



OPSIDIANET

METHODOLOGY

FOR

IDENTIFYING

PSYCHOSOCIAL OR INTELLECTUAL

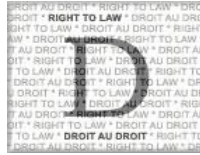
DISABILITIES OF SUSPECTS AND ACCUSED



This document was funded by the European Union's Justice Programme (2014-2020). The content of this document represents the views of the authors only and is their sole responsibility. The European Commission does not accept any responsibility for use that may be made of the information it contains.

**METHODOLOGY FOR IDENTIFYING
PSYCHOSOCIAL OR INTELLECTUAL
DISABILITIES OF SUSPECTS AND
ACCUSED**

This methodology was developed within the framework of the project [Offenders with Psychosocial and Intellectual Disabilities: Identification, Assessment of Needs and Equal Treatment \(OPSIDIANET\)](#), funded by the European Union's Justice Programme (2014-2020).



Author | **Delyana Doseva**, Attorney at law
Editor | **Dimitar Markov**, Director of Law Program, Center for the Study of Democracy



This document was funded by the European Union's Justice Programme (2014-2020). The content of this document represents the views of the authors only and is their sole responsibility. The European Commission does not accept any responsibility for use that may be made of the information it contains.



This work is licensed under a [Creative Commons Attribution-NonCommercial-NoDerivatives 4.0 International License](#).

Published by: Center for the Study of Democracy, 2019
5 Alexander Zhendov Str., 1113 Sofia
Tel.: (+359 2) 971 3000, Fax: (+359 2) 971 2233
www.csd.bg, csd@online.bg

Contents

- Introduction: Background and Purpose 4
- Section One: Gathering Data 8
- Section Two: Identification of psychosocial or intellectual disability 10
 - Observation: what to look for? 10
 - Understanding body language 13
 - Questioning: what and how to ask? 13
- Section Three: Communication 18
 - De-escalation 18
 - Strategies for improving communication 20
- Transition of a Checklist into Use 21



Introduction: Background and Purpose

During criminal proceedings, persons with physical and mental disabilities face numerous obstacles to effective exercise of their right to justice.¹ A person in the criminal justice system with an intellectual impairment, or a psychosocial disability that affects their ability to understand and communicate, is considerably more vulnerable to risks such as exploitation and bullying. Several studies² claim that the majority of persons with intellectual impairments experience considerable injustice, while in contact with the criminal justice system, which goes beyond that of other groups of offenders. They are often more suggestible and easily influenced by others and also more likely to be a victim of crime themselves.

During the initial contact with the criminal justice system, alleged offenders with intellectual or psychosocial disabilities are exposed to several situations with a potential source of bias or conflict: (1) pre-arrest and arrest, (2) caution and legal rights, (3) detection, (4) interview/questioning, and (5) disposal.³ Without the necessary communication support, a person with intellectual or psychosocial disability might become the subject of a victimisation in all phases of the criminal process.⁴ This can cause unfair or distressing consequences for the person. For example, persons who have difficulties to read or write letters can find themselves in a situation of signing contracts and forms, which they do not (fully) understand. If a person is unable to understand their bail or sentence conditions, because of their condition, they might end up spending longer in the criminal justice system.⁵

Unlike age and physical condition, which are usually easier to identify, mild and moderate psycho-social and intellectual disabilities are not always visible and can, therefore, remain either unnoticed or misinterpreted by the law enforcement and judicial authorities. While some people may inform criminal authorities of their impairment or disability, other may not be even aware

¹ United Nations Office on Drugs and Crime (2009), [Handbook on prisoners with special needs](#), Vienna.

² Clare, I.C. and Gudjonsson, G. (1995), The vulnerability of suspects with intellectual disabilities during police interviews: A review and experimental study of decision making, in *Mental Handicap Research*, 8; Gardner, W.I., Graeber, J.L. and Machkovitz, S.J. (1998), Treatment of offenders with mental retardation, in R. M. Wettstein (Ed.), *Treatment of offenders with mental disorders*, New York, Guilford Press; Petersilia, J. (1997), Unequal justice? Offenders with mental retardation in prison, in *Corrections Management Quarterly*, 1.

³ Jacobson, J. (2008), *No One Knows: Police responses to suspects with learning disabilities and learning difficulties: a review of policy and practice*, London, Prison Reform Trust.

⁴ Clare, I.C. and Gudjonsson, G. (1995), The vulnerability of suspects with intellectual disabilities during police interviews: A review and experimental study of decision making, in *Mental Handicap Research*, 8; Gardner, W.I., Graeber, J.L. and Machkovitz, S.J. (1998), Treatment of offenders with mental retardation, in R. M. Wettstein (Ed.), *Treatment of offenders with mental disorders*, New York, Guilford Press; Petersilia, J. (1997), Unequal justice? Offenders with mental retardation in prison, in *Corrections Management Quarterly*, 1.

⁵ United Kingdom Department of Health (2011), [Positive Practice, Positive Outcomes. A Handbook for Professionals in the Criminal Justice System working with Offenders with Learning Disabilities](#).



of their condition, and a third quite large group can try to hide their disability in order to fit in. A person with an unidentified intellectual or mental disorder may be seen as having criminal or other harmful intentions. In many cases, such people get arrested not because they are more dangerous or malicious than other individuals, but because they have specific needs, that are not properly addressed.⁶

Therefore, it is important, that criminal justice authorities have the ability to properly recognise the signs of such vulnerabilities, what their impact on the situation of these individuals during the proceedings can be, and what should be done to safeguard their rights. The failure to promptly identify and assess the psychosocial or intellectual problem of a suspect can lead to infringement of their procedural rights, unequal treatment during the proceedings and a violation of the fundamental right to a fair trial.

A 2012 study⁷ in a police district of 198,000 inhabitants in the Netherlands linked police data with mental health care information. In one year the police dealt with 492 crisis situations, and in half those cases the individuals were disengaged from mental health services. The findings confirmed the important role of police officers in linking people with mental ill health to care, and the necessity for appropriate training and understanding of local mental health services and resources for front line police.

