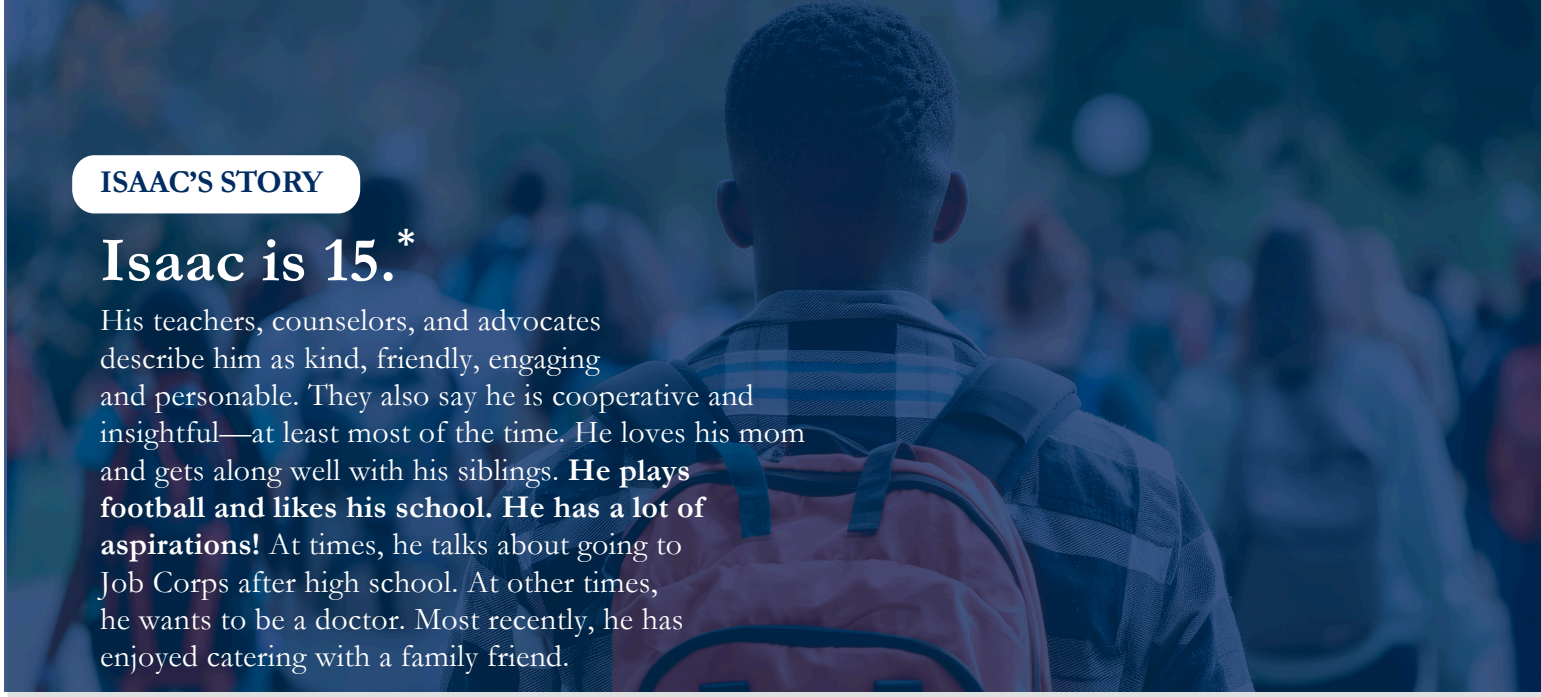
Juvenile Justice Initiative

GEORGETOWN LAW



Creating a Trauma-Informed Juvenile Legal System for Youth with Disabilities

The Georgetown Juvenile Justice Clinic and Initiative
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ISAAC'S STORY

Isaac is 15.*

His teachers, counselors, and advocates describe him as kind, friendly, engaging and personable. They also say he is cooperative and insightful—at least most of the time. He loves his mom and gets along well with his siblings. **He plays football and likes his school. He has a lot of aspirations!** At times, he talks about going to Job Corps after high school. At other times, he wants to be a doctor. Most recently, he has enjoyed catering with a family friend.

Unfortunately, Isaac's dreams are harder for him to reach than other kids because he does not receive the support he needs at school, in the community, and in the healthcare system. Isaac has struggled to control his impulses and emotions since at least age seven. He rarely sleeps through the night and struggles to use his coping skills during the day. He has punched a hole in the wall and broken windows when his anger and frustration got the best of him. He has a hard time reading and teachers have disciplined him for emotional outbursts and fights with other students.

Isaac was first diagnosed with attention-deficit/hyperactivity disorder **(ADHD**) and has been treated with Ritalin and Concerta. That diagnosis was later supplemented with Disruptive Mood Dysregulation Disorder **(DMDD)**.

Isaac's first visit to a psychiatric hospital occurred when he was 10, after he climbed onto a third-floor balcony and almost fell. His mom called the police to help get him down. When the police arrived, Isaac hit and kicked the officers, threatened to kill his mom, and banged his head against the wall and doors. Isaac has been admitted to the hospital several times since then, often after suicidal statements and other impulsive behaviors.

In recent years, Isaac's disabilities have been compounded by multiple traumatic events, including the loss of five friends to gun violence. One friend's death by suicide about 18 months ago led Isaac to depression, sleep loss, and thoughts of self-harm**. In the wake of this and other traumas, Isaac's most recent psychiatric evaluation added a diagnosis of Unspecified Trauma and Stressor Related Disorder.**

As often as Isaac's mother has called 911 for mental health support and crisis intervention, others have called 911 for a law-enforcement response. **Unfortunately, when Isaac's aggressive outbursts are best understood as a manifestation of his disabilities and trauma, those behaviors sometimes also meet the elements of a crime.** Isaac has been arrested seven times—the first of which occurred at age 13 when he threatened his mother with a shard of glass. **His mother never could have predicted that her call for help would land her son in a detention facility and spiral into a series of court hearings and criminal prosecutions.**

*This is an anonymized account based on the experience of one of the author's clients.

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How to Use This Guide:

- Throughout the guide, **follow Isaac's story** for a real-life example of how youth with disabilities and their families experience the juvenile legal system.
- Read **Section I** for answers to frequently asked questions about how youth in the juvenile legal system experience the **co-occurrence of disabilities and trauma.**
- Refer to **Section II** to **learn more about specific disabilities commonly experienced by youth in the juvenile legal system**, how trauma manifestations may vary by disability, and how standard court and legal system procedures may traumatize (or retraumatize) youth with disabilities.
- **Adopt the strategies in Section III** to avoid the criminalization and traumatization of youth with disabilities in the juvenile legal system.
- Turn to the **appendix** for examples of common misinterpretations of the manifestations of disabilities and trauma, paired with alternatives to criminalization that are rooted in trauma-informed care.

Introduction

The prevalence of trauma among youth in the juvenile legal system is well-established. Approximately 76-93% of youth in the juvenile legal system have experienced trauma.[5] On average, these youth have experienced more than six traumatic events in their short lives.[6] Experts note that over 11% of youth in the juvenile legal system will develop post-traumatic stress disorder (PTSD), compared to less than 5% of youth in the general population.[7] Acknowledging this reality, many courts throughout the country have incorporated principles of trauma-informed care into their practice. The National Council of Juvenile and Family Court Judges adopted a Trauma-Informed Court model that urges system actors to communicate with compassion to protect youth and families from experiencing additional trauma within the legal system.[8]

Although judges and system actors have made great strides in developing trauma-informed juvenile courts,[9] there is a dearth of resources available to help system actors understand how youth with disabilities uniquely experience and respond to trauma. Many youth in the juvenile legal system who have experienced trauma also live with disabilities. An estimated 65-70% of youth in the juvenile legal system have a disability—a rate three times higher than in the general population.[10] This disparity can be connected to the criminalization of disability-related behaviors and trauma responses.

Without specialized knowledge about the intersection of disabilities and trauma, system actors risk adding more trauma to the lives of youth with disabilities by failing to adapt trauma-informed principles to meet the needs of these youth. System actors also risk misinterpreting the trauma responses of youth with disabilities as defiant, deviant, or otherwise criminal. Youth of color with disabilities are even more likely to suffer harm due to this misinterpretation of their disability- and trauma-related behaviors.[11]

Unless system actors recognize and accommodate youth with disabilities and account for their particularized trauma responses, the core principles and practices of trauma-informed courts may not be adequate to meet the needs of youth with disabilities. This guide will help system actors adapt trauma-informed practices to meet the specialized needs of youth with disabilities. This guide is not designed to advise system actors on how to treat or address underlying trauma or disabilities, but rather to offer guidance on how to accommodate the needs of youth with disabilities and trauma histories to avoid triggering them and to protect youth from criminalization for their disability- and trauma-related behaviors.

Defining Disability:

The Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 define disability as a physical or mental impairment that substantially limits a major life activity.[1] Any physical or mental health condition (including those related to trauma) can be considered a disability pursuant to the ADA and Section 504, if they meet this definition. Disability justice advocates emphasize that the limitations people with disabilities experience are not caused by the person's own characteristics but instead by the systemic, attitudinal, and physical barriers to access that exist in society.[2]

Defining Trauma:

The American Psychological Association defines trauma as "any disturbing experience that results in significant fear, helplessness, dissociation, confusion, or other disruptive feelings intense enough to have a long-lasting negative effect on a person's attitudes, behavior, and other aspects of functioning."[3] Trauma may cause a person to experience difficulty concentrating, fear, hopelessness, hypervigilance, or other symptoms of emotional distress.[4] **Not all people impacted by trauma will be diagnosed with PTSD or identify as having a trauma-related disability.**

Defining System Actors:

System actors include all of the people who work in the juvenile legal system, including judges, prosecutors, defense attorneys, probation officers, law enforcement, court officers, detention and residential facility staff, service providers, and others.

I.

Understanding the Intersection of Disabilities and Trauma in the Juvenile Legal System



I. Understanding the Intersection of Disabilities and Trauma in the Juvenile Legal System

As system actors continue to serve a disproportionately high number of youth with disabilities in the juvenile legal system, many are asking important questions about the intersection of disabilities and trauma. The following questions and answers provide a foundation for understanding how youth with disabilities and trauma histories enter the juvenile legal system and how disabilities and trauma impact their experiences within the system.

A. The Overrepresentation of Youth with Disabilities in the Juvenile Legal System

Why are youth with disabilities more likely to have contact with the juvenile legal system?

Youth with disabilities—especially disabilities that impact their capacity to regulate their emotions or follow instructions—are at great risk of arrest or referral to juvenile court when law enforcement and other authority figures view the manifestations of their disability as criminal. Police are rarely trained to safely and appropriately engage with people with disabilities and often fail to recognize people with invisible disabilities (such as autism, attention-deficit/hyperactivity disorder, and intellectual disabilities). One study notes that 75% of people with intellectual and developmental disabilities who are arrested are not recognized by police as having a disability.[12] Even when police or other authority figures identify youth as having disabilities, they may still respond punitively to disability-related behaviors. Schools refer youth with disabilities to law enforcement at rates more than twice the referral rate for youth who do not have disabilities.[13]

Have all youth with disabilities received a formal diagnosis before entering the juvenile legal system?

No. Some youth will have access to the resources necessary for proper diagnosis and support for their disability through their school or healthcare providers before entering the juvenile legal system. Other youth–especially youth of color or youth experiencing poverty–will not have received the proper diagnosis or treatment.[14]
See below for more information on the impact of implicit racial bias in misdiagnosis.

Diagnosis is only one piece of information system actors may have to better understand the youth in their care. Some youth who enter the system will not have been diagnosed, while others may have been misdiagnosed with a condition that does not accurately reflect the youth's experience. Most system actors are not healthcare professionals and lack the necessary training and credentials to diagnose disabilities, but they can all listen to youth as they talk about their lived experiences, connect youth to qualified healthcare providers, and accommodate a youth's individual needs to ensure their rights are protected.

Not all youth with disabilities, even those who have been formally diagnosed, will *identify* as having a disability.

While there are many amazing self-advocates and allies working to change the ways disabilities are perceived, there is still a great deal of stigma associated with all types of disabilities.* Youth may be uncomfortable with conversations about their disability or may not want to seek a diagnosis because of the stigma. System actors (including defense attorneys) can ask youth about their preferences when determining whether and how to discuss disabilities.

*See callout box about ableism on page 10 to learn more about stigma against disabilities.

Why do youth with disabilities linger and sometimes languish in the juvenile legal system after arrest?

Once they enter the juvenile legal system, youth with disabilities are often expected to follow strict rules under close supervision without necessary accommodations. This creates a cycle of re-arrest as probation officers, placement staff, and other system actors punish youth for violations of court-ordered conditions or placement rules.[15] Youth with disabilities are more likely to receive subsequent charges than other youth on probation and are often unfairly and inaccurately labeled as "recidivists."[16] They are also more likely to be incarcerated.[17]

What laws protect the rights of youth with disabilities in the juvenile legal system?

