

Supporting Successful Reentry for People with Disabilities

A Brief Guide to Issues and Resources

September 2016

By

Cherie Takemoto, PhD
New Editions Consulting Inc.



This resource was prepared with funding from the U.S. Department of Education, Office of Career, Technical, and Adult Education, under contract no. ED-ESE-15-A-0011/0001. The opinions expressed herein do not necessarily reflect the opinions or policies of the U.S. Department of Education. This document is in the public domain and may be reproduced without permission.

Supporting Successful Reentry for People with Disabilities

A Brief Guide to Issues and Resources

Introduction

Successful reentry after incarceration is difficult for anyone. A disability can make chances for success seem overwhelming. This guide helps reentry professionals understand how disabilities (both hidden and visible) can lead to incarceration and complicate successful reentry. It also provides links to resources and assets that address barriers and support successful reentry.

Chapter 1 highlights the prevalence of disabilities among incarcerated individuals, discusses the importance of paying attention to disabilities within the reentry service system, and identifies resources for learning more about disability and reentry.

Chapter 2 discusses some of the barriers to successful reentry and identifies available services, supports, and resources available to help people with disabilities.

Chapter 3 is a call to action for using the information and resources to promote individual and systems success.

Chapter 1: Disabilities and Reentry

Disability Prevalence in the Criminal Justice System

The Americans with Disabilities Act defines disability as “a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such an impairment, or a person who is perceived by others as having such an impairment.” The ADA does not specifically name all of the impairments that are covered. According to a special report on [Disabilities Among Prison and Jail Inmates, 2011-12](#), released in December 2015 by the Bureau of Justice Statistics, prisoner and jail inmates with disabilities are disproportionately represented in incarcerated populations. Based on data from the 2011-12 National Inmate Survey (NIS-3), the report identified the prevalence of inmates reporting at least one of six disability types: hearing, vision, cognitive, ambulatory, self-care, and independent living. The following are some of the findings of the report:

- An estimated 32% of prisoners and 40% of jail inmates reported having at least one disability;
- Prisoners were nearly 3 times more likely and jail inmates were more than 4 times more likely than the general population to report having at least one disability;
- About 2 in 10 prisoners and 3 in 10 jail inmates reported having a cognitive disability, the most common reported disability in each population;
- Female prisoners were more likely than male prisoners to report having a cognitive disability, but were equally likely to report having each of the other five disabilities;
- Non-Hispanic white prisoners (37%) and prisoners of two or more races (42%) were more likely than non-Hispanic black prisoners (26%) to report having at least one disability;
- More than half of prisoners (54%) and jail inmates (53%) with a disability reported a co-occurring chronic condition; and
- When compared to the general population, jail inmates were about 2.5 times more likely to report an ambulatory and independent living disability, more than 3 times more likely to report a visual and hearing disability, and 6.5 times more likely to report a cognitive disability.

The most commonly reported disability was cognitive (19.5 percent of prisoners and 30.9 percent of jail inmates), which the report differentiated from mental disorders. Cognitive disabilities described a variety of medical conditions affecting different

types of mental tasks, such as problem solving, reading comprehension, attention, and remembering. Mental disorders included disturbances in perceptions, emotions, and thought processes that are cyclical, temporary, or episodic, and may be controlled or eliminated by medication. However, those identified with cognitive disabilities were significantly more likely to report serious psychological distress in the previous 30 days (33 percent of prisoners and 47 percent of jail inmates), compared to 6 percent of prisoners and 17 percent of jail inmates without cognitive disabilities, and 5 percent in the general population.