In 2017 a UK team published a study⁸, encompassing an evaluation of the evidence on the effectiveness of training programmes and/or training resources aimed at increasing knowledge and/or changing behaviour or attitudes of the trainees with regard to mental ill health, mental vulnerability, and learning disabilities and of satisfaction with training and barriers and facilitators to effective training. The study has examined evaluations of a wide variety of training interventions, populations and settings. The training programmes ranged between awareness raising, ways to change practice, and comparison of training delivery methods. The interventions also varied from addressing specific mental health conditions to providing a broad understanding of mental health illnesses and vulnerabilities, with some including how to interact effectively. There were huge variations in the design, delivery method and content of the training, and in the knowledge, experience and skills of those developing and/or delivering the training. A dilemma when providing training on mental health issues to non-mental health professionals is deciding what trainees need to know and in what detail. There were no studies directly comparing general

⁶ Mason C., Burke T.W. and Owen S.S. (2014), [Responding to Persons with Mental Illness: Can Screening Checklists Aid Law Enforcement?](#), in FBI Law Enforcement Bulletin.

⁷ Van den Brink R.H., et al. (2012), Role of the police in linking individuals experiencing mental health crises with mental health services, in BMC Psychiatry. 2012;12(1):1–7.

⁸ Booth A., Scantlebury A., Hughes-Morley A., Mitchell N., Wright K., Scott W. and McDaid C. (2017), [Mental health training programmes for non-mental health trained professionals coming into contact with people with mental ill health: a systematic review of effectiveness](#), in BMC Psychiatry volume 17, Article number: 196 (2017).



versus specific training programmes. The gaps in reporting details and the wide variation in the included studies precludes drawing even tentative conclusions about general mental health awareness raising versus condition specific training programmes. The conclusions of the study are, that a variety of training programmes exist for non-mental health professionals who come into contact with people who have mental health issues. There may be some short term change in behaviour for the trainees, but longer term follow up is needed.

Although the results about the long-term effects of training programmes are inconclusive (mainly due to limited and poor quality research in the area), one must also have in mind that EU criminal law provides suspects and accused with a set of procedural rights aimed to ensure their adequate participation in criminal proceedings. To effectively benefit from the full scope of their procedural rights, suspects and accused need to understand the meaning of these rights, know when and how they can exercise them and be aware of the consequences of their decisions and actions, which may not be the case for some of them, who are especially vulnerable due to their age, mental or physical condition or disability. Offenders with mental health issues and intellectual impairments often have difficulties navigating their journey through the criminal justice system, and may therefore be disadvantaged without specialist support. As specifically highlighted by the European Commission, a key prerequisite for addressing the special needs of vulnerable suspects and accused persons is the timely and correct assessment of their vulnerability:

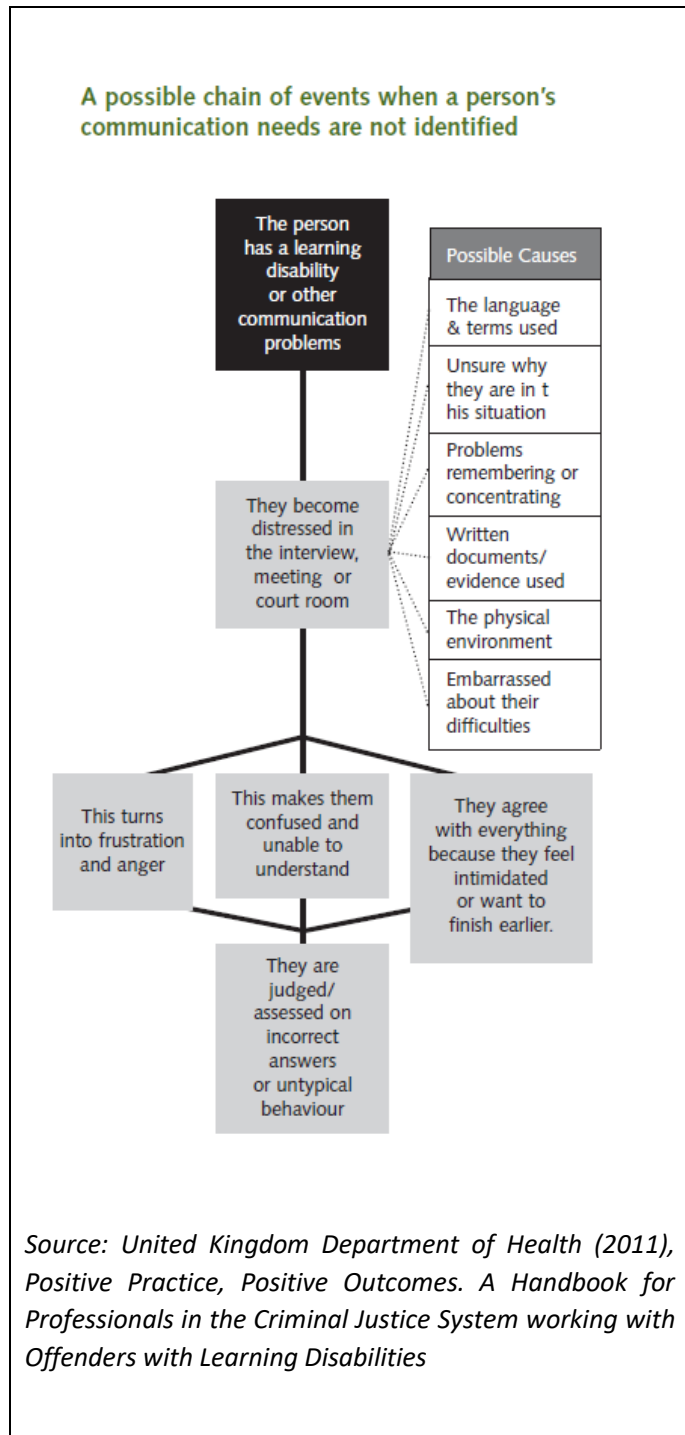
“Vulnerable persons should be promptly identified and recognized as such. Member States should ensure that all competent authorities may have recourse to a medical examination by an independent expert to identify vulnerable persons, and to determine the degree of their vulnerability and their specific needs. This expert may give a reasoned opinion on the appropriateness of the measures taken or envisaged against the vulnerable person.”
(Section 2 of Recommendation on procedural safeguards for vulnerable persons suspected or accused in criminal proceedings).