Several federal statutes protect the rights of people with disabilities, including youth involved in the juvenile legal system.* These include:

- The Americans with Disabilities Act (ADA), which prohibits any public entity (regardless of their size or whether they receive federal funding) from discriminating against people with disabilities, including by:
  1) failing to make necessary accommodations to ensure people with disabilities can access programs and services, or
  2) failing to provide services to people with disabilities in the least restrictive setting appropriate to meet their needs, thereby preventing unnecessary institutionalization[18]
- The Individuals with Disabilities Education Act (IDEA), which guarantees a "free and appropriate" public education in the least restrictive environment for all youth with disabilities (including incarcerated youth), in a manner consistent with their individual needs[19]
- Section 504 of the Rehabilitation Act of 1973, which preceded the ADA and IDEA and prohibits discrimination against people with disabilities by public entities that receive federal funding[20]

Common disabilities experienced by youth in the juvenile legal system include:

- **Autism spectrum disorder** (ASD)[21]
- **Attention-deficit/hyperactivity disorder** (ADHD)[22]
- **Major clinical depression**
- **Generalized anxiety disorder**[23]
- **Fetal alcohol spectrum disorder** (FASD)[24]
- **Intellectual disability** (ID)[25]
- **Learning disabilities**, including dyslexia (affects reading), dyspraxia (affects writing), dyscalculia (affects math abilities)[26]
- **Post-traumatic stress disorder** (PTSD)[27] (*many youth who do not have a formal PTSD diagnosis will have also experienced trauma)
- **Speech and language disabilities**[28]
- **Traumatic brain injury** (TBI)[29]

For more information see:

- Section II: Manifestations of Disabilities and Trauma in the Juvenile Legal System
- Appendix: Understanding Manifestations of Disabilities and Trauma Responses in the Juvenile Legal System
- Common Disabilities Experienced by Youth in the Juvenile Legal System by the Georgetown Juvenile Justice Clinic & Initiative

*Additional protections may exist in state statutes and constitutions.

B. The Intersection of Disabilities and Trauma

Are youth with disabilities more likely to experience trauma? And if so, why?

Studies show that people with psychological or emotional disabilities, learning disabilities, and physical disabilities are all more likely to experience trauma in the form of violence, abuse, and neglect than people without disabilities.[30] Children who experience speech conditions, such as language development delays, are also more likely to experience trauma, including bullying by classmates.[31] Researchers have found that youth with disabilities are at least three times more likely than other youth to be abused or neglected.[32] Another study found that boys with disabilities were over-represented in all categories of abuse, including sexual abuse.[33]

Many young people with disabilities in the juvenile legal system live in group homes, treatment centers, or youth prisons and jails where they are separated from their families and loved ones. Violence and abuse are more common in these facilities than in community-based settings.[34] Further research must be done to fully understand the reasons behind this complex problem, but experience teaches us that youth with disabilities may not be able to defend themselves or escape when targeted for abuse by other residents or staff. They also may be unable to report that abuse or may not be believed when they do report abuse, making them more vulnerable to repeated attacks.[35]

How might trauma impact youth with disabilities differently than youth without disabilities?

Events that seem normal or only mildly bothersome to youth without disabilities may be stressful, traumatizing, or otherwise "triggering" for youth with disabilities. Disabilities impacting cognition and mental processing can influence a child's ability to process traumatic experiences. Researchers studying resilience and traumatic stress reactions found that people with lower intelligence or cognitive disabilities were more vulnerable to developing PTSD after experiencing trauma.[36] Youth who have ADHD and experience trauma have a higher chance of developing PTSD when compared to children who do not have ADHD.[37]

Trauma responses may vary among youth with disabilities. For all youth, trauma responses generally fall into two broad categories: 1) externalizing symptoms where stress manifests in outward behaviors like aggression, thrill seeking, or substance use, and 2) internalizing symptoms such as depression, worry, social anxiety, or other inward manifestations of stress.[38] Youth with disabilities may be more easily triggered than youth without disabilities and may present seemingly more intense trauma responses than other youth. For example, youth with ADHD who experience traumatic events, like Isaac, are more likely to exhibit more severe trauma symptoms (including emotional outbursts, opposition to authority figures, and increased difficulty staying focused) than those without ADHD.[39]

Youth with disabilities may also be unable to recognize and articulate the source of their trauma or the link between their trauma and behavior. They may even deny trauma or the impact of trauma when directly asked. For example, the Kennedy Krieger Institute's Center for Child and Family Traumatic Stress found that children with autism can have difficulty discussing their traumatic experiences.[40] When asked about trauma, they are more likely to reduce or deny the true impact of a traumatic experience and their feelings about it.[41]

Trauma symptoms may be missed or obscured if they resemble behaviors already connected to the youth's disability.[42] "Diagnostic overshadowing" can occur when trauma is ignored as a contributing factor and all of the youth's behavior is attributed to their disability.[43] In this process, practitioners attribute trauma symptoms like irritability or difficulties with concentration to behaviors associated with their disability.[44] For example, even though youth with autism are more likely to experience abuse and victimization, one study found that youth with autism were 42% less likely to receive trauma-related diagnoses than youth without autism.[45] The converse is also possible—adults may recognize a youth's trauma but completely miss or misdiagnose their disability.[46]

Diagnostic Overshadowing:

A phenomenon that occurs when practitioners overlook signs of psychological distress in youth with disabilities by attributing their trauma-related behaviors solely to their disability.[47] When symptoms are not accurately identified as being connected to trauma, youth may not receive the treatment they need to heal.[48]

How do youth with disabilities experience trauma and retraumatization* in the juvenile legal system?

Youth with disabilities who have experienced trauma in the past are vulnerable to retraumatization from seemingly benign, routine practices of the courtroom and legal system.[49] This is true for youth with PTSD and other mental health disabilities, as well as youth with cognitive disabilities like ADHD, autism, learning disabilities, and youth with traumatic brain injuries.[50]

Youth whose disabilities impact their sensitivity to sensory stimuli, like autism and obsessive compulsive disorder (OCD), may be distressed by the cacophony of noises in the court lobby, the abrupt sound of cell doors slamming shut, the flashing lights on a police car, or the smell of a probation officer's lunch lingering in the office during their meeting.[51] The rigid structure of the courtroom process may be confusing to youth with disabilities, causing them distress when they do not understand what is happening or cannot answer the judge's question.[52] Youth with learning disabilities or autism may raise their hands awkwardly, speak out of turn, or get frustrated or angry when they are not allowed to speak in court or in a meeting with their probation officer. Youth with speech-language disabilities may need extra time to process and respond to police commands or need visual aids when discussing their case with their attorney.[53] All youth, especially those with disabilities, may experience extreme stress when incarcerated or otherwise separated from their families.[54] When adults do not understand and accommodate their needs, youth with disabilities may experience trauma or retraumatization that undermines the rehabilitative goals of the juvenile legal system, hinders healthy development, and makes it more challenging for youth with disabilities to thrive.[55]

ISAAC'S STORY

Isaac's past experiences cause him to be afraid and respond defensively anytime police approach him.

Isaac experienced a particularly traumatic encounter with law enforcement when he was 15, exacerbating his depression and ruminations about suicide. After federal officers stopped and surrounded him unlawfully, he was arrested for head-butting and spitting on the officers. The charges were later dismissed, but the traumatic impact was immediate and persistent. In the weeks following that arrest, Isaac was so afraid of the police that he jumped out of a window and ran away from home when two police officers came by to interview his sister as a potential witness in a case completely unrelated to Isaac. **Isaac's past traumatic experiences with police, combined with ADHD and DMDD, contribute to his impulsive and emotional responses in routine police encounters.**

Unfortunately, adults have called police on Isaac many times for behaviors related to his disabilities. Like many youth with ADHD, Isaac often finds planning and organizing overwhelming and seeks to please others to secure friendships and avoid rejection. Isaac has repeatedly been identified as a "follower" who seeks the validation and protection of his friends and family. On three occasions, Isaac was arrested for following his older brother or an older friend who were involved in adolescent misconduct.

Although Isaac is creative, hardworking, and outgoing, his lengthy record makes him look like a threat to public safety and increases the likelihood that he will be detained after every arrest. **Detention becomes the default when system actors don't understand the underlying causes of his behaviors or don't have the resources to respond effectively.** Unfortunately, detention makes Isaac's involvement with the system even worse. Isaac has been bullied in multiple facilities. In his first group home placement, Isaac's mother asked the court to return him home after learning that other residents had threatened him, adding to his anxiety and insomnia. In secure detention, a resident initiated a fight by punching Isaac in the face. Thirteen days later, Isaac was attacked by two additional residents. Isaac's face was still visibly bruised and swollen when his mother and defense counsel visited him several days after the attack.

To make matters worse, every time Isaac is sent to detention, he is separated from his mother—his primary, and sometimes sole, advocate for services to address his disabilities. Isaac also cannot attend the special education school where he thrives and cannot work with the catering job that gives him a sense of purpose and accomplishment. Isaac often tries to speak up for himself in court but is often shut down by judges who tell him to "talk to your lawyer!"—especially when he is not being as respectful as adults want him to be.

***Retraumatization** occurs when a new event causes a person to relive the stress of a past traumatic event, compounding psychological harm. For more information, *see* Substance Abuse & Mental Health Servs. Admin., U.S. Dep't of Health & Hum. Servs., HHS Pub. No. SMA-17-5047, Tips for Survivors of a Disaster or Other Traumatic Event: Coping with Retraumatization 1 (2017).

ISAAC'S STORY

The delinquency system has been a real mismatch for Isaac's needs.

The judge ordered a competency evaluation at Isaac's very first court hearing. **It was evident, even then, that Isaac's disabilities would impact his understanding of the proceedings and his ability to assist counsel.** When the court psychologist found Isaac incompetent to stand trial, the judge held Isaac in a group home and ordered him to complete "competency restoration" classes. The prosecutors persisted with their prosecution.

Isaac's most recent arrests occurred inside detention facilities that were not equipped to meet his needs. In the group home, Isaac was arrested for tampering with the security camera and theft of the facility's van keys when he ran away from the boys who were terrorizing and harassing him. He never got in the van and never used the keys. Isaac was arrested for simple assault when he hit a kid in secure detention to show other kids that he was not scared anymore and to prevent any other kids from bullying him.

C. Misperceptions of Disabilities and Trauma Contributing to the Criminalization of Youth of Color

How are disabilities and trauma responses misunderstood as deviance and misconduct?

Youth with disabilities who have experienced trauma are vulnerable to being criminalized for their trauma responses or manifestations of their disability.[56]

Experts in the school setting have noted:
"[B]ehaviors exhibited by students with disabilities are often misattributed to 'poor conduct' when they are, in fact, traumatic stress reactions. For example, a child engaging in repetitive behaviors may be perceived as 'noncompliant' or a student with autism may be required to stop rocking; yet these may be strategies that these students use to manage traumatic stress reactions."[57]

Youth whose disabilities and past experiences of trauma impact their impulse control and emotional regulation are especially vulnerable to being charged with a delinquent offense for behavior that is a manifestation of their disability.[58] During encounters with police, youth who have disabilities and past experiences of trauma may experience heightened fear and anxiety, causing them to respond in ways that put them at greater risk for police escalation.[59] For example, police may allege that a youth with autism is resisting arrest when they experience sensory overwhelm and pull away as officers try to handcuff their wrists. Similarly, youth with disabilities, who are more vulnerable to bullying, may be criminalized for their attempts at self-defense.[60]

Defining ableism:

Ableism is prejudice and discrimination against people with disabilities. Ableism either subtly or directly projects the belief that there is one correct, most typical way of functioning—physically and mentally—and that any deviation from this is inherently inferior.[61]

While the criminalization of youth with disabilities may flow from decisionmakers' lack of understanding, it can also be a result of ableist attitudes. People with invisible disabilities, such as those impacting emotions and behaviors, are often perceived as not having "real" disabilities or as using their disabilities as an excuse to justify behavior they should be able to control. In a recent study, researchers found that negative attitudes about invisible disabilities are very common and noted this prejudice is a strong predictor of discriminatory behavior toward people with these disabilities.[62]

How does implicit racial bias impact perceptions of and responses to disability and trauma?

Implicit racial bias makes youth of color especially vulnerable to being punished for manifestations of their disability and trauma-related behavior.[63] Culturally pervasive stereotypes create powerful, unconscious connections between Blackness and criminality, which persist even among people who explicitly agree with the importance of equality and the inherent innocence of children.[64] These unconscious connections, frequently recognized as implicit racial bias, impact how adults interpret the trauma-related behaviors of youth of color with disabilities, who are even more likely to be arrested or referred to law enforcement than their white peers with disabilities.[65] A 2023 report found that Black students made up approximately 17% of students with disabilities, but accounted for 33% of the arrests among students with disabilities—nearly twice the percentage of arrests that would be expected based on their representation in the population of students with disabilities.[66]

Implicit racial bias and cultural stereotypes make system actors more likely to misperceive:

- Anger on a Black child's face than a white child's face[67]
- Black girls as more mature, less innocent, and more knowledgeable about adult topics than their white peers[68]
- Young Black males as taller, heavier, stronger, more muscular, angrier, and more capable of harm than they actually are[69]
- Black boys as more than 4.5 years older than their actual age[70]
- Latine youth as more aggressive than white youth[71]
- Latino boys as more than two years older than their actual age[72]
- Native American or indigenous youth as uncivilized or incapable of following mainstream behavioral norms[73]

Youth from historically marginalized groups have a greater risk of experiencing trauma than other youth.

