approximately 1 in 5 individuals in our sample fell into the probable ID range, a significantly higher rate than the 1% to 3% found in the general population (American Psychiatric Association, 1994). These results are similar to those found by Hayes (1997) in Australian local courts, and as would be expected, rates of probable ID were higher than those found in studies conducted among individuals who had already been sentenced (Murphy & Mason, 1999). Overall, individuals with a probable ID were similar to the other groups regarding sociodemographic characteristics, co-occurring severe mental disorders, substance use disorder and intoxication at the time of assessment. As would be expected, the proportion of individuals from the ID and borderline ID groups who had completed high school was significantly lower than for the non-ID group. It was also observed that individuals in the probable and borderline ID groups tended to have higher incomes and were more likely to depend on a family member or organised group home for residence. These non-significant trends could be related, as the structure provided by a resource person or parent may promote a more stable financial environment and facilitate employment. Also as found by Hayes...
(1997), a high proportion of the individuals with ID had substance use problems, and there were no significant differences between groups.

West and Farrington (1973) observed that offenders with an ID had many similar characteristics to those with no ID. The individuals with an ID in our sample had similar offending patterns to their non-ID counterparts, in line with previous studies (Crocker & Hodgins, 1997). There was a non-significant tendency for individuals with ID to display a higher rate of previous minor assault, however they had similar patterns of aggravated assault to the other two groups. Although the types of offences individuals were charged with were similar across groups, the reasons for the arrest as well as the context and planning of the offence is unknown, and might prove to be quite different between groups, given the general functional problems of individuals with ID. The low rate of fire setting in the present study concurs with research from generic or community settings (Lindsay, Steele, Smith, Quinn, & Allan, 2006). The perception of a high incidence of fire setters among ID offenders may be due to the fact that most research has been conducted in medium or high security settings, where there is a higher proportion of versatile offenders or of individuals for whom diversion out of the criminal justice system has not been possible.

**Importance of screening for ID in the criminal justice system**

The relatively high rates of probable ID found in this and other samples at the early stages of the criminal justice process underline the importance of better understanding this group of individuals. As front line staff within the criminal justice system cannot rely on any external cues such as type of crime, socio-demographic characteristics, or mental health problems (including substance use), to identify individuals with an ID, it is vital that some form of screening, such as IQ subtests or the *Hayes Ability Screening Index* (HASI: Hayes, 2000), be conducted. This would allow individuals with an ID to be directed towards services (criminological or mental health) appropriate to their cognitive and adaptive functioning levels.

The fact that, as this and other studies have shown, individuals with probable or borderline ID may have quite similar psycho/socio/criminal profiles to their non-ID counterparts, does not preclude the need to address their needs differently. Because intellectual disability is perceived as difficult to identify by the various persons involved in the criminal justice system, individuals with an ID tend not to receive the support necessary to help them navigate the complex judicial process (Bailey, Barr, & Bunting, 2001; Hayes, 1996, 2002; Mason & Murphy, 2002a; Mercier & Baraldi, 2004). The likelihood of encountering the criminal justice system following some type of challenging behaviour is higher for individuals with mild ID than for those with more severe forms of ID (Crocker et al., 2006), as the presence of a cognitive deficit is less immediately evident among those with mild ID. At the point of arrest, the apparent cognitive deficits of such individuals may be perceived as malingering or dissimulation, or misinterpreted as mental illness and sometimes drug or alcohol intoxication.

Individuals with an ID may have difficulties in understanding their rights, and are particularly vulnerable to intimidation and more prone to suggestibility and eventual false incrimination (Clare & Gudjonsson, 1993, 1995; Hayes, 1996). Depending on their level of intellectual disability, they may face significant challenges regarding their competency to stand trial (understanding the criminal justice procedures, the consequences of judicial decisions, and communicating with their lawyer), and their capacity to testify and confess (Everington & Fulero, 1999). Their concept of criminal responsibility (such as recounting and understanding the events that led to the arrest and distinguishing right from wrong) may also be compromised (Everington, 1990, 1991; Everington & Dunn, 1995; Kindred & Sales, 1986; Menninger, 1986). This confusion may be further complicated by the presence of a mental disorder and/or substance use. At all of these stages, a misdiagnosis or a lack of recognition of ID can have major legal and psychological consequences. If incarcerated or otherwise institutionalised, individuals with ID have been shown to be particularly vulnerable to physical, emotional, sexual and financial victimisation (Denkowski & Denkowski, 1985; Endicott, 1991). They tend not to adapt well to the prison environment and do not fit in with the general prison population or with the population of individuals with mental health problems (Smith, Algozine, Schmid, & Hennly, 1990). They also tend to exhibit conduct problems in detention facilities (Finn, 1992, 1993) and as a result are often put in segregation (Kirby & Keon, 2006). In addition, their communication and comprehension difficulties may compromise their ability to access to various services and programs.

Research focusing on individuals with ID who behave violently or who come into contact with the criminal justice system has received very little
attention compared to the large and still growing literature on mental illness and crime (Crocker & Hodgins, 1997; Hodgins, 2002; Müller-Iserner & Hodgins, 2000). “Because of their perceived powerlessness, coupled with stereotyping and prejudice, people with developmental disabilities have never attracted the kinds of funding or policy attention their numbers in the criminal justice system warrant” (Petersilia, 2000, p. 3). The recent publication of a book specifically dedicated to the subject of offenders with an ID (Lindsay, Taylor, & Sturmey, 2004) is an encouraging indication of the increasing attention being paid to this special population, and the interest in bridging the knowledge base between ID and forensic mental health research. More research is needed not only in terms of prevalence in different jurisdictions and assessment of risk factors associated with the criminality of individuals with ID, but also in terms of the pathways that lead these individuals into the criminal justice system in the first place, as well as their service needs and provision at each stage of the criminal justice process.

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Note

1 Since there is no consensus as to the most appropriate term (Luckasson et al., 2002), the term intellectual disability is used in the present paper, but also refers to mental retardation and to developmental and cognitive disabilities, and may refer to learning disability as it is used by many UK authors in epidemiological studies in the criminal justice system.

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