Although the need of screening measures in criminal justice proceedings is widely recognised, it seems that there is a particular lack of variety of screening and identification procedures, specifically for this population. Screening is by no means an exact science, and tools generally rely heavily on self-report. Interviewees are often reluctant to disclose personal and sensitive information for fear of being stigmatised or labelled. Such measures therefore rely on appropriate timing, a safe space and the establishment of a good relationship between interviewer and interviewee to achieve an honest appraisal at the screening stage. Consequently, the likelihood of failing to identify such offenders remains high.⁹

⁹ Ali, S. and Galloway, S. (2016), [Developing a screening tool for offenders with intellectual disabilities – the RAPID](#), in Journal of Intellectual Disabilities and Offending Behaviour, Vol. 7, No. 3, pp. 161-170.

Recognising the pivotal role, played by criminal justice authorities in identifying and deciding on the most appropriate course of action in situations, involving offenders with intellectual or psychosocial disabilities, this methodology is intended as an introduction to working with such individuals. The methodology covers the essential information to help authorities identify this group of people. Criminal justice staff are not expected to formally assess or diagnose offenders they are working with. Instead, they are expected to be alert when coming into contact with such a person, that there might be a problem, that would require some special attention and initiate a specialist assessment. The sole purpose of this methodology is to serve as an additional source of information, which could be taken into account when making a decision concerning the accused/defendant.

Furthermore, this methodology is based entirely on the desk analysis of already existing methodologies, aimed at first-line practitioners (police officers, prosecutors, judges, prison and probation staff, etc.), who are not experts in the field of psychosocial and intellectual disabilities, and is not supported by any newly gathered empirical data or new clinical trials.



The methodology contains information on:

- 1) **gathering of data**
- 2) **identification of intellectual/psychological disability and**
- 3) **communication**



The last, fourth, part of this methodology is dedicated to the process of putting this information into practical use, specifically by creating a checklist/screening tool. Given the time pressures within most criminal justice settings, probably the most crucial feature of a checklist/screening tool is to be easily understood and quick and simple to administer, so that all practitioners are able to use it regardless of qualifications, and with little training.

Section One: Gathering Data

When it comes to methodologies for identifying suspects and accused persons with psychosocial and intellectual disabilities, there are three main methods for gathering the necessary information: observation, questioning and collecting information from other sources. Some of the reviewed methodologies use a combination of these methods, while others rely on only one of them. People experiencing psychosocial disability or other vulnerable people who may not understand or correctly interpret police/prosecutor's efforts to communicate are at increased risk of not having their immediate needs adequately met.

When in contact with people who are mentally vulnerable, have mental health problems or intellectual impairment, the most important source of information will be the individuals themselves.¹⁰ However, presenting symptoms can be ambiguous and, if associated information is lacking, assessments can take a long time.¹¹

This is why first-line responders (and in the context of this report, police are generally the first on the scene when a person with psychosocial or intellectual disability creates a disturbance or commits a crime), should try and gather as much information from as many sources as possible. Possible important sources of information may be the person who reported the incident, any medical professionals on scene (or associated with the individual), parents, carers, family or others who would know if the individual is experiencing psychosocial or intellectual disabilities. The closer the person, the better they would be able to help with identifying the needs of the individual with psychosocial or intellectual disability, especially when this individual has difficulties communicating. Consulting people who know the individual well, and asking them about the best way to approach the person, their habits, or their triggers, is likely to help the police deal with the situation in a way that causes as little added distress as possible.

¹⁰ United Kingdom, College of Policing (2018), [Authorised Professional Practice: Mental health: Mental vulnerability and illness](#).

¹¹ Clarke D.E., Dusome D. and Hughes, L. (2007), [Emergency department from the mental health client's perspective](#), in *International Journal of Mental Health Nursing*, 16(2): 126 -131.



Where appropriate, officers should check any reliable and accessible national (or local) information systems (registers) on individuals with, or thought to have, psychosocial or intellectual disabilities.

Many people with psychosocial or intellectual disabilities may be known to health and social care agencies and/or voluntary service providers (for example NGOs) dealing with mental health problems. While many people will be known to services, there are many who will not be known. Not being known to services, however, does not mean that an individual does not have a disability or support need. Medical and social care records may be an appropriate source of information. Officers and staff may request relevant information where the requirement is proportionate to the prevailing risks and necessary to enable an appropriate response to the individual's needs.¹²

While all of these other sources are a real possibility for first-responders they are not equally available and/or consulted in different countries. In Italy, for example, there is a national information system for mental health (Sistema Informativo della Salute Mentale, SISM) managed by the Ministry of Health and designed to monitor and protect mental health, including by providing support for operational and clinical decisions in criminal proceedings and in cases of arrest. Guidelines and protocols¹³ have been adopted between health centres and the police, for the early identification of pathology and the immediate intervention of medical staff in cases of arrest and/or detention. Training courses are also implemented to provide police and rescue workers with the knowledge and skills to deal with interventions in the operational phases, including management and negotiation with individuals in mental crisis.

In many other countries, however, such sources are either not available or not consulted. A recent study covering five EU Member States (Austria, Bulgaria, Czech Republic, Lithuania and Slovenia) found out that none of the participating countries had established standardised mechanisms or procedures for systematically assessing the vulnerability of suspects and that identification practice of the police relied primarily on apparent signs such as appearance, communication and behaviour of the suspect, on information by the latter or their relatives as well as on a sensitised perception of the individual police officer. This, according to the study, bears a high risk that invisible or not immediately appearing disabilities may not be identified and non-identified disabilities may translate into difficult situations during the interrogations, including the police being provoked by the behaviour of the suspect.¹⁴

¹² United Kingdom, College of Policing (2018), [Authorised Professional Practice: Mental health: Mental vulnerability and illness](#).

¹³ See for example the operative protocols for the [District of Milano](#), the [Province of Treviso](#) and the [Region of Sardinia](#).

¹⁴ Ludwig Boltzmann Institute of Human Rights (2018), [Dignity at Trial: Enhancing Procedural Safeguards for Suspects with Intellectual and Psychosocial Disabilities](#), Vienna, Ludwig Boltzmann Institute of Human Rights.



Section Two: Identification of psychosocial or intellectual disability

Observation: what to look for?