Marginalized groups include:

- Youth with disabilities
- Youth of color
- Youth who have experienced foster care or housing insecurity
- Youth who identify as LGBTQ+[74]

Youth with disabilities often experience trauma when they are abused, neglected, or bullied.[75] Racism and discrimination, including within the legal system, can be traumatic for youth of color.[76] Youth who have experienced foster care or housing insecurity experience trauma associated with hunger, fear, abuse, and family separation.[77] LGBTQ+ youth experience trauma when they are bullied, rejected, and discriminated against.[78]

Misinterpreting Manifestations of Disabilities and Trauma Among Youth of Color

Case Impacts:

- An African American teenage boy with autism may be so stressed by the court process that he refuses to make eye contact with the judge or even look up from the table when the judge greets him.[79] The judge may subconsciously interpret this body language as anger, disrespect, or even aggression. Subsequently, the judge may find the boy to be a danger to the community and order that he be held in detention pending trial.

- A Native American girl with ADHD may impulsively run out of her probation officer's office when told to stop fidgeting during their meeting.[80] The probation officer may classify her departure as a "missed meeting without justification" and recommend that her probation be revoked.

- A Latino teenager with a learning disability may be frustrated when asked to read aloud in court and respond by hurling insults at the judge.[81] The judge and prosecutor may interpret this behavior as disrespect for authority or a willful failure to follow court orders. The prosecutor may ask the judge to place shackles on the teenager at this and all subsequent court hearings. The judge may recall this behavior when making decisions regarding pre-trial release, electronic monitoring, and disposition.

Misinterpreting Fight-Flight-Freeze Trauma Responses by Youth of Color:

Implicit racial bias may cause system actors to misinterpret fight-flight-freeze trauma responses by youth of color.[82] A probation officer may view a Latino boy's bravado, characteristic of the "fight" response, as threatening or defiant.[83] Police may interpret a Black teenager's flight from an officer as evidence of involvement in criminal activity, when in fact that "flight" is a common response to the traumatic effects of policing in communities of color.[84] A defense attorney may perceive an indigenous girl as uncooperative when she does not respond to questions at their initial meeting, though she is truly experiencing the "freeze" trauma response.[85]

Implicit racial bias can also contribute to an inaccurate diagnosis and inadequate treatment for youth of color with disabilities and trauma histories.

Youth involved with the juvenile legal system, especially youth of color, are frequently misdiagnosed by practitioners who mislabel their anger or aggression as symptoms of oppositional defiant disorder (ODD) rather than symptoms of trauma or a disability.[86] Emerging research suggests ODD is likely misdiagnosed more frequently in Black and non-white Latine children, particularly Black boys.[87] Black, Latine, and indigenous children are also more likely than white children to have PTSD or ADHD misdiagnosed as ODD.[88] When misdiagnosis occurs, youth of color do not receive proper treatment to heal from their trauma. In discussing one case example, experts noted that an ODD misdiagnosis "hastened this child's traumatic journey along the school-to-prison trajectory while neglecting his suspected post-traumatic stress disorder."[89]

When youth are misdiagnosed with ODD and not properly diagnosed with accurate conditions, like PTSD, ADHD or autism, they may not receive the support they need to successfully manage the pressures of school, work, relationships and other aspects of life. Research has found that Black youth with autism are typically diagnosed later than white youth with autism.[90] These delays in diagnosis can cause youth of color to need additional treatment because they have been denied the correct support for so long.[91] The overdiagnosis and misdiagnosis of ODD also perpetuates harmful stereotypes portraying Black boys and Black men as aggressive.[92]

How do racial discrimination and other systemic oppressions in the legal system cause or exacerbate trauma among youth of color?

Systemic racism and daily discrimination create additional sources of trauma for youth of color. Over time, experiences of racial discrimination can affect a youth's cortisol levels in similar ways as traumatic stress, meaning that racism functions as a source of trauma in the body as well as in the mind.[93] Black youth may experience hypervigilance—a hallmark symptom of post-traumatic stress disorder — when their neighborhoods are overpoliced or they have negative encounters with law enforcement. This hypervigilance often leaves youth of color in a persistent state of fear, always expecting something bad to happen to them or their loved ones.[94]

Even when police encounters are not physically violent, they can produce anticipatory stress along with other PTSD symptoms.[95] Black youth may experience PTSD symptoms or depression after viewing viral videos depicting police violence against Black people.[96] The killing of an unarmed Black person has been associated with measurable spikes in community mental health crises, including an 11% increase in depression-related emergency room visits.[97]

To capture the devastating emotional and psychological impact race-related discrimination can have on a developing child, experts increasingly urge that discrimination be added to an expanded framework of adverse childhood experiences (also known as ACEs),[98] which many healthcare providers use to understand sources of trauma for children and adolescents.[99] Healthcare providers, evaluators, and system actors may miss or undervalue racial discrimination and systemic oppression as sources of trauma if they are only looking for traditional ACEs.

Negative past experiences with institutions, like schools and policing, can lead to mistrust in the healthcare system and make youth of color less likely to seek out treatment after they have experienced trauma.[100] Additional structural barriers to treatment, including a lack of culturally competent providers, financial obstacles, and stigma around mental health care, prevent early intervention and proper treatment from reaching youth of color who have experienced trauma.[101]

D. A Strengths-Based Approach to Cultivating Resilience: Trauma-Informed Support for Youth with Disabilities

ISAAC'S STORY **As evident from his career aspirations, Isaac's disabilities and trauma *do not have to limit him.***

Isaac's progress has not been linear and he has had some setbacks—including a season during which his mom was unable to refill his prescription for ADHD medication. **But it is clear that Isaac is able to thrive in the community when given adequate mental health, academic, and emotional support.** Isaac is able to talk candidly about his ADHD and his difficulties with controlling his emotions and impulses. He has also consistently engaged with the programming, medication, educational opportunities, and therapy his mother has been able to secure for him.

Isaac's most extensive period of success within the court system occurred when he was allowed to participate in the local youth mental health court. Isaac benefited from the support of his one-on-one aide and the trusting relationships he established with other care team members. During that time, Isaac improved his coping skills at home and in school, thrived at his full-time special education school, and enjoyed working as a caterer. Unfortunately, the rigid rules of the mental health court ultimately failed him as court staff could not override the external forces that criminalized his disabilities and led to accumulating rearrests that made him ineligible to continue in the program.

Neurodiversity: A Strengths-Based Approach to Working with Youth with Disabilities

A strengths-based support system focuses on the assets available to a person (including both their individual strengths and resources from their families and communities) to promote well-being, achieve their goals, and adapt to the different contexts they will encounter.[102] While disabilities present real challenges for youth, especially when the legal system, their schools, or other adults do not recognize or accommodate their needs, many people with disabilities thrive from the strengths associated with their condition. Many advocates embrace the term "neurodiversity" to highlight these strengths. "Neurodiversity" recognizes that human brains function differently and there is no one correct way of thinking or processing information.[103] Variations in brain functioning are normal and natural, not deficits or disorders. The term "neurodivergent" describes people who process information in a way that is not typical for their age, including people with ADHD, autism, dyslexia and other learning disabilities, and speech-language conditions, among other disabilities.[104] There is growing recognition of the strengths and benefits associated with neurodiversity. The World Economic Forum found that teams with neurodivergent professionals can be 30% more productive than those without them.[105]

Examples of strengths shared by neurodiverse people:[106]

People with **ADHD** are often energetic, passionate, and authentic. They are more likely to have rich imaginations and score higher on creativity tests than people without ADHD. They are often able to concentrate deeply on things that especially interest them.

People with **autism** may have sharp logic skills and pattern recognition, offering unique insights when solving problems. They are more likely to have exceptional focus and be meticulous and detail-oriented, as well as dedicated to honesty. Some people with autism have exceptional memories, and they can be highly creative.

People with **dyslexia** are often visual and mechanical thinkers with a heightened ability to think outside the box. People with dyslexia may excel at understanding patterns, evaluating possibilities, and making decisions. Eighty-four percent of people with dyslexia score above average in reasoning.[107]

Defining resilience:

Resilience is the process of overcoming adversity to achieve better-than-expected outcomes.[108] Resilience will look different for each youth, depending on their strengths, needs, and desires. For youth with disabilities who have experienced trauma, resilience may involve adapting to new environments, recovering after stress, or achieving personal goals. For youth involved in the juvenile legal system, resilience can include successfully exiting the system and progressing toward self-determined goals for their future.

What do youth with disabilities need to cultivate resilience?

All youth are capable of resilience if provided with the right support. Many factors, both individual and systemic, contribute to resilience.[109] Emerging research links positive life experiences to resilience, finding that "positive" or "benevolent" childhood experiences (called PCEs or BCEs) can help youth overcome trauma and counterbalance the harm adverse childhood experiences (ACEs) may have on future outcomes.[110] PCEs and BCEs include safe caregivers, close friends, supportive teachers, positive self-esteem, regular routines, adequate medical care, nutritious food, quality sleep, time outdoors, and safe neighborhoods.[111]

Studies have found that justice-involved youth who had more positive experiences during childhood and adolescence were less likely to continue delinquent behavior.[112] One study found that youth reporting four to six PCEs were less likely than those reporting zero to three PCEs to engage in delinquent acts at age 16.[113] While having a higher ACEs score has been shown to increase the likelihood a youth will engage in delinquent behavior, studies have found that having a greater number of PCEs counterbalanced the impact of ACEs on delinquency, resulting in a reduced likelihood of delinquent behavior.[114] The traumatic impact of policing, incarceration, and court involvement can interfere with healthy development and impede the youth's efforts toward resilience.[115]

Using a positive or benevolent childhood experiences framework can help system actors identify the existing strengths of youth with disabilities and increase their PCE/BCE score by connecting them to supports, which can contribute to resilience.[116] For example, researchers have found coping skills, growth mindset, self-understanding, hopeful thinking, positive teacher support, peer acceptance, and family cohesion all supported resilience in youth with learning disabilities.[117] For youth with intellectual disabilities, sources of resilience include acceptance, autonomy, perseverance, physical well-being, positive emotions, social skills, spirituality, activities, and supportive homes and social networks.[118]

Can mental health treatments help youth with disabilities overcome trauma and support resilience?

Several therapeutic treatment modalities have been shown to effectively reduce trauma symptoms for youth involved in the legal system who have PTSD, including:

- Trauma-Focused Cognitive Behavioral Therapy (TF-CBT)[119]
- Prolonged Exposure for Adolescents[120]
- Trauma and Grief Component Therapy for Adolescents[121]
- Trauma Affect Regulation: A Guide for Education and Therapy (TARGET)[122]
- Eye Movement Desensitization Reprocessing (EMDR)[123]

Evidence also supports the use of many of these therapies for youth with disabilities.[124] **Youth with disabilities are most likely to thrive when offered individualized services, identified in collaboration with experts in their specific diagnoses.** While it is important to offer the right services to youth in the juvenile legal system, the U.S. Department of Justice has made clear in prior investigation that states must be proactive in ensuring the delinquency system is not used to provide services that should otherwise be made accessible to youth with disabilities in their communities.[125]

ISAAC'S STORY

Isaac's most recent psychological and psychiatric evaluations outline a path toward success.

Isaac needs Cognitive Behavioral Therapy and Dialectical Behavior Therapy from a therapist with experience in trauma-informed care. He needs a therapist who is uniquely attuned to his police-based trauma. Isaac and his family need Functional Family Therapy or Emotion-Focused Family Therapy. Isaac needs a psychiatrist to identify the most appropriate medication regimen and to regularly monitor his symptoms thereafter. He needs grief therapy to help him process the death of his friends, counseling to address his reliance on marijuana as a coping mechanism, and mentoring from an adult who can help him navigate gun violence in his community. And like any other 15-year-old boy, Isaac needs time to play sports and enjoy recreation, leisure, and socializing with friends.

Isaac will need these opportunities, supports, and services long after the court's jurisdiction has concluded. He will need to return to a stable, comprehensive special education program where he feels supported and motivated by teachers and school administrators. He will need vocational training, a sports team, and community-based resources that connect him with positive peers and affirming adults. He will need adults who are patient with him and who will not rely on police officers to manage his emotions when his coping skills fail. Isaac's mom will need support for her own bipolar diagnosis and other adults who will listen and help out when she feels overwhelmed. She will also need new housing without the mold that impacts her and her children's health. **Most important, she and Isaac hope all of their needs will be met without more arrests and detention.**

II.