Youth with Disabilities

The National Council on Disability reported on the relationship between special education and juvenile justice in 2015 in the publication [*Breaking the School-to-Prison Pipeline for Students with Disabilities*](#), which found that:

- Up to 85% of youth in juvenile detention facilities have disabilities that make them eligible for services under the Individuals with Disabilities Education Act (IDEA), yet only 37% receive those services while in school;
- Persistent racial and ethnic disparities in identification, discipline, placement, and other key categories show special education implementation breakdowns disproportionately affect students of color with disabilities;
- Although the overall inclusion of students with disabilities in the general education classroom has increased over the last decade, statistics show that students of color with disabilities remain disproportionately segregated from their nondisabled peers; and
- Racial and ethnic disparities in suspensions and expulsions suggest the presence of unconscious or implicit biases, along with discrimination based on disability, to contribute to the School-to-Prison Pipeline crisis.

A [national longitudinal study of young adults with disabilities](#) who had left special education found that young adults with disabilities were more likely to have been involved in the criminal justice system. Those with emotional disturbances (74.7 percent); learning disabilities (54.7 percent); other health impairment, including ADHD (53.5 percent); and traumatic brain injury (52.4 percent) were significantly more likely to have been stopped by police for an offense other than a traffic violation, arrested, and/or on probation or parole.

In partnership with the Council of Juvenile Correctional Administrators, the Council of State Governments Justice Center (CSG) examined issues related to juvenile

detention and issued the 2015 report [*Locked Out: Improving Educational and Vocational Outcomes for Incarcerated Youth*](#). CSG cited studies indicating that:

- At least one in three incarcerated youth needed or received special education services—a rate nearly four times higher than youth attending school in the community;
- More than half of incarcerated youth have reading and math skills significantly below their grade level, and approximately 60% have repeated a grade; and
- The majority of incarcerated youth were suspended and/or expelled from school, and many had dropped out of school before incarceration.

Based on CSG’s examination of this issue, they made recommendations to promote successful reentry:

- A single agency should be responsible for ensuring youths’ successful transition to a community-based educational or vocational setting after release from incarceration.
- Transition coordinators should:
 - Facilitate the quick transfer of educational records and ensure that all credits transfer;
 - Inform youth and families about available options to continue educational and vocational training or obtain employment, and work with them to determine the most appropriate post-release educational/vocational setting; and
 - Serve as a conduit between the juvenile justice and education systems, share information across agencies, and meet with staff in community schools to share transition plans.
- Juvenile justice and educational agencies should:
 - Work together to develop a written educational transition plan for incarcerated youth at least 40 days prior to release;
 - Establish timelines for how and when credits and school records will be transferred;
 - At a minimum, involve a parent/guardian, classroom teacher, and school counselor in the development of the transition plan;
 - Enroll youth in an educational or vocational setting prior to release and attend the program immediately upon release; and
 - Consider the victim’s concerns in the home school, transportation barriers, family and student safety, and the availability of educational and other services to meet students’ needs.

Disability and the Criminal Justice System

In a 2016 white paper, [*Disability and Criminal Justice Reform: Keys to Success*](#), RespectAbility, a nonprofit organization working to empower people with disabilities to achieve the American dream, compiled contributing factors and statistics related to an estimated 750,000 people with disabilities behind bars in America. The white paper cites detailed research and statistics along with links to successful programs, and includes policy recommendations. The appendix contains additional resources and a bibliography of references.

Recommendations for the criminal justice system include:

- Increased resources for the juvenile justice system for youth with disabilities who may not understand the requirements of probation and are at a higher risk of violating them;
- Alternative sentencing programs that divert youth with disabilities to needed supports instead of jail time;
- Recognition and action to prevent wrongful convictions, false confessions, and death penalties that disproportionately impact people with disabilities;
- Reductions in the use of solitary confinement and chemical restraints that can be traumatizing and exacerbate existing physiological disorders; and
- Initiation of disability assessment, accommodations, and provision of literacy and education services and/or job training at the beginning of incarceration.

Recommendations for release, reentry, and reintegration include:

- Funding corrections education programs through Title II of the Workforce Innovation and Opportunity Act (WIOA);
- Expanding capacity of nongovernmental supports focused on helping citizens with disabilities find and keep jobs or start a business;
- Recruiting employers willing to hire returning citizens with disabilities for business reasons, not charity; and
- Increasing the use of innovative funding sources such as Pay-For-Success Contracting or Social Impact Bonds.