An effective method of consistent communication between emergency/non-mental-health-specialist and specialist services, which can be successfully applied by law-enforcement or judicial officers, is the Public Psychiatric Emergency Assessment Tool (PPEAT). It was developed by a group of mental health nurses and a trauma nurse, who “realised that professionals who lack mental health training, such as emergency nurses, police officers and paramedics, often struggle to record their observations of mental health service users accurately and objectively”. The PPEAT allows first-responders to describe objectively what they see and hear, and record information that is vital to further assessments and interventions by specialist staff.¹⁵

The Public Psychiatric Emergency Assessment Tool (PPEAT) is based on the so-called **ABCDE** system (five domains of questions labelled A to E). These domains are:

- ? **Appearance and atmosphere:** *what can be observed immediately about the person;*
- ? **Behaviour:** *what the person is doing and whether this is in keeping with the situation;*
- ? **Communication:** *what the patient says and how he or she says it;*
- ? **Danger:** *whether the person is in danger and whether their actions put other people in danger;*
- ? **Environment:** *where the person is situated, whether anyone else is there and what impact the wider circumstances may have on the individual's health and safety.*

The list below offers some guidelines and is by no means exhaustive. It is compiled mainly, but not exclusively, from the information, provided in several of the practical methodologies¹⁶, selected and reviewed in the background paper on existing identification methodologies and communication facilitation tools.¹⁷

¹⁵ Mcglen, I., Wright, K. and Haumueller M. (2008), [The ABC of mental health](#), in *Emergency nurse: the journal of the RCN Accident and Emergency Nursing Association*, 16(7):25-7.

¹⁶ Foundation for People with Learning Disabilities (2011), [How to spot signs that a person has a learning disability](#); United Kingdom Department of Health (2011), [Positive Practice, Positive Outcomes. A Handbook for Professionals in the Criminal Justice System working with Offenders with Learning Disabilities](#); United Kingdom, College of Policing (2018), [Authorised Professional Practice: Mental health: Mental vulnerability and illness](#); The National Autism Society (2017), [Autism: a guide for police officers and staff](#); Georgia Association of Chiefs of Police Mental Health Ad Hoc Committee to Address Mental Health Issues in Law Enforcement (2008), *Mental Health and Law Enforcement Encounters: A Review of Current Problem and Recommendations*; Mason C., Burke T.W. and Owen S.S. (2014), [Responding to Persons with Mental Illness: Can Screening Checklists Aid Law Enforcement?](#), in *FBI Law Enforcement Bulletin*; Cumbria Partnership / NHS Foundation Trust (2015), [Learning Disability Awareness Pack \(Adult Services\)](#).

¹⁷ Center for the Study of Democracy (2019), [Suspects and accused with psychosocial or intellectual disabilities: identification methodologies and communication facilitation tools](#).



CUES FOR INTELLECTUAL DISABILITY	BEHAVIOURAL CUES
	<ul style="list-style-type: none">→ Slower processing and reaction times→ Suggestibility (easily being inclined to accept and act on the suggestions of others)→ Passiveness (primarily responding and taking a lead from others; information provision is less likely to be a spontaneous, narrative process)→ Poor ability to control anger and other emotions, may fly off the handle quickly or get upset about something that is not very important→ Inability to follow instructions, directions or understand conversations correctly→ Short and long term memory problems (for example, difficulty remembering who they have spoken to about an incident)→ Difficulty sustaining attention and concentrating for long periods of time→ Unclear concepts of time, time awareness and time management; difficulty getting dates, numbers and events in the right order→ Inability to keep to appointments→ Poor ability to focus attention on a particular issue, for example on the subject of the interview; may want to talk about something else that is worrying them→ Difficulty understanding social norms, such as taking it in turns to speak and giving people their personal space
	COGNITIVE CUES
	<ul style="list-style-type: none">→ Smaller range of vocabulary→ Difficulty understanding abstract or complex sentences or processing large amounts of information→ Difficulty filling in forms→ Difficulty reading, writing, spelling and comprehension→ Limited range of grammatical skills and hence, difficulty explaining things, especially expressing what happened and the order of events (if involved in an incident)



CUES FOR PSYCHOSOCIAL DISABILITY	BEHAVIOURAL CUES
	<ul style="list-style-type: none">➔ Faulty sensory perceptions (hallucinations: hearing, seeing, smelling, feeling things that do not exist); momentary or extended lapses in attention (as if listening to something); may use sounds to tune out voices➔ Holding false beliefs or impressions, despite being contradicted by reality or rational argument (delusions: believing in being persecuted¹⁸ or in being someone of importance)➔ Inappropriate emotional reactions (emotions, inconsistent with speech or thoughts)➔ Overreacting to situations in an overly angry or frightening way➔ Confusion and disorientation, not aware of surroundings➔ Anxiety or impulsiveness➔ Sensitivity to sound, light or touch➔ Strange postures, mannerisms, repetitive or ritualistic movements, bizarre dress or make-up➔ Lethargic or sluggish movements, pacing, agitation➔ Self-neglect➔ Hopelessness or helplessness➔ Poor concentration, distractibility, short attention span
	VERBAL CUES
	<ul style="list-style-type: none">➔ Sharing a combination of unrelated or abstract topics➔ Expressing thoughts of greatness➔ Indicating ideas of being harassed or threatened➔ Exhibiting a preoccupation with death, germs, guilt, or other similar ideas➔ Nonsensical speech or chatter, difficulty sorting out or connecting thoughts➔ Word repetition or pressured speech➔ Extremely slow speaking or talking excitedly or loudly➔ Being argumentative, belligerent, or unreasonably hostile➔ Threatening harm to self or others➔ No response to questions or misinterpreting others' thoughts and words

¹⁸ This type of delusion has two central elements: (1) the individual thinks that harm is occurring, or is going to occur; (2) the individual thinks that the perceived persecutor has the intention to cause harm. Most common are paranoid delusions, which means that trust is very difficult for this person, because the levels of their fear is very high and they are likely to misinterpret ordinary life events as a threat.



An important factor that should be considered when looking for cues for psychosocial or intellectual disability is substance use. Studies show that that over half of the people suffering from mental illness, also suffer from a substance use disorder¹⁹, which can additionally complicate the process of their identification. Therefore, first-line officials should collect information, if such is available, on whether the person is under the influence of drugs and/or alcohol.

Understanding body language

Body language refers to the nonverbal signals that people use to communicate. According to experts, these nonverbal signals make up a huge part of daily communication.²⁰ It has been suggested that body language may account for between 60 percent to 65 percent of all communication.²¹ There are actually two sides to reading body language in others. Decoding is the ability to read people's cues. It is how one interprets hidden emotions, information and personality from someone's nonverbal. Encoding is the ability to send cues to other people.²²

Often decoding the body-language of people with intellectual or psychosocial disabilities may be very difficult to begin with as the person may have physical behaviours and tics that might give a wrong impression. For example, just because the person is nodding does not mean they fully understand. They may also find it difficult to read the body language of other people²³ or scrutinise it in a way, that others might miss. They may not understand the meaning behind other peoples' gestures or facial expressions. They may be reluctant to make eye contact, or they may make non-language vocalisations. They may also have behaviours that show their frustration or annoyance but which, without prior knowledge, another person would not know.²⁴

Questioning: what and how to ask?