Manifestations of Disabilities and Trauma in the Juvenile Legal System



Being involved in the juvenile legal system is inherently stressful and traumatic for youth, especially those with disabilities:

The stress and anticipation associated with upcoming court hearings may disrupt youth's sleep, especially given the elevated rates of sleep disturbances associated with many disabilities. Sleep irregularities can in turn exacerbate anxiety and contribute to depression and feelings of despair.[126]

- Youth with disabilities may fear they will be separated from parents and other family members they rely on to help them navigate their disabilities.
- Routine but invasive practices commonly used in the legal system, such as strip searches, pat downs, and punitive seclusion or physical restraint in correctional settings, may cause psychological distress to youth with disabilities and trauma histories.[127]
- Court hearings disrupt youths' schedules, which can be especially harmful for youth who need a reliable and regimented structure to accommodate a disability, such as autism.[128]
- Meetings with probation officers, court-ordered obligations like community service, and court hearings may cause youth with disabilities to miss important therapy sessions or disability-related services. Incarceration frequently terminates services youth were receiving in the community.
- Unnecessary court hearings may confuse youth who are already unsure about what will happen in their cases. This confusion may lead to shattered hopes from unmet expectations (e.g., believing they will finally be allowed to return home at the next court hearing, when the next hearing is merely administrative).
- Youth may experience confusion as traumatic but avoid admitting their confusion out of fear they will be embarrassed, shamed, and further traumatized. Additionally, trauma and stress may make it even more difficult for young people with disabilities to focus and understand what is happening in court.

II. Manifestations of Disabilities and Trauma in the Juvenile Legal System

Trauma-related behaviors may present in different ways depending on a youth's specific disability. Trauma can impact the cognitive capacity, physical well-being, and behavior of all youth to varying degrees. It can affect memory and the ability to process information. Trauma may manifest physically through headaches, stomachaches, nightmares, or sleep disruption.[131] Youth may appear irritable, anxious, or fearful, or may cry, withdraw, or use verbally aggressive language in stressful situations.[132] Of course, not every child with the same disability will respond to trauma in the same way, but this section will help system actors recognize the common trauma-responses among youth with specific disabilities and respond appropriately.

Shattered hopes, even hopes arising from "magical" or unrealistic thinking, can be traumatizing.

"Magical" thinking is a normal part of cognitive development in adolescence.[129] As a result, youth often hold unrealistic hopes about what will happen in various court hearings (e.g., expecting they will be released back to the community after multiple serious charges). Youth with disabilities (e.g., intellectual disabilities) are even more vulnerable to these unrealistic expectations.[130] When those hopes are not met, youth with disabilities are especially devastated and traumatized from the disappointment. Anger and frustration from shattered expectations can cause youth with disabilities to become short-tempered, experience hopelessness, and develop depression or anxiety. If adults don't help youth to process these challenges, youth may continue to experience heightened emotions and be unable to regulate their behavior or communicate in a calm manner.

A. Common Trauma-Related Manifestations of Specific Disabilities

Attention-Deficit/Hyperactivity Disorder (ADHD)

Attention-deficit/hyperactivity disorder (ADHD), one of the most common disabilities affecting youth, can impact many areas of an individual's life including academic or professional performance, personal relationships, and daily functioning.[133] ADHD commonly co-occurs with other disabilities, such as depression, anxiety, obsessive-compulsive disorder, and autism.[134] For youth of color, ADHD is often underdiagnosed, or instead misdiagnosed, as oppositional defiance disorder (ODD), or simply seen as willful bad behavior, leading to higher rates of criminalization in both the school and legal system.[135] Manifestations of ADHD often mirror manifestations of trauma.[136]

Youth, like Isaac, with ADHD who are reminded of or triggered by a past traumatic experience can experience:[137]

- Difficulty paying attention and absorbing information in structured settings
- Nervousness or jitters
- Disorganization
- Restlessness
- Hyperactivity

System actors often misinterpret inattention as disrespect or a lack of effort and, as a result, fail to provide supports and accommodations youth need to address either ADHD or trauma. Security personnel or courtroom staff may even discourage or reprimand youth advocates for providing youth with fidget toys or paper and a pen to help them focus and regulate their attention in the courtroom. Limiting access to such minor accommodations can exacerbate trauma and undermine a youth's ability to concentrate, communicate with counsel, and fully participate in their hearing.[138]

Autism Spectrum Disorder (ASD or autism)

Autism is a complex developmental disability that impacts behavior, verbal and non-verbal communication, and social interactions.[139] Manifestations of trauma vary greatly for youth with autism.

Youth with autism may exhibit the following responses to trauma in the juvenile legal system:

- Inability to respond in ways that judges, attorneys, or other adults expect, including with their tone of voice, facial expressions (e.g., flat affect that can often be misinterpreted as disinterest in court proceedings or conversations with their probation officer), gestures perceived to be inappropriate during serious matters, verbal outbursts, or bringing up topics unrelated to the hearing[140]
- Inability to process what is being communicated by the judge, their attorney, a bailiff, or other security personnel, including directions from a court officer or the judge, or information relayed about their case[141]
- Agitation in response to sensory overload in various legal settings, including noises in the holding cell, the beeping of an electronic monitoring device, the scratchy material on the courtroom's chair, or the loud volume of the courtroom clerk's microphone[142]

Youth with autism may exhibit a broad range of behaviors related to their disability, reflecting the diversity of experiences that fall within the autism "spectrum."[143]

Youth with autism can differ significantly in their communication styles, social interactions, sensory sensitivities, strengths, needs, and challenges.

Thus, system actors should not expect the same or similar behavior from every youth with autism. Similarly, system actors should not be surprised to see youth with autism exhibit inconsistent responses and behaviors in court proceedings and interactions with adults over time.

Intellectual Disability (ID)

Intellectual disability (ID) involves difficulties in cognitive functioning (e.g., learning, problem-solving, and judgment), as well as in the ability to function in everyday activities (e.g., communication, social interactions, and taking care of personal needs).[144] Studies reveal that youth with intellectual disabilities are more vulnerable to the effects of trauma than their peers without those disabilities.[145] Youth with intellectual disabilities are more vulnerable to experiencing heightened levels of anxiety or fear.[146] They are also at an increased risk of experiencing depression, self-harm, and post-traumatic stress disorder, even after a singular traumatic event.[147] This is largely due to differences in how they understand, cope, and recover after a stressful ordeal.

As a result:

- Stress and trauma, especially when experienced in a structured and demanding environment like a courtroom or carceral facility, make it difficult for youth with intellectual disabilities to concentrate and retain new information.[148]
- Traumatic experiences (including court appearances and navigating the juvenile legal system) can cause youth with intellectual disabilities to display heightened anxiety, withdrawal, or aggression.[149]

Major Depression:*

Major depression is a common, serious mental health disability characterized by persistent sadness, low mood, and a loss of interest in activities, lasting at least two weeks.[150] **Experts estimate up to 30% of youth in the juvenile legal system have depression diagnoses, and research indicates that depression may be even more prevalent among detained youth.**[151] Major depression is distinct from regular mood changes that occur in everyday life.[152] It can impact every aspect of an individual's life including how they think and behave, their relationships with family, their interactions in school, and their ability to function day-to-day.[153] Major depression may also include feelings of hopelessness and low self-worth.[154]

Major depression may be caused by stressful or even traumatic life events, and youth who have had adverse childhood experiences (ACEs) in their past are at a higher risk of having major depression.[155] But major depression may also have no apparent external cause and can seemingly come out of the blue.[156] Major depression is distinct from post-traumatic stress disorder (*see below for more information on PTSD*) because major depression may arise for reasons not necessarily related to a traumatic event, whereas PTSD is directly related to a traumatic event and is driven by re-experiencing that event.[157]

Major depression commonly co-occurs with other disabilities.[158] A 2023 study found that nearly half of youth with other types of disabilities experienced major depression in the past year.[159] This increased risk may be due to the challenges that youth with disabilities face, including bullying, fewer social connections, low self-esteem, feelings of helplessness, reduced independence, experiences of abuse, and lack of inclusion or accessibility in their personal life, school, or other environments.[160] The co-occurrence of major depression with other disabilities may also stem from the nature of the person's other disabilities. For example, youth with intellectual disabilities may experience difficulty regulating moods or difficulty coping, which can lead to major depression.[161]

Youth with major depression may find the routine practices of the juvenile legal system to be traumatic and may exhibit a wide range of trauma symptoms in response. Like Isaac who experienced anxiety, insomnia, and thoughts of self-harm after his friend's suicide, youth with depression may exhibit:

- Feelings of sadness, including crying spells that seem to emerge out of nowhere or appear to be an over-reaction to what is happening in court or other legal settings
- Frustration or irritability (e.g., rolling their eyes when asked a question or huffing and sighing in annoyance)
- Anxiety and worry, which may be more intense for them than the average person
- Insomnia, fatigue, or hypersomnia (e.g., falling asleep during court-ordered activities or missing a meeting with their probation officer because they are too tired to get out of bed)
- Agitation or restlessness (e.g., unable to sit still during a court proceeding)
- Slowed speaking or body movements

Beyond the courtroom, trauma may manifest in youth with major depression as a lack of interest in usual activities, headaches or body aches, appetite changes, gastrointestinal problems, frequent thoughts of death and dying, self-harm, or suicide attempts.[162]

*Major depression is also called clinical depression or major depression disorder.

Post-Traumatic Stress Disorder (PTSD):

Post-traumatic stress disorder is a mental health disability triggered by experiencing or witnessing an "extremely stressful or terrifying event."[163] **The latest research estimates that over 11% of youth in the juvenile legal system will develop Post-Traumatic Stress Disorder (PTSD), compared to less than 5% of youth in the general population.**[164]

Standard juvenile legal system procedures can trigger memories of past traumatic experiences, and notably, the court experience itself can be its own form of trauma. For example, studies show that one symptom of PTSD for adolescents is fear of or rumination on the possibility of separation from family or caregivers.[165] Family separation due to out-of-home placements is a common traumatic reality for youth in the juvenile legal system that may trigger PTSD.

Youth with PTSD can exhibit numerous symptoms when experiencing trauma in the legal system, including:

- Trouble sleeping at night, interfering with their ability to focus and causing them to yawn or sleep during important meetings or court proceedings
- Feelings of depression, including loss of interest in things they once enjoyed, leading them to appear unphased by curfews, stay away orders, or loss of privileges
- Nervousness or jitters when speaking with the judge, probation officer, or other authority figures
- Lack of affection for their parents or other family members, appearing cold or disconnected when threatened with being detained and separated from their family
  - Or in the alternative, extreme feelings and expressions of sadness when separated from their families
- Angry outbursts, eye-rolling, irritability, or a short temper for seemingly no reason
- Desire to avoid certain locations that trigger memories of traumatic experiences, including court itself or places they may be ordered to visit (such as a community service site or the neighborhood where the probation office is located)
- Flashbacks, including in the courtroom and during police encounters, even when the trigger for such flashbacks may not be apparent to the officer, judge, or court staff[166]

Other manifestations of PTSD include losing touch with reality, fear of dying, acting younger than one's biological age (specifically thumb-sucking or bedwetting), and physical reactions like headaches or stomachaches.[167]

Not all youth who experience ongoing symptoms of trauma will receive a formal PTSD diagnosis. Because PTSD was first recognized as a diagnosis through the experiences of combat veterans,[168] adolescents may respond to trauma in ways that do not fit the exact diagnostic criteria for PTSD.[169]

Speech-Language Disabilities

Speech-language disabilities are communication disabilities that can impact a wide range of skills including an individual's articulation, fluency, or ability to understand or use spoken or written language.[170] Experts estimate that nearly 1 in 12 U.S. children ages 3-17 has been diagnosed with a speech-language disability.[171] Some individuals with speech-language disabilities may appear to speak with ease (called "expressive" language) while simultaneously experiencing challenges with understanding oral or written communication (called "receptive" language) or vice versa.[172] Speech-language disabilities are often considered a "hidden condition" because language and communication difficulties can easily be overlooked.[173]

"I was completely illiterate at the time. Even though my co-defendant was older, he couldn't read or write either. **There were so many times I didn't understand. Especially when dealing with legal terms. Ninety-nine percent of it I didn't understand.** They were saying a lot of words that I didn't understand because my vocabulary wasn't extensive, so I was listening trying to catch every word and understand. It was really all a blur. The day we got sentenced, I think my mother cursed at the judge and I laughed. I didn't understand what was going on."
–Quote from John Bunn, an exoneree reflecting on his wrongful conviction at the age of 14.

Youth with speech-language disabilities may experience trauma symptoms while navigating the juvenile legal system. These trauma symptoms can cause the language areas in the brain to shut down, heightening a child's difficulty processing what they are hearing or formulating words to respond to what is happening in the court process, in police encounters, or during incarceration.[174]

Speech-language disabilities may impact all aspects of communication, including a youth's ability to:

- Process information provided either verbally or in writing, especially when the vocabulary and terminology are unfamiliar or complex
- Understand and follow directions given by police
- Read and sign the waiver-of-rights form during a plea colloquy in court
- Understand and follow pre-trial release or probation conditions
- Follow the "rules" of social interactions during probation requirements, like community service
- Convey ideas through spoken language in meetings with their defense attorney[175]

Confusion in each of these areas may create anxiety and impact the many decisions youth must make in their cases, including whether to plead guilty and waive their rights. It can also impact their participation in court proceedings, causing them to withdraw, become agitated or embarrassed, or be unable to articulate their thoughts during a proceeding when commanded to do so on the spot by a judge or their attorney.