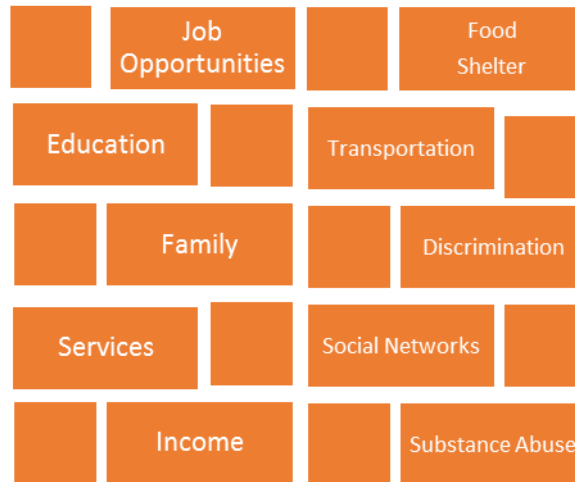
Strategies to Promote Successful Reentry and Reduce Recidivism

The Center for American Progress issued a 2016 report, *Disabled Behind Bars*, offering promising approaches to smooth reentry for returning citizens with disabilities, including:

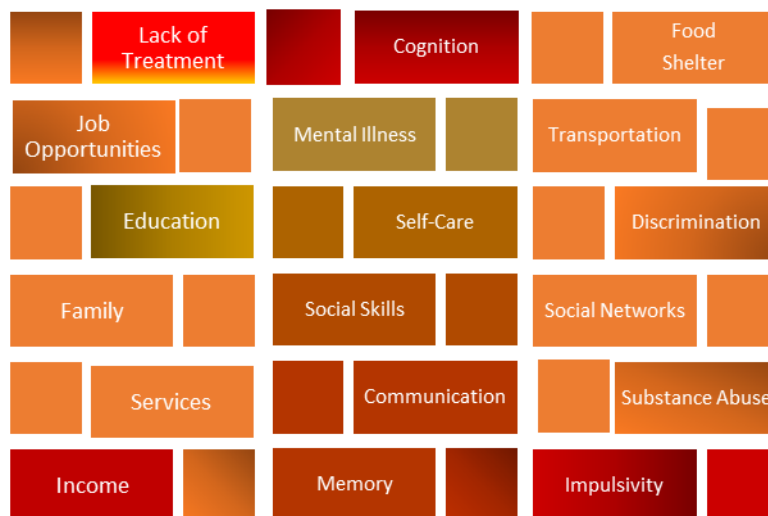
- **Accessible education and training** behind bars, with coordination between state departments of corrections and vocational rehabilitation;
- **Discharge planning** well in advance of release that takes disability and health needs into account;
- **Suspension, instead of termination**, of inmates' Medicaid benefits in order to reduce interruptions in health coverage;
- **Access to needed supports prior to release** by leveraging the prerelease application model for health care and nutrition assistance, and the SOAR model for Social Security disability benefits;
- **Continuity of care policies** to ensure that individuals are released with enough medication to get by until they are able to see a doctor post-release;
- **Physical and programmatic accessibility** at halfway houses, job-training programs, and other community-based reentry services;
- **Revision of the U.S. Department of Housing and Urban Development (HUD)'s definition of homelessness** to expand access to supportive housing for individuals leaving residential treatment facilities;
- **Reauthorization of and increased funding for the Second Chance Act**, awarding additional points to providers that include a disability lens across their services, and requiring that Second Chance grantees receive annual training on their obligations and best practices for working with people with disabilities;
- **Increased resources for civil legal services**, which play a vital role in removing barriers to employment, housing, public assistance, and supporting reentry; and
- **Policies that give returning citizens a fair shot** at employment, housing, education and training, and other basic building blocks of economic stability after release.

Chapter 2: Reentry Barriers and Resources

Skilled reentry professionals are familiar with common barriers to success former prisoners and inmates face when returning to the community. For instance, the following illustrates some of the common factors that can serve as barriers or assets to successful reentry.