If, during an official interrogation, a police officer, a prosecutor or a judge has suspicion that an individual may have some form of intellectual or psychosocial disability or vulnerability,

¹⁹ Hoffman, R. and Putnam, L. (2004), [Not Just Another Call: Police Response to People with Mental Illnesses in Ontario](#), Sudbury, Canada, Center for Addiction and Mental Health.

²⁰ Tipper, C.M., Signorini, G. and Grafton, S.T. (2015), [Body language in the brain: constructing meaning from expressive movement](#) in *Front Hum Neurosci*, 2015, 9:450.

²¹ Foley, G.N. and Gentile, J.P. (2010), [Nonverbal communication in psychotherapy](#), in *Psychiatry* (Edgmont), 2010, 7(6):38-44.

²² Van Edwards, V., [Body Language: What It Is & How To Read It](#), Science of People.

²³ For example people with autism and Asperger Syndrome (psychosocial disabilities).

²⁴ United Kingdom Department of Health (2011), [Positive Practice, Positive Outcomes. A Handbook for Professionals in the Criminal Justice System working with Offenders with Learning Disabilities](#).



several steps are recommended that may be helpful both for gathering additional useful information and for improving communication.

Both studies and existing methodologies²⁵ on interviewing people with intellectual and/or psychosocial disabilities provide some basic practical rules, that may be successfully applied by professionals in the criminal justice system.

1) Produce a short, simple and clear introduction about the interviewer (who they are²⁶, why they are asking questions and what they will do with the received information) and explain to the person concerned exactly why they are in a new situation, what they should expect and when.

2) Written communication with people with intellectual difficulties should be in an easy read format. Easy read includes both contents, as well as form. On the one hand, the information should be presented in an understandable manner for the recipient (the accused person or the defendant). On the other hand, it should be visually accessible.

An easy read document is meant to tell people with intellectual difficulties or people with other conditions affecting how they process information what they need to know. However, easy read is often preferred also by readers without intellectual disabilities, as it gives the essential information on a topic without a lot of background information. It can be especially helpful for people who are not fluent in the country's official language. This approach was tested by the British government and proved an effective way of explaining complex information to people for whom English is a second language.²⁷

The provision of information in an easy read format should not replace or exclude the provision of other support to the person concerned. It is an effective tool for delivering some basic information to the suspect or the accused individual, but could not substitute the presence of a lawyer, a support person or another qualified professional. Therefore, the mere presentation of an easy read document should always be accompanied by additional steps to ensure that the person has understood the information and is aware of both the situation and consequences of any subsequent actions.

²⁵ Baxter, V. (2005) [Learning to Interview People with a Learning Disability](#), in Research Policy and Planning 23(3): 175-180; United Kingdom Department of Health (2011), [Positive Practice, Positive Outcomes. A Handbook for Professionals in the Criminal Justice System working with Offenders with Learning Disabilities](#).

²⁶ Additional explanation may be needed for plain clothed police.

²⁷ United Kingdom Department for Works and Pensions, Office for Disability Issues (2018), [Guidance: Accessible communication formats](#).

Easy read versions should concentrate on the main points of a document so that people with intellectual disabilities can understand the main issues and make decisions if necessary.²⁸ This is helpful, also because easy read documents are often a lot longer than regular documents, due to formatting.

Typically, easy read uses sentences that are no more than ten to fifteen words, and each sentence has just one idea and one verb. Each new sentence should be on a new line. Active sentences are used instead of passive sentences.

Easy read is closely edited, to express ideas in a small number of simple words. Difficult words or complex ideas should be explained in a separate sentence.²⁹ Explanations are most easily given by using examples that people will know from their everyday lives.³⁰

Finally, easy read format includes pictures, which are easier to understand, when simple actions need to be explained. When combined with text, pictures give the reader a good idea of what the text is about before they start reading. Besides, they assist the reader in case the text proves difficult or in case some words cannot be understood. Last, but not least, pictures make the text look less intimidating and less demanding.³¹

Clear print standards help to maximise the legibility of print publications and should therefore be used for all printed materials.

- Clear print requires a minimum font size of 14 pt. **Arial**. Other suitable simple, well-shaped fonts, without too many flourishes include **Comic Sans** and **Helvetica**. Serif fonts are harder to read because the shape of the letters is not as clear and should be avoided.
- BLOCK CAPITALS should be avoided, as the word loses its shape.
- Underlining, **bold** and *italics* make text more difficult to read.
- Numbers should be written as digits, not as words.
- Line spacing should be greater than single spacing.
- Text should be left aligned, since text that is centred or aligned on the right could be missed.
- Shiny paper with black text should also be avoided as the contrast may cause difficulty for people with visual stress. Off-white or pastel shades of paper are easier to read, particularly for people with dyslexia, but it is always advisable to ask the person what they prefer.

²⁸ United Kingdom Department of Health (2010), [Making written information easier to understand for people with learning disabilities](#).

²⁹ United Kingdom Department for Works and Pensions, Office for Disability Issues (2018), [Guidance: Accessible communication formats](#).

³⁰ Inclusion Europe (2009), [Information For All: European standards for making information easy to read and understand](#).

³¹ United Kingdom Department of Health (2011), [Positive Practice, Positive Outcomes. A Handbook for Professionals in the Criminal Justice System working with Offenders with Learning Disabilities](#); Sensory Trust, [Information sheet on clear and large print](#); Inclusion Europe (2009), [Information For All: European standards for making information](#)



3) Always speak clearly and slowly, using simple language and avoid jargon.³² As previously mentioned, misinterpretation of words and gestures is a typical symptom for both intellectual and psychosocial disabilities³³, which can lead to additional anxiety and mistrust towards the police officer, the prosecutor or the judge. This is why, first-line practitioners should make an extra effort to use short sentences in a clear, simple and unambiguous language, without any jargon. Clarity is above everything else and the use of different words for the same concept should be avoided (for example ‘people’ and ‘individuals’).³⁴ Acronyms, abbreviations, figurative speech (for example sarcasm or metaphors) and abstract references should also be avoided.

