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Prisoners with intellectual disabilities and detention status. Findings from a UK cross sectional study of prisons



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ABSTRACT

The purpose of this study was to compare social and environmental historical and contextual risk factors between prisoners with intellectual disabilities and those without intellectual disabilities, and to investigate whether prisoners with intellectual disabilities were more likely to be placed on remand in prison (awaiting trial or sentencing) compared to those without intellectual disabilities, after controlling for socio-demographic factors such as age, gender, ethnicity, accommodation status and nature of offences. In this study, we carried out a secondary analysis of data from the 1997 Prison survey, which included 131 prisons in England and Wales. A fixed sampling fraction was used to obtain a representative sample of prisoners. A total of 3563 prisoners were approached and 3142 (88%) prisoners gave informed consent to be interviewed. Of these, 170 were identified as having intellectual disabilities using the Quick Test. Prisoners with intellectual disabilities were more likely to have lived in institutions or taken into local authority care and more likely to live in temporary accommodation. They were less likely to have had a paid job or any educational qualifications and more likely to perceive a lack of social support. Prisoners with intellectual disabilities were more likely to be placed on remand and were less likely to be sentenced, even after controlling for socio-demographic factors and nature of offence. This study suggests that prisons should be more pro-active at identifying people with intellectual disabilities and ensuring that their needs are met, including appropriate access to bail and court diversion schemes.

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1. Introduction

1.1. Prevalence of people with intellectual disabilities in prison

The prevalence of people with intellectual disabilities or borderline intellectual functioning in the prison population in the UK is estimated to be between one and 23 percent, depending on the measure used to ascertain IQ (Herrington, 2009). Murphy, Gardner, and Freeman (2015) found that the prevalence of intellectual disabilities in almost 3000 prisoners in England was 7%, based on a screening tool (Murphy et al., 2015). The use of a full IQ measure is usually associated with a

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lower prevalence of intellectual disabilities. However, Hayes, Shackell, Mottram, and Lancaster (2007) found that using the Wechsler Adult Intelligence Scale-III (Wechsler, 1999), 7.1% of a random sample of prisoners, were found to have intellectual disabilities, suggesting that the prevalence of intellectual disabilities in prisons may be higher than expected.

1.2. Prisoners on remand

The proportion of prisoners who are on remand (those awaiting trial or sentencing in court) is approximately 15% in England (HM Inspectorate of Prisons, 2012). Women, black minority groups and foreign nationals are over-represented in this group. Brooke, Taylor, Gunn, and Maden (1996) examined 750 prisoners on remand and found that the proportion of prisoners who were identified as having intellectual disabilities based on a standardised measure of intelligence was 0.8%. On the other hand, Murphy, Hartnett, and Holl (1995) found that although 25% of prisoners on remand were screened as having possible intellectual disabilities, on further assessment using a standardised test of IQ, no prisoners met the criteria for intellectual disabilities. When comparing both remand and sentenced prisoners, the prevalence of intellectual disabilities has been found to range from 7.1% to 23% (Harrington & Bailey, 2004; Hayes et al., 2007).

Hassiotis et al. (2011) examined data from a national survey of prisons in England and Wales and found that prisoners with intellectual disabilities were more likely to be placed on remand rather than being sentenced. Prisoners on remand have greater rights compared to those who have been sentenced, but there is evidence that this group often receives poorer treatment compared to sentenced prisoners and many are unaware of, or have little access to rights or provisions that they are entitled to, such as access to information regarding bail, being permitted to vote or to wear their own clothes or being able to access their own General Practitioner or solicitor (HM Inspectorate of Prisons, 2012). Remand prisoners are often expected to share accommodation and prison facilities with convicted and sentenced prisoners without their explicit consent. It is not surprising, therefore, that prisoners on remand frequently report high levels of depression and suicidal thoughts, and are more likely than sentenced prisoners to feel unsafe (HM Inspectorate of Prisons, 2012).

1.3. Access to bail

According to the Bail Act 1976 (England and Wales), defendants have the right to access bail unless there are grounds that indicate that the individual may “fail to surrender to custody”, commit an offence while on bail, or obstruct the course of justice. In addition, there are four statutory criteria that may influence this decision including the severity of the crime, the nature of the evidence against the individual and previous compliance with bail conditions. However, it appears that access to stable accommodation is an important determinant of whether bail is granted, as it is perceived that lack of stable accommodation increases risk of absconding (HM Prison Service, 2010). Homelessness is more common amongst offenders with intellectual disability (Winter, Holland, & Collins, 1997), which could potentially place offenders with intellectual disabilities at higher risk of being remanded rather than being offered bail. A large proportion (41%) of defendants placed on remand are acquitted or receive non-custodial sentences (Ministry of Justice, 2011), suggesting that those who are remanded may have committed less serious crimes and that bail should be offered more widely.

1.4. Risk factors associated with offending in people with intellectual disabilities

1.4.1. Defining offenders with intellectual disabilities

An offender is broadly defined here as an individual who carries out unlawful activity that results in coming into contact with the criminal justice system and being suspected of or being convicted of a criminal offence. There is a wide variation amongst studies in how offenders with intellectual disabilities are defined in terms of the type and nature of offences, their progress in the criminal justice system from suspect to convict, and differences in the assessments used to identify people with intellectual disabilities (Wheeler, Clare, & Holland, 2014).

Many people with intellectual disabilities who have engaged in criminal activity do not come into contact with the criminal justice system (e.g. because of lack of reporting) or are diverted from the criminal justice system and managed by community intellectual disability services. Research suggests that up to a quarter of people who are known to community intellectual disability services are known to have engaged in illegal activity, and of these, only a third have had contact with the criminal justice system (McBrien, Hodgetts, & Gregory, 2003).

There are a number of risk factors that are thought to be related to offending (Lindsay & Beail, 2004; Turner, 2000) and include historical factors (e.g. age of onset of offending, nature of previous offences, history of abuse); individual dispositional factors (e.g. personality including psychopathy, impulsivity traits, gender); contextual factors (social support and living arrangements) and clinical factors (e.g. mental illness, substance misuse). The focus of this paper will be on social and environmental risk factors related to historical or contextual factors and the next section summarises the research in offenders with intellectual disabilities.

1.4.2. Social and environmental historical risk factors

In one study of twenty offenders who were followed up after they were discharged from an inpatient unit, half the sample had experienced severe psychosocial deprivation in childhood (Day, 1988). Three individuals were brought up in children's homes and seven were raised in homes characterised by parental neglect, violence and rejection. Eight participants had at

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