Experienced professionals can assess a client's situation and readily identify how to overcome a number of barriers common to all reentry populations. However, a disability can be a contributing factor to how a person ends up in jail or prison. The following indicates additional issues and shading to show how applying a disability lens can add to or exacerbate obstacles to success.



Appropriate services and treatment for the general population may not be effective for people with disabilities. This chapter offers brief descriptions of available disability-related services, resources, and supports. Links for learning more about each topic follows each description.

Special Education and Rehabilitation Services for Youth/Young Adults

Beginning at age 14 (or younger, if appropriate), special education transition services focus on the strengths and priorities of the student. Furthermore, IDEA mandates access to special education services for anyone with a bona fide disability until age 21 or when they earn a regular (not special or GED) state diploma—even if they dropped out or went through a graduation ceremony (without that high school diploma). In addition, state rehabilitation service agencies are required to set aside funding for transition-related services, including services for youth, through age 24, who are in the justice system. In many cases, young adults served with state rehabilitation services do not have to go through an eligibility determination in order to receive services.

School districts are required to conduct an assessment for young people who may have a disability that prevents them from being able to learn (regardless of whether they have left, but not aged out of, the school system). Beginning at age 14, the state department of rehabilitation provides assessment at no cost and can provide transition services.

Special Education—Transition services through age 22

- [Guidance for youth in corrections agencies](#)
- [*Improving Transition Outcomes for Youth Involved in the Juvenile Justice System*](#)

Rehabilitation Services

- [Transition of Students and Youth with Disabilities from School to Postsecondary Education and Employment](#)

Postsecondary Education

Every college and university is required to have a disability services office to help ensure that students with disabilities receive needed accommodations. Students must provide documentation of a disability from special education assessments,

vocational rehabilitation (VR) assessments (state VR agencies), or other means. The U.S. Department of Education has an Office for Civil Rights (OCR) to enforce access to reasonable accommodations. Having a learning disability, ADHD, or an intellectual disability does not have to be a barrier to college. There are also opportunities for student financial aid for people with disabilities.

- [*Students with Disabilities Preparing for Postsecondary Education: Know Your Rights and Responsibilities \(OCR\)*](#)
- [LD Online](#)
- [Think College: College Options for People with Intellectual Disabilities](#)
- [Disability.gov's Guide to Student Financial Aid](#)

Employment

State VR agencies can provide assessment, job training, placement, and support for eligible individuals. In addition to the services to youth / young adults described above, they can provide assessments for people who have a suspected disability. WIOA requires VR agencies to participate on state and local workforce boards. These boards work together to:

- Facilitate public-private partnerships;
- Support sector strategies and career pathways that advance opportunities for all workers and jobseekers, including low-skilled adults, youth, and individuals with disabilities;
- Foster innovation; and
- Develop a vision of a market-responsive workforce system, and monitor and evaluate the performance of the system using board-established measures.

The Innovation and Opportunity Network is a national, regional, state, and local alliance that makes available the technical assistance, information sharing, and training needed to implement the vision of WIOA. American Job Centers (formerly Career One Stop Centers) also provide local assistance to people with disabilities. The American Job Center Network also contains resources pertaining to workers with disabilities and workers with criminal convictions.

- [Rehabilitation Services Administration](#)
- [State VR agency contacts](#)
- [Innovation and Opportunity Network](#)
- [Workers with disabilities](#)
- [Information related to ex-offenders](#)

Income Support

Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) is for anyone with a significant disability who is unable to work because of that disability. Eligible recipients can include people with attentional issues (like ADHD), mental illness, and traumatic brain injury (TBI), as well as people with cognitive, sensory, self-help, or independent living needs. While benefits are suspended for eligible individuals while incarcerated, they can be reinstated the month following release. However, the applicant must provide release papers and should file as soon as possible. Individuals with disabilities who are incarcerated, and who have not previously received SSI or SSDI, should start the application and disability determination process several months before release because the determination process must go through several reviews before a person is deemed eligible. Assessments conducted through special education or rehabilitation services can help substantiate the need for these programs.