4) Keep questions simple and precise, avoid double negatives. ‘Yes/no’ answers should be tested with additional questions (such as ‘why do you say that?’ or ‘can you give me an example?’), since the person may be reluctant to elaborate. The person may make contradictory statements, which requires additional questions to find out the true answer. If there is doubt whether the person understands of the question, they can be either asked to repeat it in their own words, or asked ‘**Can you tell me what I have just said so I know I have explained it properly?**’³⁵. This is crucial when it comes to the person understanding their rights and the consequences of a confession.³⁶ Asking open-ended questions guarantees that the person has to think about the answer. In case they are struggling to understand the question, it might be a good idea to break it down into several ‘yes/no’ questions, as they help the person to focus, or give them a multiple choice.

5) Keep interviews short. The lower the level of understanding or communication skills, the harder it usually is for the interviewee to bear a longer interview (for example an interview of over an hour) without losing their concentration. A break in the middle of the interview is often useful, but it is rather pointless to continue for more than another half an hour. The interview should better be discontinued if the interviewee seems to be getting distressed.

[easy to read and understand](#); Foundation for People with Intellectual Disabilities, part of the Mental Health Foundation, [Learning Disabilities A-Z: Easy Read](#); CHANGE Organisation (2016), [How To Make Information Accessible. A guide to producing easy read documents](#).

³² Terms such as ‘arrested’, ‘suspected’, ‘accused’, ‘defendant’, for example, are likely to need explaining.

³³ For example, some people with autism might take certain common sayings literally, such as saying ‘it will only take a minute’, when in reality a process may take longer to complete.

³⁴ Cumbria Partnership / NHS Foundation Trust (2015), [Learning Disability Awareness Pack \(Adult Services\)](#).

³⁵ Intellectually disabled people may have stronger receptive (understanding) communication skills than expressive skills, and a person’s expressive speech may sometimes give an impression of better comprehension than is actually the case, so their understanding must be checked.

³⁶ There are known cases where a detainee with intellectual disabilities has confessed to a crime so they can ‘leave earlier’ or to try to please the person asking the questions.



In order to appear 'normal' and avoid the stigma experience, people with intellectual or psychosocial disabilities often try to manage or ignore their impairments, which creates an additional barrier to effective communication. This is why police and judicial officers should carefully choose their words, when describing mental ill health or intellectual disabilities, in order to avoid causing additional distress. The National Autistic Society³⁷ proposes that first-line practitioners ask questions such as: '**Do you have any difficulties that I may not be aware of?**'.

It may be particularly difficult for some people to concentrate in a place with many distractions and moving to a quieter place might be a good idea.

Other helpful questions to elicit information about possible intellectual or psychosocial disability include:³⁸

- **Do you need help to complete forms or with reading?**
- **Did you receive extra help at school? Was it with writing, reading or maths?**
- **Do you work – if so, what do you do?**
- **Can you tell me where you live and who you live with?** (This can tell us if the person lives alone, lives with their family or in supported accommodation with staff helping them).
- **Do you get help to support you with looking after your home – shopping, cooking, paying bills?**
- **Are you in contact with someone like a nurse, doctor or psychologist?**
- **Are you on any medication?**

Why are these tips important and what happens, when they are not applied?

One of the most crucial moments of criminal proceedings is explaining the accused/defendant their rights.

According to several US studies³⁹, regarding the ability of people with intellectual disabilities to make knowing Miranda⁴⁰ waivers, it is much more difficult for people with even mild intellectual disability to understand the Miranda warnings, as compared to those with

³⁷ Founded in 1962, [The National Autistic Society](#) is the UK's leading charity for autistic people and their families. Their goal is to help transform lives, change attitudes and create a society that works for autistic people.

³⁸ Foundation for People with Learning Disabilities (2011), [How to spot signs that a person has a learning disability](#).

³⁹ Devoy, P. (2014), [The Trouble with Protecting the Vulnerable: Proposals to Prevent Developmentally Disabled Individuals from Giving Involuntary Waivers and False Confessions](#), in Hamline Law Review, Vol. 37, Iss. 2, Article 2.

⁴⁰ In the United States, the Miranda warning is a type of notification customarily given by police to criminal suspects in police custody (or in a custodial interrogation) advising them of their right to silence. The Miranda warning is part of a preventive criminal procedure rule that law enforcement are required to administer to protect an individual who is in custody and subject to direct questioning or its functional equivalent from a violation of their Fifth Amendment right against compelled self-incrimination.



average intelligence.⁴¹ Apart from lower IQ, people with intellectual difficulties have other characteristics, such as suggestibility and strong desire to please others, that may impair their ability to knowingly waive their rights.⁴²

As far as psychosocial disabilities are concerned, there are a number of mental health conditions,⁴³ that can significantly affect a person's intellectual and adaptive function. Even mental health illnesses that are not defined by a decline in cognitive functioning, such as depression, anxiety, and schizophrenia, can limit a person's ability to understand Miranda warnings.⁴⁴ For example, in a study 75 psychiatric patients were evaluated with respect to their Miranda-related abilities. The results revealed that 60% did not understand at least one Miranda right.⁴⁵

Section Three: Communication

Given the specifics of criminal proceedings, any contact with members of the public requires criminal justice professionals to exercise good communication techniques. These may need to be adjusted when dealing with people experiencing psycho-social or intellectual problems. In particular, police officers, prosecutors, lawyers, judges and prison staff should be aware that difficulty with communication is a defining feature of having a psychosocial or intellectual disability.

Effective communication can increase the availability of information from the individual (concerning their illness or disability and the rationale for their behaviour) and enable informed decision making. This is valuable information if an individual intends to self-harm or take their own life, or if there are immediate safety concerns for the public.⁴⁶

De-escalation

De-escalation is an approach and range of tactics that is intended to escape escalations of conflicts and may be used by the police or other criminal justice professionals to calm an agitated individual in order to prevent (or at least reduce) the necessity of use of force or restraint.

⁴¹ Fulero, S.M. and Everington, C. (2004), Assessing the Capacity of Persons with Mental Retardation to Waive Miranda Rights: A Jurisprudent Therapy Perspective, in *Law & Psychology Review*, 28, 53-59.

⁴² Ibid.

⁴³ For example, dementia or organic brain syndrome.