Traumatic Brain Injury (TBI):

Traumatic brain injury (TBI) is a disability caused by an external injury to the head that impacts how the brain works.[176] Approximately 69 million people worldwide suffer a TBI every year, and youth have the highest rates of TBIs.[177] Youth who have experienced ACEs or come from socioeconomically disadvantaged backgrounds have a higher risk of TBIs.[178] **Research shows that in the United States and other countries, about one in three youth in correctional or detention facilities has a history of traumatic brain injury.[179]**

Symptoms of TBIs include headaches, difficulties with coordination and motor functioning, sensory differences, attention deficits, memory challenges, difficulties in executive functioning, learning difficulties, mood fluctuations, behavioral disruptions, and substance abuse. Experiencing a TBI, even if mild, can cause youth to develop emotional and behavioral challenges.[180] Specifically, researchers found a 15% increased risk of emotional or behavioral problems among youth with TBI.[181]

TBI is often an invisible disability, and it is linked to higher risks of developing anxiety, depression, and PTSD.[182] Many youth who have experienced traumatic brain injuries are not properly diagnosed.[183] Even when diagnosed, youth who exhibit signs of aggression or difficulty regulating emotions and controlling impulses are not provided with specialized care to aid their rehabilitation.[184]

Youth with TBIs who are triggered, retraumatized, or experience new trauma during the court process can exhibit a range of symptoms, including:

- Irritability
- Difficulty concentrating
- Noncompliance in response to directions given
- Mood swings
- Delayed processing times
- Lethargy
- Difficulty regulating emotions
- Memory issues
- Sensitivity to light[185]

B. Additional Ways Trauma Symptoms Manifest Among Youth with Disabilities in the Juvenile Legal System

The following trauma symptoms may show up across disabilities and may be heightened in stressful environments, like a court proceeding.

Refusal or inability to engage in conversation or exchange pleasantries, like saying "good morning" to the judge, or avoiding social interactions generally

• e.g., Youth with autism or intellectual disabilities may not pick up on social cues.[186]

Rebuffing offers of help, such as snapping at a probation officer or defense attorney when they offer to text a reminder about community service

- e.g., Youth with PTSD may feel controlled or dominated by people who offer to help them, or recall negative experiences in the past with authority figures who offered help but did not follow through.[187]

Saying they understand when they do not, such as agreeing to write an apology letter and then later expressing confusion about what the letter should include, or expressing annoyance around the assigned task

- e.g., Youth with fetal-alcohol spectrum disorder (FASD) or intellectual disabilities may respond affirmatively when asked if they understand out of a desire to please an authority figure or avoid embarrassment (anticipating a negative response based on prior experience).
- Alternatively, a young person may show signs of apathy or say "I don't care" to avoid embarrassment when they do not understand what is being asked of them.[188]

Experiencing fluctuations in behavior, attitude, or emotional states leading up to court hearings

- e.g., Youth are likely to experience anticipatory stress the night before or even days before court hearings. For youth with disabilities, this stress can heighten manifestations of trauma. Anticipatory stress before court hearings can disrupt sleep and cause irritability, angry outbursts, anxiety, depression, memory loss, and difficulty processing new information.[189]
- Youth with TBIs may experience significant fluctuations in mood, ranging from angry outbursts at one extreme, to behaviors that appear disengaged or annoyed with others at the opposite extreme.[190]

Engaging in substance use to cope with stress or retraumatization[191]

- e.g., Youth with PTSD or major depression may use substances to numb or regulate difficult emotions.[192]

Navigating feelings of shame that often accompany trauma and may cause self-loathing, withdrawal, depression, and thoughts of self-harm

- e.g., Youth with learning disabilities may believe they are innately "bad," especially if they hear such labeling from their loved ones, teachers, or system actors. These feelings of shame, often experienced by youth with disabilities, can lead to additional, serious mental health concerns, including increased risk for suicide.[193]

Inability to conform to expected expressions of remorse

- e.g., Youth with PTSD or autism may feel they are being unfairly forced to apologize for behavior they did not intend.[194]

Expressing overwhelm about small tasks, seeming to give up without truly trying, or insisting they are unable to understand or follow orders

- e.g., Youth with PTSD may be prone to view themselves as incompetent, the outside world as dangerous, and their futures as hopeless, making it difficult for them to effectively tap into their internal resources or external supports.[195]

Stimming, scripting, going silent, or reacting intensely under stress

- e.g., Youth with autism or ADHD may stare at courtroom lights, hum, rock back and forth, or twirl their hair. These behaviors often help youth with disabilities cope with and adapt to overwhelming or confusing environments and are not signs of aggression, defiance, or incompetence.[196]

Ankle Monitors and Trauma Symptoms for Youth with Disabilities

- **Ankle monitors** are electronic monitors, often operated with GPS technology, that allow system actors to track the location of youth to determine whether they are in compliance with curfew and stay-away orders. Ankle monitors are stigmatizing for all youth and cause additional harm to youth with disabilities.

- **Shackles** are physical, mechanical restraints (like handcuffs, belly chains, or leg irons) used to limit a person's freedom of movement.

- Ankle monitors and shackles may cause irritation and stress for youth whose disabilities impact their sensitivity to physical touch and other sensory stimuli, including autism and obsessive-compulsive disorder.
- One study found that 80% of people with ankle monitors experienced anxiety and 71% experienced depression.[197]
- Being physically shackled or forced to wear an ankle monitor can trigger past trauma and cause youth to re-experience traumatic events.[198] Ankle monitors and shackles may be especially harmful for youth with PTSD, anxiety, or depression.

Trauma Symptoms for Youth Separated from Their Families:

Family separation can have profound consequences for children and adolescents—whether it occurs in the child welfare system, through family separation at the border, or through youth incarceration. Youth whose disabilities already impact their social and cognitive abilities may exhibit even greater trauma responses to separation or threats of separation from family members who support them.

- Youth who are separated from their families often exhibit increased trauma responses and poorer mental and behavioral health outcomes.[199] These impacts may include both internalized symptoms, such as depression, anxiety, and withdrawal, and externalized behaviors, such as physical or relational aggression, defiance, theft, and vandalism.[200] Family separation can also contribute to social and cognitive challenges, including diminished self-control, difficulty forming and maintaining peer relationships, and poorer academic performance.[201]
- When researchers compared children who experienced similar levels of trauma, the ones who were separated from their parents showed higher levels of post-traumatic stress disorder, bipolar disorder, and schizophrenia than those who never experienced family separation.[202]
- **The American Academy of Pediatrics has found that "highly stressful experiences, like family separation, can cause irreparable harm, disrupting a child's brain architecture and affecting [their] short- and long-term health. This type of prolonged exposure to serious stress—known as toxic stress—can carry lifelong consequences for children."[203]**
- Other studies have shown that separating youth from their parents leads to an elevated risk of subsequent violent offending.[204]
- Separation from family can also impede youth's ability to regulate stress, particularly in high-pressure environments like the courtroom.[205]
- Family separation deprives youth of positive physical touch. Incarcerated youth often experience little to no positive physical contact, including with trusted caregivers.[206] The absence of physical contact, including brief gestures such as a hug, may heighten distress and dysregulation, especially for youth with trauma histories or disabilities. **"Touch starvation"** is a phenomenon that occurs when physical contact is limited and is experienced much like one would experience starvation from food.[207] Touch starvation is believed to increase stress, depression, and anxiety. The lack of contact from trusted caregivers often has detrimental consequences for youth's mental health. Conversely, studies show conversely that physical contact with loved ones can improve mental health and decrease violent behavior.[208]

III.

Strategies to Avoid Traumatization and Criminalization of Youth with Disabilities in the Juvenile Legal System



III. Strategies to Avoid Traumatization and Criminalization of Youth with Disabilities in the Juvenile Legal System

ISAAC'S STORY

As of this writing, Isaac is still in the juvenile legal system, residing in a treatment facility about an hour from his home. **Isaac, his family, and his advocates are confident that he could have received the services he needs without a delinquency adjudication or juvenile court involvement.**

They all want to prevent other children from ending up in court and detention for the manifestation of their disabilities and trauma.

In the meantime, Isaac and his family hope he will be treated well and get the robust, consistent, and particularized services he needs. They also hope his residential placement will be as short as possible and no longer than necessary to stabilize him. More than anything, they hope the treatment staff will not call the police on him as they understand his disabilities and are therapeutically trained to manage his needs and prevent bullying by other youth with similar needs and challenges.

Ultimately, Isaac hopes to leave the system, return to his community, and create a future for himself where his strengths can shine and his dreams will be fulfilled.

As system actors continue to serve youth with disabilities and trauma histories in the juvenile legal system, they must adapt their norms and practices to meet the individualized needs of each child and advance the rehabilitative goals of the system. Much like a left-handed person will benefit from tools adapted to their needs (e.g., scissors, spiral notebooks, or golf clubs designed for left-handers), youth with disabilities will thrive when the legal process is adapted to accommodate their needs. The strategies outlined in this section seek to protect youth with disabilities from further traumatization during the juvenile legal system process and prevent all youth from being penalized for behaviors that are manifestations of their disabilities or trauma.

A. Adopting Principles and Practices of Trauma-Informed Courts

Juvenile legal system actors (including law enforcement, judges, probation officers, prosecutors, defense attorneys, service providers, and correctional officers) can adopt disability and trauma-informed practices to reduce the retraumatization of youth throughout the legal system. These practices can reduce stress, improve well-being, and lower recidivism.[209]

The **"Four Rs of Trauma-Informed Care,"** recommended by the National Council of Juvenile and Family Court Judges, provide a strong foundation for serving all youth who enter the system with a history of trauma. System actors in Trauma-Informed Courts:[210]

- **Realize** trauma's widespread impact, including intergenerational effects
- **Recognize** signs of trauma in those who appear before the court
- **Respond** by integrating trauma-informed practices into court procedures
- **Resist** retraumatization by minimizing triggers (e.g., trauma activation) and promoting emotional safety

Experts have identified many strategies to prevent the retraumatization of youth in their care. System actors in Trauma-Informed Courts:

- Reduce anxiety prior to hearings by offering clear signage directing individuals to various locations in the courthouse and posting simple courthouse rules[211]
- Eliminate nonverbal intimidation, like jingling handcuffs, standing very close to a person, or loudly slamming a holding cell door[212]
- Communicate with empathy and understanding[213]
- Engage in cooperative dialogue, avoiding shame or blame[214]
- De-escalate by speaking gently and acknowledging emotions[215]
- Show respect through body language and attentive gestures[216]
- Avoid placing children in shackles[217]

Key Resources for Adopting Trauma-Informed Practices in the Juvenile Legal System

- Trauma-Informed Courtroom Practices: A Bench Card for Judges by the National Council of Juvenile and Family Court
- Judges ACES-Informed Courts Bench Card by the North Carolina Judicial Branch and the Duke Law Bolch Judicial Institute
- Trauma-Informed Juvenile Court Self-Assessment by the National Child Traumatic Stress Network
- Language Guide: Discussing Disabilities in the Juvenile Legal System by the Georgetown Juvenile Justice Initiative

B. Protecting Youth with Disabilities from Trauma and Retraumatization in the Legal System

In addition to adopting general trauma-informed practices at every stage of the juvenile legal system, system actors can implement strategies specifically tailored to protect youth with disabilities from trauma or retraumatization. **Many of the strategies identified below will help all youth in the system, including youth who have not been diagnosed with disabilities.**

Provide quiet waiting areas and sensory-friendly courtrooms.[218] *This is especially important for youth whose disabilities impact their ability to process sensory information, including autism and ADHD.*

- Provide a quiet room in the lobby with a white-noise machine, weighted blankets or vests, dimmable lights, fidget toys, and other tools to help neurodiverse youth manage their stress.[219]
- Reduce noise by turning off the loudspeaker in the courtroom or probation office. Offer noise-canceling headphones when external noise cannot be reduced. Judges may refrain from using a gavel.
- Avoid bright overhead lights and flashing lights. Dim lighting where possible. Offer youth sunglasses to reduce their sensory input if lights remain too bright.
- Have fidget toys, coloring pages, and pen and paper available to help youth manage their stress during court proceedings or meetings.

Be thoughtful and intentional in deciding whether to openly discuss a youth's disability or trauma. Ask defense counsel about the youth's preference prior to hearings or conversations where the youth will be present. Recognize that some youth may:

- be afraid of the stigma and consequences associated with disclosing disabilities or trauma,
- feel shame or embarrassment when they hear others discussing their disabilities or trauma, or
- not identify as having a disability, even if they have received a formal diagnosis.

When choosing to openly discuss a disability, use language that is affirming and respectful. For more information on language, please refer to "Language Guide: Discussing Disabilities in the Juvenile Legal System," created by Georgetown Law's Juvenile Justice Clinic & Initiative. Tips include:

- Avoid ableist or stigmatizing language. Examples include referring to someone with a disability as "suffering from [the disability]" (assuming that being disabled always means a person is suffering when that is frequently not true) or "special needs" (often used euphemistically to avoid saying the name of a disability, implying that the disability itself is bad or to be avoided).
- Ask each youth (or their defense counsel) what language they would like people in the juvenile legal system to use to describe their disability.
- Listen and mirror the youth's affirming language about themselves and their disability.
- Remember that cultural values and lived experiences can shape how individuals define, experience, and respond to disability.