After benefits begin (or are reinstated after incarceration), many recipients can continue to receive benefits while working and may qualify for employment readiness / support programs because they are receiving disability benefits through the Ticket to Work Program. SSI recipients can use their benefits for educational purposes, work-related expenses, or expenses to support a business or self-employment through the Plans for Achieving Self-Support (PASS) program. SSA updates a guide to work incentive programs every year.

- [What prisoners need to know about SSI](#)
- [Ticket to Work Program](#)
- [Plans for achieving self-support](#)
- [The Red Book—a guide for work incentives](#)

Medical Assistance

Individuals who receive SSI are automatically eligible to receive Medicaid in many states. However, some states require additional documentation. Individuals receiving SSDI are eligible for Medicare. Under some circumstances, individuals eligible for Medicare do not have to pay insurance premiums. Eligible individuals who are incarcerated must apply for Medicare in the first two months after release. Both Medicaid and Medicare can cover therapies, mental health, substance abuse treatment, prescription drugs, needed treatment, and other needed care. In some

cases, they can cover personal care and/or residential care; however, these programs vary by state.

- [Medicare.gov—“Get help paying costs”](#)
- [Medicaid Mental Health Parity and Addition Equity Act](#)
- [Medicaid Waivers \(to support long term care\)](#)

Civil Rights—Americans with Disabilities Act (ADA)

The ADA prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, state and local government services, public accommodations, commercial facilities, and transportation. Reentry programs and their partners must make accommodations to the programs, services, and supports available to people without disabilities. Most state protection and advocacy agencies include a specific focus on people with disabilities who encounter an absence of justice in a system not designed to handle disability. They may be able to intervene in issues related to probation or other systemic issues that put the individual at risk of recidivism. In addition, there is growing concern about how the criminal justice system may have led to convictions of innocent people with disabilities who were unable to defend themselves or who faced discrimination or a lack of access to treatment and medications needed due to mental health or other medical conditions. Some reentry professionals have been able to have a criminal record expunged or subjected to nondisclosure due to a disability.

- [Department of Justice \(DOJ\) ADA portal](#)
- [Guide to Disability Rights Laws](#)
- [Access to Justice Project](#)
- [State Protection & Advocacy](#)

Housing

The Fair Housing Act prevents discrimination on the basis of disability. Recent guidance also protects current or prospective tenants with criminal histories from discrimination. Some Housing Choice Vouchers (formerly called Section 8) are set aside by states and localities for people with disabilities. Some programs serve people with certain disabilities such as mental illness, cognitive disabilities, and TBIs. The Olmstead Supreme Court Decision requires states to eliminate unnecessary

segregation of persons with disabilities and to ensure that persons with disabilities receive services in the most integrated setting appropriate to their needs.

- [Disability.gov's Guide to Housing](#)
- [Olmstead: Community Integration for Everyone](#)
- [Disability Rights in Housing](#)
- [HUD Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions](#)
- [Continuum of Care \(CoC\) Program for addressing homelessness](#)
- [Housing Choice Vouchers Fact Sheet](#)

Chapter 3: A Call to Action

This brief guide offers reentry professionals with a foundation of information about how disability may affect reentry; statistics, issues, and recommendations from recent reports; and available resources and supports for people with disabilities. Addressing disability issues can boost an individual's chances of successful reentry and reduce recidivism. Sometimes it is difficult to know where to start. Here are some possible next steps.

General

1. Check out some of the links included in this guide to find out more about topics that interest you.
2. Find out more about issues and resources. [Disability.gov](#) is the federal government portal for information about disability-related programs, services, policies, laws, and regulations. The site links to thousands of resources from different federal government agencies, as well as state and local governments and nonprofit organizations across the country.

Individual Services and Supports

Successful reentry can depend on assessments, services, supports, and accommodations people receive during incarceration and upon reentry.