⁴⁴ Powell, J.L. (2016), [Do you understand your right as I have read them to you? Understanding the warning fifty years post Miranda](#), in *Northern Kentucky Law Review*, vol. 43:3.

⁴⁵ Cooper, V.G. and Zapf, P.A. (2008), Psychiatric Patients' Comprehension of Miranda Rights, in *Law and Human Behavior* 32(5):390-405.

⁴⁶ United Kingdom, College of Policing (2018), [Authorised Professional Practice: Mental health: Mental vulnerability and illness](#).



Practitioners' experience suggests that, where possible, criminal justice professionals should maximise the time and space provided so that an individual is offered every opportunity to calm down. Failure to listen and actively engage in dialogue to draw out an explanation for apparently aggressive or odd behaviour represents a missed opportunity to de-escalate.⁴⁷ For example, a study shows, that telling a delusional person that, although sceptical, you want to listen to their accounts and understand how their beliefs may justify their actions, may help de-escalate such situations.⁴⁸

The **English modified version of the 'De-Escalating Aggressive Behaviour Scale' (EMDABS)**⁴⁹ contains the following steps:

1. **Valuing the client:** Provides genuine acknowledgement that the client's concerns are valid, important and will be addressed in a meaningful way.
2. **Reducing fear:** Listens actively to the client and offers genuine empathy while suggesting that the client's situation has the potential for positive future change.
3. **Inquiring about client's queries and anxiety:** Can communicate a thorough understanding of the client's concerns, and works to uncover the root of the issue.
4. **Providing guidance to the client:** Suggests multiple ways to help the client with their current concerns and recommends preventative measures.
5. **Working out possible agreements:** Takes responsibility for the client's care and concludes the encounter with an agreed-upon short-term solution and a long-term action plan.
6. **Remaining calm:** Maintains a calm tone of voice and steady pace that is appropriate to the client's feelings and behaviour.
7. **Risky:** Maintains a moderate distance from the client to ensure safety, but does not appear guarded and fearful.

As a response to criticism after numerous high-profile killings of civilians by police officers, some police forces in the US adopted de-escalation training, designed to reduce the risk of confrontations turning violent or deadly for anyone involved.⁵⁰ The First Step Act⁵¹ among many provisions mandates de-escalation training, especially for incidents that involve the unique needs

⁴⁷ Ibid.

⁴⁸ Lipson, G.S., Turner, J.T. and Kasper, R. (2010), A strategic Approach to Police Interactions Involving Persons with Mental Illness, in *Journal of Police Crisis Negotiations*, vol. 10, Abingdon-on-Thames: Taylor & Francis.

⁴⁹ Mavandadi, V., Bieling, P.J. and Madsen, V. (2016), Effective ingredients of verbal de-escalation: validating an English modified version of the 'De-Escalating Aggressive Behaviour Scale', in *Journal of Psychiatric and Mental Health Nursing*, 23(6-7).

⁵⁰ Apuzzo, M. (2015), [Police Rethink Long Tradition on Using Force](#); Johnson, K. (2015), [In face of criticism, police officials preaching de-escalation tactics](#); Wilkens, J. (2016), [Police embrace 'de-escalation' to reduce shootings, but some officers remain skeptical](#); Leahy, K. (2016), [Police De-Escalation Techniques Validated In New Jersey County](#).

⁵¹ The [Formerly Incarcerated Reenter Society Transformed Safely Transitioning Every Person Act](#) or First Step Act reforms the federal prison system of the United States of America, and seeks to reduce recidivism.



of individuals who have a mental illness or cognitive deficit. However, it is not specified what type of techniques are to be in the de-escalation training. This is an important question, because despite its importance in practice, there is little agreement amongst researchers on the necessary techniques⁵² of de-escalation and most of the research on the topic is based on qualitative data and professional observations.

Strategies for improving communication

1. Mental Health Training. There are different forms of mental health training for non-professionals. Studies show the benefits of engaging the participants, both intellectually and emotionally, with realistic “hands-on” scenarios, which focus primarily on verbal and non-verbal communication, increasing empathy, and de-escalation strategies.⁵³

2. Less coercive forms of communication. A coercive approach of communication pays little attention to the people, their ideas or their needs and, instead, focuses on forcing another party to act in an involuntary manner by use of intimidation or threats. According to a research paper, people with mental illness who perceived the police as being less coercive when communicating with them were typically more satisfied with their interactions and more likely to think they had been treated fairly and with respect.⁵⁴

3. Respect and compassion. People with psycho-social and intellectual disabilities should be treated with a dignity and respect. They should be treated like adults and not be patronized and/or condescended. The emotional pain and fear these people are experiencing are real and should be acknowledged. People with various mental health conditions were more likely to be satisfied with their police interactions when officers were compassionate and respectful, taking extra time to show concern, check their welfare and talk to them. Additionally, they believed officers should demonstrate these skills more when interacting with them.⁵⁵ For example, the hallucinations or the delusions a person may experience are their reality and they couldn't be convinced otherwise. They experience the hallucinations or delusional thoughts as real and are motivated by them. While the criminal justice professional should let the person know, that they

⁵² See Mavandadi, V., Bieling, P.J. and Madsen, V. (2016), Effective ingredients of verbal de-escalation: validating an English modified version of the 'De-Escalating Aggressive Behaviour Scale', in *Journal of Psychiatric and Mental Health Nursing*, 23(6-7); Hankin, C., Bronstone, A. and Koran, L. (2011), [Agitation in the Inpatient Psychiatric Setting](#), in *Journal of Psychiatric Practice* 17(3):170-185; Price, O. and Baker, J. (2012), Key components of de-escalation techniques: A thematic synthesis, in *International Journal of Mental Health Nursing*, 21(4):310-9.

⁵³ Krameddine, Y. and Silverstone, P.H. (2014), [How to Improve Interactions between Police and the Mentally Ill](#), in *Frontiers in Psychiatry*, 5:186.

⁵⁴ Livingston, J.D. et al (2014), Perceptions and experiences of people with mental illness regarding their interactions with police, in *International Journal of Law and Psychiatry*, Vol. 37, Iss. 4, pp. 334-340, Amsterdam, Elsevier.

