

# **Disabling Criminology: conceptualizing the complexity of disability in the criminal justice system**

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# People with MHD&CD in the CJS

- People with Mental Health Disorders and Cognitive Disabilities (MHDCD) are over-represented in the Criminal Justice System (CJS)
- Internationally:
  - ◆ prevalence of MHD in prisoners higher than rest of population
  - ◆ Homeless people with MHD more likely to be incarcerated
  - ◆ Large part of police, prison and parole officers' work
- High proportion have dual/multiple diagnoses (MHD/CD/substance misuse) and other disadvantage including homelessness, unemployment, low levels of family support and risky behaviour and therefore more likely to return to prison quickly
- High AOD
- Resulting co-occurring disorders' experience worse than sum of the parts

# MHD&CD Study - UNSW

- Interventions hampered by lack of understanding of overall and longitudinal system impacts.
- Study designed to integrate criminal justice (CJ) and human services (HS) data.
- Detailed data set on the life-long CJ & HS involvement for cohort of offenders using linked but de-identified extant administrative records from CJ & HS agencies - Police, Corrections, JH, Courts, JJ, Legal Aid, MH, DoCS, Disability, Housing, other Health services
- Create 'life-course criminal justice histories' points of agency interaction, diversion or support.
- Identify gaps in policy, protocols and service delivery and areas of improvement for CJS and H S agencies.

# Cohort

from Prisoner Health Survey & DCS ID database

- Full Cohort N=2,731
- ID N=680
- Borderline N=783
- MH N=568
- Control N=339
- Other N=396
- Women = 11%
- Indigenous Australians = 25%

# Early findings

- main offences: theft, road traffic, justice offences, acts intended to cause injury
- significantly higher number of offences overall, less serious offences
- High drug and alcohol misuse
- More custodial episodes (prelim not sig)
  - ♦ (women more than men)
- Significantly fewer days in custody & community orders (& women fewer than men)
- Significantly higher risk indicators (LSR-I)
- Almost none finished school
- Significantly higher public housing use & need

# Observations

- Appears high cycling rate, high rate of nuisance and cumulative offences, high rate of dual/multiple diagnoses, high rate of women and Aboriginal women in particular with multiple needs, high rate of disadvantage compared with control
- Disconnected approach ie siloed/boundaried
- Each CJS agency does not fully recognise the ramifications of its particular intervention; the fluidity between and amongst community and CJS experiences for these persons
- Being catapulted around the cjs/community/human service agencies = chaos.
- Neither current criminological nor disability theoretical approaches accounts for these and therefore we need different way of thinking

# Sociological Contributions

- Current conceptualisations of mental health and illness derive from:
  - ◆ Deviance and labelling theory
  - ◆ Changing modes of treatment
  - ◆ Ideological and discursive practices of psychiatry
- Current conceptualisations of cognitive disability grounded in
  - ◆ Psychology
  - ◆ Special education
  - ◆ Rehabilitation

# Critical Disability Studies

- Explores the social, political, cultural, and economic factors that define disability and shape personal and collective responses to difference
- Distinction between impairment as a condition of the individual body or mind (such as experiencing schizophrenia, intellectual disability or brain injury), and disability, which is the social experience flowing from the presence of impairment, including the range of barriers to full participation that exist in a society which privileges 'normalcy' and marginalizes difference (Oliver and Barnes 1998).
- Problematizes the dislocation of impairment from the social - relevance of the sociology of the body.

# Critical Criminology

- locates crime and its causes in wider structural context including socio-economic, class, culture, race and gender (Anthony and Cunneen 2008:1).
- crime and social / legal responses - including the CJS - are deeply political, cultural and critically challengeable
- Disability conspicuous by its absence

# A Hybrid Critical Approach

- Critical criminology has not acknowledged the experience of disability; critical disabilities studies has not acknowledged the impact of cjs upon people with impairments.
- Bringing these two perspectives together brings disability to the centre of the analysis suggesting a new way to make visible material structures, ideological discourses and experiences of impairment that fundamentally and differentially structure an individual's life course in and out of the criminal justice system.

# Disabling Critical Criminology

- A process aimed at creating a hybrid theoretical space bringing disability to the fore
- Understanding disabling social exclusions and disadvantages for people with impairments, created and mediated by social agencies, funnelling into criminal justice system as extension of disabling community/social circumstances, returning to such circumstances upon release.
- Disabling nature of the systems also creating the disability experience

# Conclusion

- A process of disabling Critical Criminology provides way of integrating:
  - ◆ variety of impairments
  - ◆ dimensions of disadvantage and exclusion
  - ◆ fluidity between community and criminal justice
  - ◆ And it recognises negative synergistic effects of combining personal, social & system disadvantageous circumstances
- Provides potentially powerful analysis of over-representation of MHD&CD in CJS