If a youth has disclosed a disability, be careful about questioning or doubting the validity of their diagnosis based on personal or mainstream expectations of how someone with that disability should appear.

- Remember that some youth with disabilities "mask" or work hard under the surface to conform to societal expectations about how people should behave. For example, youth with autism may suppress repetitive behaviors (i.e., not stimming, even if it would help them self-regulate). People with intellectual disabilities may be well-practiced in appearing as though they understand information or situations when they are really confused.
- Be mindful of the potential impact of implicit racial bias in assessing the validity of a diagnosis or expectations of how youth of color with disabilities should behave. Recognize that behaviors related to a disability may be misinterpreted as defiant or threatening when displayed by youth of color, leading to harsher punishment.[220]

Reduce unnecessary court hearings, and ensure youth do not have to attend court for purely administrative matters. As discussed in Part II above, remember that coming to court can be stressful and traumatic for youth with disabilities. Waive the young person's appearance when necessary to accommodate their disability, and refrain from issuing warrants for non-appearance.

Inquire whether court hearings or other court-ordered obligations will disrupt a youth's regular routine or cause the youth to miss counseling sessions or other disability-related services. Adjust dates and times to accommodate the needs of youth where possible.

Encourage youth with disabilities to identify and bring a support person with them to court.

- Recognizing that court involvement adds stress to the parent-child relationship, assess and invite additional support to help the youth navigate disabilities and trauma and reduce traumatization or retraumatization in the courtroom.
  - Parents often carry many of the same disabilities and traumas as their children, which may or may not be diagnosed. **System actors should seek to provide parents with any accommodations they need to participate in their child's case and consider encouraging parents to bring their own support person to court.**
- Some youth may feel especially connected to grandparents or extended family members. Others will benefit most from the presence of a mentor, therapist, or other professional who knows them well or has experience serving youth with disabilities.

Work with other system actors to ensure that youth with disabilities understand the juvenile legal process.

- Maintain predictability and consistency in meetings and court proceedings to help youth manage expectations and avoid further traumatization. Try to manage expectations through clear explanations that are adapted to the developmental stage and unique needs of each youth.
- Clearly communicate to the youth what is likely to happen each day, including where they are being transported before transporting them.
- Avoid promising outcomes when a young person asks a question that does not have a guaranteed answer.
  - e.g., If an incarcerated youth asks when they will go home, do not say "soon," but instead, gently communicate the uncertainty, depending, for example, on what the judge says at their next court hearing, or direct them to someone who may have more information, such as their attorney.*
- Communicate any unexpected change in plans as soon as possible and explain why the change has to happen.

"I went through a lot of depression after I was sentenced. Especially in the beginning. When I was sentenced, I didn't believe I was ever going to be able to make it back to society. It felt like it would be forever. There was so much trauma going on in my life, I don't even know if I had time to process what depression looked like because everything was bad. My mother was in an emotional state, I was in an emotional state – it seemed like everything was over. **Not knowing what was next was my biggest fear. That's the way the system is, where you never know what's next. I was afraid that if I landed at the wrong place, I was going to experience more abuse.** Anxiety and fear was a big thing for me. The state of survival, mentally, it was like I was walking on eggshells."
–Reflection from exoneree John Bunn on his incarceration at the age of 14.

Refrain from threats of family separation or detention as a tool to motivate compliance.

- Recognize that separating youth from their families is a traumatic event that can cause significant and lasting harm, including poor mental and behavioral health and recidivism.[221]

Consider allowing physical contact between detained youth and their family or trusted caregiver to help them cope with the stress and trauma of incarceration and improve their capacity to meaningfully participate in the juvenile legal process.

Ask non-confrontational questions.

- Recognize that youth with disabilities who have experienced trauma may experience direct, leading questions as a stressful form of confrontation. *This is especially important for youth whose disabilities impact their social interactions and auditory processing, including autism, ADHD, anxiety, and speech-language disabilities.*[222]

Tips for asking youth with disabilities non-confrontational, trauma-informed questions include:

- Avoid compound questions. Instead, ask a single question at a time, recognizing that youth whose disabilities impact their ability to process information may become stressed as they struggle to comprehend compound questions or formulate multiple answers at once.
- Ask open-ended questions. Avoid closed, cross-examination-style questions.
- Use a calm, unhurried tone.
- Remain patient and avoid expressing frustration if the youth takes longer to answer or does not answer in the way expected.

Avoid giving commands in an authoritative manner, using a raised voice, touching the child, or moving closer to them to prevent or reduce escalating emotions, especially among youth with sensory sensitivity.

Maintain flexibility in enforcing courtroom policies to ensure youth with disabilities receive appropriate accommodations.[223]

- Judges should ensure court staff and attorneys know they are willing to adjust policies to accommodate youth with disabilities and trauma histories.

Avoid interpreting youth's disabilities and/or trauma-related behaviors (such as interrupting, making noise, standing up or moving around at inappropriate times, etc.) as intentional acts of disrespect. Instead of punishing youth for these behaviors, provide accommodations (e.g., more frequent breaks, fidget toys, pen and paper) to help youth with disabilities participate in each aspect of the juvenile legal system.[224]

* While defense counsel play an important role in ensuring youth understand the court process, these strategies are not limited to the attorney.

All juvenile legal system actors are required to provide accommodations pursuant to Title II of the ADA.[225]

Those accommodations should be individualized to meet the unique needs of each youth with disabilities.
To create a trauma-and-disability-informed process for youth with disabilities, system actors should:

1. Ask youth and their families what support they need to succeed
2. Consult with experts on the youth's specific disability and trauma
3. Remain open to trying multiple solutions to minimize harm to youth with disabilities

Accommodations may include:

- Scheduling frequent breaks during court hearings or meetings
- Permitting activities that will help youth stay focused and self-regulate, such as doodling, fidgeting, or moving about the room
- Explaining the juvenile legal system process and allowing youth to ask questions throughout
- Explaining requirements in clear, simple language
- Providing extra reminders about court dates, obligations, and appointments
- Reducing the number of pre-trial release or probation conditions and modifying certain standard requirements, e.g., allowing a youth with autism who is sensitive to loud noises to do community service hours at the library instead of the animal shelter

C. Decision-Making Involving Youth with Disabilities and Trauma Histories

System actors should consider research and expert advice on disability, trauma, and implicit racial bias to guide them when making critical decisions about conditions of release, pre-trial detention, motions to suppress evidence, mens rea, disposition, violations of probation, and out-of-home placements. Across all of these decision points, system actors should consider whether a youth's behavior, reactions, or perceptions are related to or a manifestation of their trauma or disability.

In decisions involving intake, pretrial detention, and conditions of release or probation, system actors including judges, attorneys, probation officers, courthouse security, and juvenile detention facility staff should:

Refrain from formally charging youth who are referred to court for manifestations of their disabilities or trauma.

- Consider implementing a process similar to the "manifestation determination review" that federal law requires when schools seek to discipline youth with disabilities.[226] Juvenile court intake teams should consider a child's disability and trauma history before deciding whether to recommend formal prosecution.[227] Defense counsel's participation would be necessary to protect the youth's rights in this process and provide additional information when permitted to review and disclose confidential medical and educational records.[228]

Set individualized conditions of release or conditions of probation that remain flexible to accommodate the needs of youth with disabilities.

- Limit the number of conditions, recognizing that adding conditions (such as more frequent meetings with a probation officer, strict curfew, school attendance, drug testing, and stay away orders from certain peers) can be overwhelming and impractical for youth with disabilities, making them feel hopeless or set up to fail.[229]

When making decisions about youth of color, system actors should be mindful of the potential impact of implicit racial bias.

System actors should:

- Be attentive to stereotypes and biases in forensic evaluations, school records, unusual incident reports, probation violations, and any other court records that will inform decisions in a case; and when necessary, ask questions to clarify recommendations and better understand information underlying those recommendations
- Ask forensic experts to answer clear and precise questions in forensic evaluations to reduce generalizations, stereotypes, and biases
- Recognize that manifestations of disability and trauma may be misinterpreted as aggression, deviance, or non-compliance, especially for youth of color
- Consider the traumatic effects of policing in communities of color when evaluating youth-police encounters (e.g., evaluating the validity of a consent search or the admissibility of evidence after a police stop, frisk, arrest, search, or interrogation)
- Refer youth to culturally competent evaluators, providers, and placements

- **Refrain from using shackles, ankle monitors, or other devices requiring direct contact with a person's body. This is especially important for youth whose disabilities impact their sensory sensitivity** (e.g., autism and obsessive-compulsive disorder).
  - Avoid electronic monitoring devices that require charging as these present additional challenges for youth whose disabilities impact their executive functioning (e.g., planning ahead can be difficult for youth with ADHD) or cognitive functioning (e.g., remembering time-sensitive tasks can be difficult for youth with traumatic brain injuries).
    - If using electronic monitors, ensure youth with disabilities receive accommodations to help them remember to charge the device. Do not shame them or impose harsh punishment when they forget. Remember that stress increases cognitive load, further reducing executive functioning abilities and making it harder for youth with disabilities to remember to charge their ankle monitors. Forgetting to charge an ankle monitor can cause even more stress, creating a harmful and counter-productive stress loop that could be avoided by removing the ankle monitor.
  - If used, ensure electronic monitoring is not accompanied by strict curfews or other requirements that limit the youth's ability to engage in exercise or extra-curricular activities that can help them manage stress and care for their mental health.

- **Before requiring participation in group therapy, consider whether the youth has a disability that impacts their social interactions** (such as autism), increasing the likelihood they will experience stress and anxiety when asked to share in group settings.
  - Work with the youth to find alternative treatment options that will not cause additional stress.

- **Opt not to impose "stay away" orders** that separate youth with disabilities from their support systems (including schools, recreation centers, extracurricular programs, mentors, neighbors, and friends), regardless of criminal history.

- **Consider appointing mental health and disability support staff to help youth with disabilities process their trauma and cope with the stress of court involvement.**

- **Minimize detention of youth with disabilities, especially those who have experienced trauma.** Recognizing that youth with disabilities are especially vulnerable to mistreatment and abuse in residential treatment facilities, group homes, and other congregate care institutions,[230] prioritize culturally-competent, community-based supports over out-of-home placements.* [231]

In decisions involving adjudication, violations of probation, evidence suppression, or other legal standards, system actors including judges, prosecutors, and defense counsel should:

- **Consider disabilities and trauma histories in evaluating:**
  - mens rea and offense elements,
  - affirmative defenses involving fear and self-defense, and
  - youth's interactions with and perceptions of police (e.g., interrogation, stop and frisks, consent to search).

- **Ensure forensic experts are trained to identify and evaluate youth with disabilities and experiences of trauma.**

- **Consider offering additional support instead of responding punitively when a youth's manifestation of their disabilities or trauma results in a probation violation.** Recognize that punitive responses to manifestations of disabilities and trauma often damage the trust and rapport judges and other system actors have worked to build with youth and ultimately reduce the youth's cooperation.

- **Consider whether a case should be "dismissed in the interest of justice" even if the behavior meets the elements of an offense.** Some states have laws requiring dismissal when prosecution would not serve the rehabilitative purpose of juvenile court or the best interest of the child.[232]

For youth in secure custody and other out-of-home placements, system actors including judges, attorneys, probation officers, and juvenile detention or placement staff should:

- **Routinely assess and monitor the youth's sleep patterns in out-of-home placements,** recognizing that sleep disruption may reflect trauma, trigger trauma responses or disability-related behaviors, and be exacerbated by the correctional environment itself. Judges and attorneys may order or request appropriate evaluations, inquire on the record about sleep-related concerns, and encourage agencies to consider both underlying causes of sleep disturbance and appropriate interventions when making placement and treatment decisions.[233]

- **Periodically investigate the conditions of confinement for youth with disabilities who are incarcerated** to monitor physical and emotional abuse, isolation, access to mental health services, and accommodations for disabilities, anxiety, and the trauma of losing a support system.[234]

- **Allow detained youth with disabilities to have physical contact with family or other supportive adults in the courtroom and contact visits in detention facilities or other out-of-home placements.**

- **Collect data to track systemwide patterns and practices on the treatment of youth with disabilities**, paying special attention to access to accommodations and services, processes related to discipline, and the overall treatment of youth with disabilities and trauma histories.

*System actors should consult with experts and the youth themselves in selecting community-based services and supports. For example, some youth with autism have reported that Applied Behavioral Analysis (ABA) therapy increases their trauma-related symptoms. Other youth have found ABA to be helpful in increasing their capacity for communication and sensory stimulation.

D. Training for System Actors Working with Youth with Disabilities and Trauma Histories

System actors will benefit from training on the co-occurrence of disabilities and trauma among youth in the juvenile legal system. Training can help system actors develop strategies to avoid retraumatizing youth and misinterpreting manifestations of disabilities and trauma as deviant or criminal. Training can also help system actors avoid punitive and carceral responses that further entrench youth with disabilities in the legal system under the guise of keeping youth safe or providing them with services.