1. Since disability is often underreported, ask clients if they have ever been identified as having a disability or received special education services. Since not all people with disabilities receive special education, also see if clients experience seeing, hearing, cognitive, ambulatory, self-care, or independent living difficulties as described in the [Bureau of Justice Statistics National Inmate Survey](#).
2. If there is no current evaluation or documentation of disability, see if the client can receive an assessment through the prison system or through the [state department of rehabilitation services](#).
3. Help clients understand their rights to disability accommodations while in prison and to programs, services, and supports within the community. Understanding how to advocate for their rights can be key to preventing secondary conditions and improving health and safety. (See section in previous chapter on [Civil Rights](#)).

4. Work with correctional education providers, youth and their families, and the school the youth will attend to develop a transition plan. Ensure that educational records are transferred so that there is not a disruption in educational services.
5. Consider [postsecondary education](#) options, disability-related scholarships, and needed accommodations.
6. Explore possible [employment supports](#) and [work incentives](#).
7. Begin the process of applying for [SSI or SSDI](#) at least six months before release for new applicants, or at least two months before release to reinstate benefits.
8. Plan for medical continuum of care needs, including [medical assistance](#) and linkages with appropriate providers. Consider whether to provide a supply of needed medications until the client can connect with medical care in the community.
9. Consider [housing options](#) and rights to facilitate locating an affordable and accessible living situation.
10. An arrest history or criminal record can affect services and prospects for employment. Consider helping clients apply for expungement on the basis of a disability. The National Association of Criminal Defense Lawyers developed [jurisdictional profiles on expungement](#) that you can use to view your state's profile.
11. Work with the client's existing social networks and systems of support (family, friends, church, social groups, services providers), or help the client build a social network.

Community Networking and Systems Change

Reentry professionals can consider how to add a layer of disability resources, services, and supports onto their existing community network.

1. Identify the resources, mentioned in Chapter 2, that are available in your state and locality.
2. Reach out to key people (school system, rehabilitation services, disability services at career and technical education programs, community colleges and universities, protection and advocacy, social security, housing, etc.).
3. Explore partnerships to leverage resources and improve outcomes such as workforce boards, disability service providers, disability advisory groups, and rehabilitation councils.

4. Invite disability resource and service providers to your own initiatives, networks, and interagency groups.

Building Capacity

Chapter 1 of this guide provides information to support a case for increased funding and resources to support reentry for people with disabilities. Here are some options to consider.

1. A number of foundations are interested in disability and reentry. For instance, the [Butler Family Fund](#) invests in organizations that address inequities in the criminal justice system and homelessness. The [Public Welfare Foundation](#) funds initiatives in criminal justice and juvenile justice. [Open Society Foundations](#) has funded work on criminal justice and disabilities. The [Foundation Center](#) is a good place to search for potential grants. Often public libraries, colleges, and universities have paid subscriptions to search the database.
2. The federal government funds its own initiatives. The [Office of Justice Programs](#) funds competitive and formula/grant programs, and periodically seeks innovative solutions through open challenges. The [U.S. Department of Labor](#) funds initiatives through the Employment and Training Administration and the [Office of Disability Employment Policy](#). You can check out [Grants.gov](#) for open or previous funding opportunities, or subscribe to a search in a particular area.
3. State and local governments are potential sources of funding for new initiatives and funding. For instance, the [Social Impact Bonds Model](#) builds a case for investing in performance-based payments that can improve results, overcome barriers to social innovation, and encourage investments in cost-saving preventative services. Preventing recidivism by addressing disability barriers to success might fit into this category. [WIOA](#) also requires state rehabilitation services to devote at least 15 percent of their federal allotment for pre-employment transition services for students with disabilities transitioning from school (including correctional education programs) to postsecondary education programs and employment. Some states and localities have successfully partnered with their state VR agencies to develop programs and provide services for incarcerated and reentering individuals with disabilities.

In conclusion, while a disability may complicate successful reentry, a number of services, supports, and resources are possible to add to the existing array of reentry services to prevent recidivism and promote success.