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From Privileges to Rights: People Labeled with Psychiatric Disabilities Speak for Themselves

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excerpts

Chapter 4 Criminal Justice

Neither law enforcement agencies nor the judicial and correctional systems have programs and policies in place to address the particular needs of people labeled with psychiatric disabilities while at the same time ensuring that they receive equal justice under law. When they are the victims of crime, testimony revealed that people labeled with psychiatric disabilities cannot rely on law enforcement agencies to protect them.

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Law enforcement personnel often presume us to be without credibility in our complaints but assume us dangerous when complained against. Either way, our lives are held at very little worth. (Laura Ziegler)

The Police Executive Research Forum (PERF), a national organization composed of chief executives from municipal, county, and state law enforcement agencies, offers a training curriculum and model policy that addresses police response to people labeled with psychiatric disabilities. PERF's trainer's guide, *Police Response to People with Mental Illness*, also covers the ADA and community policing approaches, including the voluntary and involuntary commitment process, arresting, and interviewing people with mental illness. However, as is typical of such training procedures, these materials were developed without input from people labeled with psychiatric disabilities. The training guide notes, "It is not the role of the police officer to make the determination that a person should be committed." Testimony revealed, however, that police do not always adhere to this policy.

One woman described being locked out by her landlord. When she called the police, he told them, "It's just some nut who didn't pay her rent." And they took her to a psychiatric ward." (Laura Ziegler)

When a person with a psychiatric disability is a victim of crime or has witnessed a crime, police should provide the same services they provide to all victims and witnesses.

Unfortunately, this is not the case, according to Ziegler, a person with a psychiatric disability who has worked as a legal advocate in several states [NOTE: WHAT I SAID WAS THAT I'D WORKED AS A LEGAL ADVOCATE IN NEW YORK STATE]. She testified that the management of a building where she lived routinely broke into and entered apartments of tenants, many of whom had psychiatric histories. When she complained at the local precinct, she testified that the police clearly did not consider this an issue, since the perpetrator was a mental health agency and the victims were people labeled with psychiatric disabilities, who were not to be believed. When she consulted a legal agency, she was told it was a "gray area." She says the law is clear, but invoking the disability of the victims somehow made it gray. As a result, she says, people labeled with psychiatric disabilities who lived on this New York City block, which served as a crack and heroin supermarket and where occasional gunfire could be heard at night, could not expect the ordinary level of control and safety that comes with a locked door.

The PERF training model confirms that police are frequently unclear about the rights of people labeled with psychiatric disabilities:

Frequently, officers believe that only two dispositions are available: arrest or involuntary emergency evaluation. Although these are two formal dispositions, a number of informal dispositions also exist. (Police Response to People with Mental Illness)

Ziegler recalled another incident in which one of her clients [NOTE: THIS PERSON WAS A NEIGHBOR. I DID NOT REFER TO HER AS A "CLIENT" IN MY TESTIMONY], who lived in an apartment run by a mental health agency, was attacked by a man who had threatened to kill her (the client) with a knife. He was not charged with any crime, an example of how people labeled with psychiatric disabilities are frequently victimized both by criminals and by the criminal justice system that is supposed to protect them. When this same client, however, objected to the policy of the building's management of entering her apartment without her permission and stated that someone would get "knocked on their ass" the next time it happened, a staff person arranged for her to be psychiatrically committed because she was "violent."

Ziegler also testified about a family who called the police because they thought their son was having a psychiatric crisis.

When the police came, he was hit with a Tazer gun by an officer. What was he doing that invoked this response? He was crying. (Laura Ziegler)

Betsy Pansa testified that when she called police to report her keys stolen, the policeman refused to take a report and made fun of her. When she asked him to leave her home, she was handcuffed and transported in the police car for a psychiatric evaluation.

Luz Marquez, associate director for outreach at the New York State Coalition Against Sexual Assault, testified that victims with disabilities are subject to unfair reporting requirements.

There is a New York state law that requires people who have cognitive disabilities to have a third person witness the actual assault. (Luz Marquez)

Ziegler graphically depicted the vulnerability of people labeled with psychiatric disabilities in institutions.

When I was an advocate with the Long Island Protection and Advocacy Office, a client institutionalized at a state psychiatric center quoted a staff person as telling her, “You can’t dial 911 in here.” What would have happened if she had? The county police told me a staff person’s verification would be required if a complaint came from a psychiatric ward. They did not explain how this would work if the alleged perpetrator was a staff person. On another occasion, at a conference on sexual assault and retraumatization, I questioned a panelist from the Queens D.A.’s office as to how they responded to complaints of a sexual assault emanating from DD or psychiatric centers. She replied that she couldn’t answer my question because they didn’t have a psychiatrist on the panel. This kind of discriminatory law enforcement effectively denies basic security to people who are extremely vulnerable to crimes of violence, including violence that is called “treatment.” (Laura Ziegler)

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Public Policy Recommendations

Institute mandatory training for all personnel who work in law enforcement; the judicial, penal, parole, and probation systems; and victim assistance programs on the requirements of ADA and other laws that protect the civil and human rights of people labeled with psychiatric disabilities.

Mandatory training should be required for all law enforcement, criminal justice, and correctional personnel, including prison guards and probation officers, as well as people working in victim assistance programs. Training should be coordinated with PERF, DOJ’s Office of Victims of Crime, and the National GAINS Center.

The latter, established in September 1995, provides technical assistance to states, localities, and criminal justice and provider organizations that are in the process of developing or implementing services to people with co-occurring psychiatric disabilities and substance abuse disorders at all stages of the justice system—law enforcement, jails, prisons, probation, and parole.

DOJ should ensure that these organizations remove all physical and attitudinal barriers and that the programs are accessible to people labeled with psychiatric disabilities.

People labeled with psychiatric disabilities should be included in all policy and

program development, decision making, and service delivery from the time of the crime through case disposition and beyond.

In addition, people labeled with psychiatric disabilities should be recruited and trained to become volunteers and paid staff members in criminal justice programs, especially in system-based or private victim assistance programs.

Increase involvement in protecting the rights of people labeled with psychiatric disabilities who are defendants in courts and inmates of state and local corrections systems.

People labeled with psychiatric disabilities should be an integral part of all policymaking that addresses prevention of crimes by people labeled with psychiatric disabilities and how to best meet the needs of offenders.