Training for all juvenile legal system actors should include strategies for:

- Identifying youth with disabilities and trauma histories so system actors may offer accommodations and other appropriate supports
- Recognizing common disability- and trauma-related behaviors among youth
- Protecting the rights of youth pursuant to the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and the Individuals with Disabilities Education Act[235]
- Discussing disabilities and trauma with youth and their families
- Ensuring that court hearings, probation meetings, and other proceedings in the legal system do not cause additional trauma for youth
- Adopting disability- and trauma-informed legal analysis in cases involving youth with disabilities and trauma histories
- Effectively de-escalating difficult behaviors without retraumatizing youth with disabilities and trauma histories
- Promoting healing and healthy adolescent development for youth with disabilities and trauma histories
- Safeguarding against the impact of implicit racial bias when evaluating the behavior of youth of color with disabilities and trauma histories
- Ensuring culturally competent care for youth of color

System actors should also seek out expert advice and training related to the specific disabilities experienced by youth in their care. For example, expert advice is available to system actors who support youth with autism in the legal system.[236] Speech-language pathologists can help youth with communication conditions understand and fully participate in courtroom proceedings, probation activities, and attorney meetings.[237] Group home and juvenile detention staff should receive training on providing specialized care for youth with disabilities and trauma, including care that will improve sleep health and identify and monitor for traumatic brain injuries, which has been proven to improve outcomes upon re-entry.[238] All system actors (including detention and placement staff) can benefit from training on restorative justice practices that provide an alternative to criminalization and support healing and accountability when harm occurs.

Conclusion and Call to Action

Youth involved in the juvenile legal system are often viewed solely through the lens of an alleged offense. However, many youth in the juvenile legal system are themselves survivors of significant trauma. For youth with disabilities, that trauma may be compounded by additional challenges related to communication, comprehension, and emotional regulation in stressful environments. Navigating the juvenile legal system is an inherently complex, stressful, and trauma-inducing experience. Juvenile legal system processes, if not carefully structured, can unintentionally retraumatize youth. Judges and system actors should strive to use trauma-informed and disability-responsive practices that do not penalize youth for manifestations of their disabilities and trauma and instead minimize harm and promote understanding, stability, and meaningful participation by all youth throughout the juvenile legal system.

APPENDIX:
Understanding Manifestations of Disabilities and Trauma Responses in the Juvenile Legal System

The trauma-related behaviors of youth with disabilities may be misunderstood as willful defiance, dishonesty, or disrespect, when they are instead adaptive responses to trauma or manifestations of a disability. Misunderstanding the cause of behavior can have serious consequences for youth, including exclusion from diversion programs, placement in more restrictive settings, and harsher long-term dispositions. When system actors accurately identify the manifestations of disabilities and trauma, they are better able to protect youths' rights, connect youth with appropriate services, and build the trust that is foundational to rehabilitation. This chart is designed to help system actors recognize and accurately understand these behaviors. For each behavior listed, the chart identifies:

- the most common misinterpretation of the behavior,
- the disabilities with which that behavior may be associated,
- an explanation of how trauma can produce or amplify the behavior, and
- trauma-informed strategies for responding to the behavior.

This chart may be used alongside the recommendations in III above.

Understanding Manifestations of Disabilities and Trauma Responses in the Juvenile Legal System				
Behavior	**Common Misinterpretation**	**Disabilities with Related Manifestations**	**Related Trauma Responses**	**Strategies for Trauma-Informed Care for Youth with Disabilities[239]**
avoiding eye contact	lying, disrespect, refusal to listen, lack of engagement with the process	autism,[240] social anxiety[241]	Maintaining eye contact can be overstimulating and contribute to cognitive overload, especially when under stress.[242] Youth with social anxiety disorder may avoid eye contact as a way of managing their intense fear of being scrutinized, especially when interacting with authority figures.[243]	Refrain from requiring youth to make eye contact or saying "look at me when I'm speaking to you." Allow youth to draw or write while talking or as an alternative to oral communication. Offer youth sunglasses so they may avoid the social pressure to maintain eye contact.
crossing arms, slouching posture, refusing to stand when asked, staring at the floor	disrespect, lack of remorse, deliberate refusal to engage	ADHD,[244] anxiety, autism, PTSD[245]	Disengaging or seemingly resistant behaviors and body language can be a sign of a trauma-induced "shutdown," especially among youth with disabilities.[246] Disengaging, and even dissociating, is a survival mechanism youth with disabilities may employ when faced with extreme stress or to avoid cognitive, emotional, and sensory overload.[247]	When you notice a youth exhibiting "closed-off" body language, pause and express genuine interest in their well-being. Ask how they slept, if they need something to eat or drink, and if they are worried about anything. Understand that they may rebuff even compassionate inquiries. If they are unable to engage, be willing to reschedule your meeting or court hearing for another day. Refrain from taking their attitude personally or responding punitively.

Behavior	Common Misinterpretation	Disabilities with Related Manifestations	Related Trauma Responses	Strategies for Trauma-Informed Care for Youth with Disabilities
remaining silent when asked questions, failing to follow directions	guilty conscience, uncooperativeness	autism,[248] intellectual disability,[249] speech-language disability[250]	Stress can cause youth with certain disabilities to struggle to process commands and speech-language questions or temporarily lose access to verbal language.[251]	Avoid giving compound instructions and instead break directions up into singular tasks. Ask the young person what accommodations would help them answer questions. For example, they may prefer to write their responses instead of having to speak them out loud.[252] Take frequent breaks.[253]
insisting an event never happened, misremembering the order of events, or talking about things that never happened as though they did occur (e.g., a teenage girl insisting she went home immediately after school, even when the probation officer and judge confronted her with GPS evidence that she was in a nail salon that afternoon and threatened to detain her if she did not admit that she was not where she was supposed to be)	lying, hiding the truth	fetal alcohol spectrum disorder (FASD),[254] traumatic brain injury[255]	Trauma can impact a person's perception of time and the sequence of events.[256] Increasing stress and anxiety reduces a child's ability to reason and remember.[257] This may cause them to confabulate (or "fill gaps") as their memories become more difficult for them to access and their brains fill in missing information.[258] Youth who confabulate do not intend to deceive, but instead want to please an authority figure or protect themselves from stress.	Because trauma can impact perceptions, youth who have experienced trauma may genuinely remember events in inaccurate ways. Instead of lying or trying to please, they are reporting what they honestly perceived to have happened. Understanding that confabulation is often a response to stress, look for ways to ease the youth's anxiety.[259] Avoid confrontational questions, which can increase stress and confabulation.[260] Refrain from insisting the youth "tell the truth," which may increase their anxiety, lower their cognitive capacity, and further reduce access to their memory. Do not respond punitively to the confabulation itself, but instead use a calm, steady tone of voice to communicate underlying concerns about the behavior and what will happen going forward.
rolling eyes, sighing, cursing, talking back, yelling, or otherwise acting out	aggression, volatility, dangerousness	ADHD,[261] autism[262]	Outbursts in court or probation meetings can indicate that youth with disabilities are experiencing extreme stress. Youth with autism may have "meltdowns" when they are experiencing sensory overload and intense feelings of fear and overwhelm commonly associated with the legal system process.[263] Youth with ADHD may have even less ability to control their impulses when under stress.[264]	Reduce the youth's stress by taking frequent breaks,[265] reducing sensory stimulation,[266]communicating in a calm tone, and ensuring youth have accurate expectations of what will happen.

Behavior	Common Misinterpretation	Disabilities with Related Manifestations	Related Trauma Responses	Strategies for Trauma-Informed Care for Youth with Disabilities
refusal to apologize, insisting on explaining instead of acknowledging wrongdoing	lack of remorse	autism[267]	Youth with disabilities who have experienced trauma may have a hard time looking past their own experience and the harm they have suffered. They may fear additional consequences if they do express remorse. Youth with autism may feel they are being unfairly controlled or forced to apologize.	Do not insist on on-the-spot apologies or acknowledgement of wrongdoing. Allow youth to take the time they need to process what happened, take responsibility for their actions, and decide to apologize. Acknowledge the ways the youth has been treated unfairly or harmed. Support youth in formulating their apology, understanding that they are learning and may need guidance for structuring an apology. Refrain from responding punitively if they refuse to apologize.
refusal to engage after making a mistake or being corrected by an authority figure	overreaction, seeking excuses to give up	ADHD,[268] PTSD [269]	"Low frustration tolerance" is a common feature of ADHD, and may be amplified in those who have experienced trauma in the past.[270] Low distress tolerance is also common in people with PTSD.[271] Low frustration or distress tolerance can cause a person to shut down when facing a seemingly small obstacle because they feel the world is out to get them or they are worthless for making a mistake.	Show compassion when youth shut down after making a mistake or being corrected. Remain calm, and do not insist youth respond to correction with a positive attitude. Give the youth time to process their emotions around making mistakes. Share a time when you made a mistake and encourage them to try again.
missing court dates and other appointments	intentionally breaking rules, avoiding authority figures or accountability	ADHD,[272] anxiety, [273] obsessive compulsive disorder,[274] PTSD[275]	Youth with disabilities who have experienced trauma may avoid situations they know will cause them stress or remind them of past traumas.[276] Youth with disabilities that impact executive functioning may have an even more challenging time keeping appointments when they are under stress or have experienced trauma.[277]	Ask youth about their preferred method for receiving reminders about court dates or meetings, and send frequent reminders.[278] Communicate with youth about what will happen at the next appointment to reduce their stress and allow them to appropriately set their expectations.
failing drug tests	refusal to obey orders, such as conditions of probation	ADHD,[279] anxiety,[280] depression,[281] PTSD [282]	Youth who have experienced trauma, especially youth with disabilities that exacerbate their trauma symptoms (like anxiety or depression) or lessen their impulse control (like ADHD), are more vulnerable to engaging in drug use to alleviate symptoms of trauma.[283]	Understand that youth may be self-medicating.[284] Do not expect immediate cessation of substance use or punish youth for relapse. Connect the youth with a trauma-informed treatment provider who can help them adopt healthier coping mechanisms.

Behavior	Common Misinterpretation	Disabilities with Related Manifestations	Related Trauma Responses	Strategies for Trauma-Informed Care for Youth with Disabilities
not engaging in court-ordered drug treatment	lack of interest in recovery, refusal to follow court orders, insistence on continuing illegal or self-destructive behavior	anxiety,[285] autism,[286] depression,[287] PTSD[288]	Past trauma can be a barrier to developing trusting relationships with treatment providers, which can contribute to youth with disabilities refusing to engage in treatment.[289] Trauma can also cause youth with disabilities to feel hopeless, lethargic, disoriented or disconnected from the people around them and their day-to-day lives.[290] When treatment is court mandated, youth with disabilities may feel disempowered in a way that reminds them of past trauma.[291]	Seek out culturally-competent, trauma-informed, and disability-informed providers. Discuss treatment options with youth and work with them to find a program that meets their needs.[292] Allowing them to participate in the selection of a treatment program may increase the likelihood they will successfully complete the program.[293] Understand that it may take considerable time for a young person to trust a provider enough to engage in treatment.
running away before or during court or court-mandated activities, including treatment	defiance	autism,[294] ADHD,[295] intellectual disability[296]	Youth with disabilities experiencing stress or trauma may leave without warning—or "elope"—as a way of alleviating stress, sensory overload, or avoiding questions they perceive as prying into their personal lives.[297]	Ask each youth's caregiver about any history of elopement so advanced preparation can be put in place to reduce the likelihood of running away. Prevent bullying by other youth in the facility. Create sensory-friendly environments by ensuring there are no loud or repetitive noises, strong smells, or bright or flashing lights.[298] Talk with youth about strategies they can use (other than eloping) when they are feeling overwhelmed or dysregulated. Examples include taking deep breaths, asking permission to go to a sensory room or to take a walk, using fidget toys, etc.
fighting and other disruptive behavior in detention, youth prisons, group homes, or residential treatment facilities	combativeness, aggression, disrespect of authority	ADHD,[299] intellectual disability,[300] PTSD,[301] traumatic brain injury [302]	Youth with disabilities who have experienced trauma may feel threatened or endangered while incarcerated and, lacking impulse control, may engage in fights to protect themselves when feeling vulnerable.[303] Youth whose disabilities impact their executive functioning may not have the impulse control or ability to weigh future consequences necessary to remain calm in the face of fear and vulnerability.[304]	Ensure all facility staff are trained in de-escalation and trauma-informed care.[305] Offer youth individualized care tailored to their needs. Utilize restorative justice practices to mediate conflict. Refrain from responding punitively to behavior related to disabilities and trauma. Instead, work to understand the root of the problem and put support in place to keep youth safe and avoid future conflicts.