⁵⁵ Livingston, J.D. et al (2013), What influences perceptions of procedural justice among people with mental illness regarding their interactions with the police?, in *Community Mental Health Journal* 50(3), Berlin, Springer.



understand that hallucinations/delusional thoughts are happening, they should not pretend that they are experiencing them too.⁵⁶

4. Listening and allowing active participation. The criminal justice professional should listen actively⁵⁷ and tell the accused/defendant when they understand what they are saying and when they do not. People were more likely to be satisfied when police officers directly communicated with and involved them in the interaction, allowing them to 'have a voice' to explain their version of events.⁵⁸

5. Patience. Patience, flexibility and support are key. The accused/defendant with psychosocial or intellectual disability should be given enough time to process the questions and to respond. Research shows this to be particularly useful for interacting with individuals with depression, autism or intellectual disability.⁵⁹ People also recommended that police officers should interact with them in a patient and calm manner to show they are there to help.⁶⁰

6. Honesty. Psycho-social disability (unlike intellectual difficulties) has nothing to do with intelligence level and mentally ill people are not to be expected to believe anything they are told. If they realise they are being lied to, this will most likely break any type of connection, that the criminal justice specialist is trying to establish.⁶¹

Transition of a Checklist into Use

Criminal justice professionals have discovered people with psychosocial and/or intellectual disabilities are more likely to come in contact with criminal justice system.⁶² That is why, agencies must consider effective and efficient means for addressing issues related to such persons.

⁵⁶ Swink, D.F. (2010), [Communicating with People with Mental Illness: The Public's Guide](#), in Psychology Today.

⁵⁷ Fully concentrating on what is being said, through use of a range of techniques (such as mirroring, paraphrasing, emotion labelling and use of open-ended questions) to demonstrate an understanding of the person's needs.

⁵⁸ Watson, A.C. et al (2008), Defying negative expectations: Dimensions of fair and respectful treatment by police officers as perceived by people with mental illness, in Administration and Policy in Mental Health and Mental Health Services Research 35(6):449-57, Berlin, Springer; Gregory, M.J. and Thompson, A. (2013), From here to recovery: One service user's journey through a mental health crisis: some reflections on experience, policy and practice, in Journal of Social Work Practice, Vol. 27, Iss. 4, pp.455-470, Abingdon-on-Thames, Taylor & Francis.

⁵⁹ Ireland, C.A., Fisher, M.J. and Vecchi, G.M. (2011), Conflict and Crisis Communication: Principles and Practices, Abingdon-on-Thames, Routledge; Castellano-Hoyt, D.W. (2003), Enhancing Police Response to Persons in Mental Health Crisis: Providing Strategies, Communication Techniques, and Crisis Intervention Preparation in Overcoming Institutional Challenges, Springfield, Charles C Thomas Publisher Ltd.

⁶⁰ Watson, A.C. et al (2008), Defying negative expectations: Dimensions of fair and respectful treatment by police officers as perceived by people with mental illness, in Administration and Policy in Mental Health and Mental Health Services Research 35(6):449-57, Berlin, Springer.

⁶¹ Swink, D.F. (2010), [Communicating with People with Mental Illness: The Public's Guide](#), in Psychology Today.

⁶² Nyberg, R. (2012), Damaged: Understanding and Responding to the Problems Involving the Mentally Ill Tend to Be Both Challenging and Difficult to Manage, in Police and Security News, Vol. 28, No. 5 (2012): 8-11.



Mental-health-screening checklists currently are in use in correctional settings and have proven effective both in classifying and determining possible security placements and treatments. This suggests the possibility of developing a similar mental-health checklist for use by law enforcement, magistrates and lawyers.⁶³

Such a checklist should easily be usable in practice and help criminal justice professionals make a quick and accurate assessment. Finding the right balance between conciseness and content can be a particular challenge. Additionally, such a checklist should be taken with a grain of salt, not as a panacea, but as another tool to help make an informed decision. For example, the exhibition of one or two of the behavioural cues, does not necessarily mean that the individual has a mental disorder or an intellectual impairment.

Finally, the stigma on people with psychosocial and intellectual disabilities cannot be lifted overnight, by a simple screening tool. Research has suggested that interventions can change attitudes toward individuals with mental health problems and that training can help police officers feel more informed and confident in how to support individuals with mental health problems.⁶⁴ Various studies found that officers, who received mental health training⁶⁵, believed in the importance of patient and empathetic communication with people, experiencing mental health crisis and perceived non-physical actions as more effective than force, especially in response to an escalating mental health crisis.⁶⁶ However, increased knowledge about specific psychiatric conditions may not change attitudes or behaviour⁶⁷, and specific training on de-escalation techniques may not decrease the number or severity of physical interactions with individuals with mental health problems.⁶⁸ In 2013, a research team tested a novel approach to training police officers to interact with people with possible psychosocial disability, focused on improving active listening and empathy. Feedback on the experience from both officers and

⁶³ Mason C., Burke T.W. and Owen S.S. (2014), [Responding to Persons with Mental Illness: Can Screening Checklists Aid Law Enforcement?](#), in FBI Law Enforcement Bulletin.

⁶⁴ Pinfold, V., Huxley, P., Thornicroft, G. et al (2003), Reducing psychiatric stigma and discrimination: evaluating an educational intervention with the police force in England, in *Social Psychiatry and Psychiatric Epidemiology* 38(6):337-44.

⁶⁵ CIT training in particular. CIT (crisis intervention team) is a training in the US law enforcement to help guide interactions between law enforcement and those living with a mental illness.

⁶⁶ Compton, M.T. et al (2011), Use of force preferences and perceived effectiveness of actions among crisis intervention team (CIT) police officers and non-CIT officers in an escalating psychiatric crisis involving a subject with schizophrenia, in *Schizophrenia Bulletin* 37(4):737-45, Oxford, Oxford University Press.

⁶⁷ Godschalx, S.M. (1984), Effect of mental health education program upon police officers, in *Research in Nursing and Health*, Vol. 7, Iss. 2, pp. 111-117.

⁶⁸ Laker, C., Gray, R. and Flach, C. (2010), Case study evaluating the impact of de-escalation and physical intervention training, in *Journal of Psychiatric and Mental Health Nursing* 17(3):222-8.



actors, highly trained to present realistic psychiatric scenarios, was very positive. Further research is needed, however, to determine the impact of the training on behaviour.⁶⁹

⁶⁹ Silverstone, P.H., Krameddine, Y.I., DeMarco, D. and Hassel, R. (2013), [A Novel Approach to Training Police Officers to Interact With Individuals Who May Have a Psychiatric Disorder](#), in Journal of the American Academy of Psychiatry and the Law Online September 41(3):344-355.