

Recognising persons needing procedural accommodation



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Experiences of people with intellectual disabilities encountering law enforcement officials as the suspects of crime – A narrative systematic review

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ABSTRACT

It is well established internationally that there is a high prevalence of intellectual disability (ID) among people in police custody. Some people with ID may face particular challenges in negotiating the forensic formalities adopted by police at the pre-trial stage of the criminal process. These challenges need to be acknowledged and mitigated through appropriate procedural safeguards in order to, at once, preserve the fact-finding accuracy of criminal investigations and minimise the risk of securing a wrongful conviction. And yet, despite the formative role which pre-trial procedures exert over the trajectory of proceedings, little is known about the experiences of people with ID during their initial interaction with law enforcement officers. In an attempt to address this research lacuna, we reviewed six databases systematically to identify studies that explore such experiences. Seven studies with a total of 1199 participants were identified. Frequently, participants with ID describe challenges in police custody, experiencing particular difficulties in understanding and communicating information. They report a paucity of appropriate supports generally in this setting and an unmet need for the provision of procedural and emotional supports. Consistent implementation of legal safeguards is necessary, along with consistent availability of accessible practical measures to support people with ID within the criminal justice system.

Why do we need accommodations?

1. Exercise Legal Capacity (Art. 12)
2. Access to Justice (Art. 13)
3. Prevent Deprivation of Liberty (Art. 14)



Commonly used approaches to recognition – and challenges arising

1



Self-report on
reception

2



Screening tools

3



Capacity based
approaches

A Universal Approach

1



Self-report/advocacy at any stage of proceedings

2



Training for all stakeholders

Police custody

*Extract from the 2nd General Report of the CPT,
published in 1992*

36. The CPT attaches particular importance to three rights for persons detained by the police: the right of the person concerned to have the fact of his detention notified to a third party of his choice (family member, friend, consulate), the right of access to a lawyer, and the right to request a medical examination by a doctor of his choice (in addition to any medical examination carried out by a doctor called by the police authorities).¹ They are, in the CPT's opinion, three fundamental safeguards against the ill-treatment of detained persons which should apply as from the very outset of deprivation of liberty, regardless of how it may be described under the legal system concerned (apprehension, arrest, etc).

3



Offer 3 basic safeguards to all deprived of liberty – each presents an opportunity to elicit need for accommodations



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Human Rights, Public Health, and Disability Awareness Training of Police

Gautam Gulati, Brendan D. Kelly, Alan Cusack, Shane Kilcommins, and Colum P. Dunne

Overall, 136 states (73.9%) submitted reports to the UN between 2010 and 2021, comprising 126 initial reports and 10 periodic reports. Seventy-six states (55.8%) provided information on disability awareness training, of which one quarter confirmed training police officers (n=34; 25%). In addition, certain countries trained members of the judiciary (n=42; 30.8%), court staff (n=16; 11.7%), prison officers (n=13; 9.5%), prosecutors (n=10; 7.3%), defence solicitors (n=8; 5.9%) and probation officers (n=4; 3%).