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Endnotes

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[80] *See* Attention-Deficit/Hyperactivity Disorder: What You Need to Know, Nat'l Inst. of Mental Health (2024), https://www.nimh.nih.gov/health/publications/attention-deficit-hyperactivity-disorder-what-you-need-to-know (describing fidgeting, impulsivity, and running at inappropriate times as common manifestations of ADHD).
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[84] *See* Kristin Henning, *The Reasonable Black Child: Race, Adolescence, and the Fourth Amendment*, 67 AM. U. L. REV. 1513, 1554 (2018) (noting that many Black youth have either personally suffered harm from police or have witnessed police brutality, and are thus likely to fear police will do them harm and run away from police as a means of self-protection.).
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[86] *See* Rupinder K. Legha, *There Are No Bad Kids: An Antiracist Approach to Oppositional Defiant Disorder*, 155 PEDIATRICS 1 (2025); Loughran & Reid, *supra* note 47, at 26.
[87] Legha, *supra* note 86; Kess L. Ballentine, *Understanding Racial Differences in Diagnosing ODD Versus ADHD Using Critical Race Theory*, 100 FAMS. IN SOC'Y 282 (2019).
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[211] North Carolina Judicial Branch, *ACEs-Informed Courts Bench Card,* http://nccourts.gov/documents/publications/aces-informed-courts-bench-card (2022).
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[213] NCJFCJ Bench Card, *supra* note 9, at 2.
[214] *Id*.
[215] *Id*.
[216] *Id*.
[217] North Carolina Judicial Branch, *supra* note 211, at 2.
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[219] *See* Laurie Udesky, *Youth Detention Facility Finds Culture of Kindness More Effective Than Punishment*, USC CENTER FOR HEALTH JOURNALISM (Apr. 29, 2021), https://centerforhealthjournalism.org/our-work/insights/youth-detention-facility-finds-culture-kindness-more-effective-punishment; Mark Harris, Josephine C. Vanderhorst & Kellie J. Johnson, *Using ACEs and TBRI to Implement a Trauma-Informed Courtroom*, 70 LA. B.J. 100 (2022).
[220] *For more information on the impact of implicit racial bias, see Section I above.*
[221] Crittenden and Spieker, *supra* note 54.
[222] *See Social Skills Deficits Associated with Autism, Anxiety, and ADHD (Part 1),* THINKPSYCH (last updated April 4, 2024), https://thinkpsych.com/blogs/posts/social-skills-deficits-part-1#:~:text=Social%20deficits%20can%20also%20impact%20relationships.%20People,tend%20to%20have%20issues%20with%20social%20skills (noting autism, anxiety, and ADHD impact social skills); *Social Communication Disorder*, ASHA, https://www.asha.org/practice-portal/clinical-topics/social-communication-disorder/#:~:text=Social%20communication%20disorder%20(SCD)%20is,above%20(Adams%2C%202005) (last visited Sept. 2, 2026) (noting speech-language disorders may impact communication and social understanding).
[223] *See* ACLU, *supra* note 187, at 16 (noting probation officers should maintain flexibility in reporting and other requirements to accommodate people with disabilities).
[224] *See* Cole et al., *supra* note 58.
[225]Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101–12213 (2018).
[226] Individuals with Disabilities Education Improvement Act of 2004, Pub. L. No. 108-446, § 615, 118 Stat. 2647, 2715–31 (2004) (codified as amended at 20 U.S.C. § 1415 (2018)) (providing a framework for disciplining children with disabilities in schools).
[227] Henning & Omer, *supra* note 56, at 422–23.
[228] *Id.*
[229] *See* THE GAULT CENTER & YOUTH EMPOWERMENT FOR ADVANCEMENT HANGOUT, *Revolutionizing Probation from Punishment to Community-Led Safety, Part 1*, 19–20 (Mar. 2026), https://www.defendyouthrights.org/wp-content/uploads/Probation-Brief-Part-1-Jan-2026_digital.pdf.
[230] *See* Fathallah & Sullivan, *supra* note 34, at 102; *see also* Javdani et al., *supra* note 34, at 388.
[231]*See* Bozena Zawisz, *Does Applied Behavior Analysis (ABA) Cause Trauma?*, PSYCHOLOGY TODAY (Sept. 30, 2022), https://www.psychologytoday.com/us/blog/nurturing-self-esteem-in-autistic-children/202209/does-applied-behavior-analysis-aba-cause.
[232] *See*, *e.g.,* CAL. WELF. & INST. CODE § 782(a)(1) (2025); D.C. CODE § 16-2317(d)(1) (2025); D.C. SUPER. CT. JUV. R. 48(b). *Note: A dismissal may be appropriate under these provisions when the child's alleged offense is directly related to the child's trauma or disability or when the child's disability-related needs will be better served by the school system or community-based providers.*
[233] *See* Barbara Robles-Ramamurthy et al., *Improving Adolescent Sleep in Long-Term Juvenile Correctional Settings: Case Examples with Clinical, Research, and Policy Implications,* 5 SLEEP ADV. (Feb. 4, 2024), https://pmc.ncbi.nlm.nih.gov/articles/PMC10904105/ (providing a helpful overview of the factors contributing to sleep disruption in juvenile correctional settings as well as suggestions for system actors).
[234] *See* Mendel, *supra* note 34, at 5.
[235] 42 U.S.C. § 12102; 20 U.S.C. § 1415.
[236] *See, e.g., Autism Justice Center*, AUTISM SOCIETY, https://autismsociety.org/autism-justice-center/ (last visited Sept. 2, 2026).
[237] *Speech Language Pathology and the Legal System*, CHAT, https://chatwithus.org/advocacy/speech-language-pathology-and-the-legal-system/ (last visited Sept. 1, 2026).
[238] *Id*.; Drew Nagele, *Over-Representation of Brain Injury in Adult and Juvenile Criminal Justice Populations*, BRAIN INJURY ASS'N OF AM., https://biausa.org/public-affairs/media/over-representation-of-brain-injury-in-adult-and-juvenile-criminal-justice-populations, (last visited Sept. 1, 2026).
[239] *Note: This column contains ideas to meet the needs of youth with disabilities and trauma histories as described in sources cited throughout this guide, inspired in part by* WASH. STATE SUP. CT. DISABILITY JUSTICE TASK FORCE*, supra* note 49; ADMIN. OFFICE OF PENNSYLVANIA COURTS, *supra* note 218; ACLU, *supra* note 187.
[240] *Understanding Autistic Differences in Eye Contact*, REFRAMING AUTISM (Sept. 18, 2025), https://reframingautism.org.au/understanding-autistic-differences-in-eye-contact/.

[241] Franklin R. Schneier et al., *Fear and Avoidance of Eye Contact in Social Anxiety Disorder*, 52 COMP. PSYCHIATRY 81 (2011).
[242] *Understanding Autistic Differences in Eye Contact, supra* note 240.
[243] Schneier et al., *supra* note 241.
[244] Hana Giambrone, *Shutting Down When Overwhelmed – ADHD Strategies to Cope*, MHC SAN DIEGO (Feb. 2025), https://mhcsandiego.com/blog/shutting-down-when-overwhelmed-adhd/.
[245] Stacey M. Boyer, Jennifer E. Caplan & Lisa K. Edwards, *Trauma-Related Dissociation and the Dissociative Disorders: Neglected Symptoms with Severe Public Health Consequences*, 8 DEL. J. PUB. HEALTH 78 (2022).
[246] *Id.*
[247] *Id.*
[248] WASH. STATE SUP. CT. DISABILITY JUSTICE TASK FORCE*, supra* note 49, at 12.
[249] *What Is Intellectual Disability?,* AM. PSYCHIATRIC ASS'N, (March 2024),https://www.psychiatry.org/patients-families/intellectual-disability/what-is-intellectual-disability.
[250] *See* NAT'L INST. ON DEAFNESS, *supra* note 175.
[251] WASH. STATE SUP. CT. DISABILITY JUSTICE TASK FORCE*, supra* note 49, at 12.
[252] ACLU, *supra* note 187, at 12
[253] WASH. STATE SUP. CT. DISABILITY JUSTICE TASK FORCE*, supra* note 49, at 9.
[254] Jerrod Brown et al., *Fetal Alcohol Spectrum Disorder and Confabulation in Psycholegal Settings: A Beginner's Guide for Criminal Justice, Forensic Mental Health, and Legal Interviewers*, 40 BEHAV. SCI. & L. 46 (2022).
[255] Jerrod Brown, *Traumatic Brain Injury and Confabulation in Criminal Justice and Legal Settings: A Brief Review for Caregivers and Professionals*, BRAIN INJURY ASS'N OF AM. (Sept. 8, 2025), https://biausa.org/public-affairs/media/traumatic-brain-injury-and-confabulation.
[256] Barbara L. Pitts et al., *PTSD Is Associated with Impaired Event Processing and Memory for Everyday Events*, 7 COGN. RSCH.: PRINC. & IMPLIC. 35 (2022).
[257] *Is It Lying or Confabulation—and How Should I Respond?*, ADOPTUSKIDS (Aug. 24, 2020), https://blog.adoptuskids.org/is-it-lying-or-confabulation-and-how-should-i-respond/.
[258] *Id.*
[259] *Id.*
[260] *See* WASH. STATE SUP. CT. DISABILITY JUSTICE TASK FORCE*, supra* note 49, at 13.
[261] ACLU, *supra* note 187, at 14–15.
[262] *Id.*
[263] WASH. STATE SUP. CT. DISABILITY JUSTICE TASK FORCE, *supra* note 49, at 10.
[264] ACLU, *supra* note 187, at 14.
[265] *Id*. at 9, 14.
[266] WASH. STATE SUP. CT. DISABILITY JUSTICE TASK FORCE*, supra* note 49, at 9; ADMIN. OFFICE OF PENNSYLVANIA COURTS*, supra* note 218.
[267] Qi Sheng Tan et al., *The Impact of Affective Theory of Mind on Autistic Individual's Perception of Remorse*, 18 AUTISM RSCH., 1 (2025), https://pmc.ncbi.nlm.nih.gov/articles/PMC11928921/.
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[269] Danielle S. Molnar, Gordon L. Flett & Paul L. Hewitt, *Perfectionism and Perceived Control in Posttraumatic Stress Disorder Symptoms*, INT'L J. MENTAL HEALTH & ADDICTION (2020), https://pmc.ncbi.nlm.nih.gov/articles/PMC7250265/.
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[273] *Id.*
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[275] *Id.*
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[277] *Id.* at 16 (noting disabilities that impact cognitive functioning, including ID/D, ADHD, TBI, PTSD, anxiety, and depression, can impede concentration, time management, working memory, organization, and multitasking).
[278] *Id.*
[279] *Id.* at 17.
[280] *Id.*
[281] *Id.*
[282] Orrin D. Ware et al., *Prevalence of Co-Occurring Conditions Among Youths Receiving Treatment with Primary Anxiety, ADHD, or Depressive Disorder Diagnoses*, 3 FRONT. CHILD ADOLESC. PSYCHIATRY (2024), at 1340480, https://pmc.ncbi.nlm.nih.gov/articles/PMC11732069 (finding that youth with ADHD, anxiety, depression, and co-occurring stress or trauma are more likely to engage in high-risk substance use or have substance use disorder).
[283] Jesse D. Hinckley et al., *Co-Occurring Trauma- and Stressor-Related and Substance-Related Disorders in Youth: A Narrative Review* 12(8) MED. RES. ARCH. (2024), https://pmc.ncbi.nlm.nih.gov/articles/PMC11600332/ (noting self-medication as one reason youth with trauma histories are more likely to engage in substance use).
[284] Caroline Miller & Sarper Taskiran, *Mental Health Disorders and Teen Substance Use*, CHILD MIND INSTITUTE (Sept. 29, 2026) https://childmind.org/article/mental-health-disorders-and-substance-use/.
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[286] *Id.*
[287] *Id.*
[288] *Id.*
[289] *Id.* at 204.
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[291] Amanda Zelechoski, Janet Bohner, & Bruce Perry, *Beyond Recidivism: Reconceptualizing Success Through Relational Health for Trauma-Exposed Youth Experiencing Juvenile Justice Involvement,* 15 FRONTIERS IN PSYCH. FORENSIC & L. PSYCH. (2024), https://www.frontiersin.org/journals/psychology/articles/10.3389/fpsyg.2024.1263451/full.
[292] ACLU, *supra* note 187, at 17.
[293] *Id.*
[294] WASH. STATE SUP. CT. DISABILITY JUSTICE TASK FORCE*, supra* note 49, at 27; Lauren A. Phillips et al., *Assessing and Treating Elopement in a School Setting*, 50(6) TEACH. EXCEPT. CHILD. 333 (2018), https://pmc.ncbi.nlm.nih.gov/articles/PMC6108583/ (noting elopement occurs in approximately 34% of individuals diagnosed with intellectual and developmental disabilities and in about 49% of individuals diagnosed with autism spectrum disorders).
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[296] *See Wandering (Elopement),* CENTERS FOR DISEASE CONTROL (Jan. 28, 2026), https://www.cdc.gov/child-development/disability-safety/wandering.html.
[297] Lauren A. Phillips et al., *supra* note 294.
[298] ADMIN. OFFICE OF PENNSYLVANIA COURTS*, supra* note 218.
[299] ACLU, *supra* note 187, at 14.
[300] *Id.*
[301] *Id.*
[302] *Id.*
[303] *Id.* at 14.
[304] *Id*.
[305] *Id.* at 15.