Understanding the pathways and compounding effects of disadvantage for persons with mental disabilities in the criminal justice system

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Presentation Outline

• Background: MHDCD project
• Findings: pathways & case studies
• Discussion: patterns and interventions
• Conclusions
Background

- MHDCD over-represented in CJS
- Post-release: homelessness, unemployment, low levels of family support and return to prison
- Capacity for early and lifecourse supports
- Lack of overall system understanding
- Lack of political recognition/interest/will
- Need pathway understanding & advocacy
The study

- ARC Linkage study 2007-2010
- CIs: Eileen Baldry, Leanne Dowse, Ian Webster
- PIs: Tony Butler, Simon Eyland, Jim Simpson
- Partner Organisations: Corrective Services NSW, Justice Health, NSW Police, Housing NSW, NSW Council for Intellectual Disability, Juvenile Justice NSW
- Continuing with ARC Linkage *Indigenous Australians with mental health disorders and cognitive disability in the CJS*
The Study approach

- **Method: Innovative data linkage and merging**
  - Cohort: 2001 Inmate Health Survey & DCS Statewide Disability database
  - Add Data drawn from:
    - The Centre for Health Research in CJS Health NSW (+data from 2009 survey)
    - NSW Department of Corrective Services
    - BOCSAR
    - NSW Police
    - Juvenile Justice
    - Housing NSW
    - ADHC
    - Legal Aid NSW
    - NSW Health (mortality, pharma., admissions)
    - Community Services – out of home care
    - Negotiating Centrelink, SAAP, Public Guardian & Financial Manager
SQL server, relational dataset

Cohort ID 2,731

- DCS
- Police
- Court
- Health
- Housing
- Justice Health
- Disability
- Child Services
- Legal Aid
- Juvenile Justice
Cohort - Summary

- Full Cohort N=2,731
- IQ less than 70 N=680
- IQ 70-80 N=783
- Mental health N=965
- No diagnosis N=339
- Substance abuse disorder = 1276
- Women = 11%
- Indigenous Australians = 25%
- ~40% had been Juvenile Justice clients
MHDCD Study: Cohort - detail

- **Intellectual Disability** - IQ in the ID range less than 70
- **Borderline Intellectual Disability** - IQ in the ID range between 70 & 80
- **Mental Health** - any anxiety disorder, affective disorder or psychosis in the previous 12 months
- **Dual diagnosis (a)** - history of mental health problems and an intellectual disability
- **Dual diagnosis (b)** - history of mental health problems and a borderline intellectual disability
MHDCD Study: Cohort - detail

- **Co - occurring disorder (a)** - mental health disorder and a history of substance use
- **Co - occurring disorder (b)** - an intellectual disability and a history of substance use
- **Co - occurring disorder (c)** - borderline intellectual disability and a history of substance use
- **AOD/PD** - any personality disorder or substance use disorder in the previous 12 months and an absence of other category
- **No diagnosis** - no Mental Health or Cognitive disability diagnosis
Cognitive Disability

- ID = >70 IQ
- BID = <70- >80 IQ
- ABI = persons with brain injury that significantly affects their cognitive and social capabilities

- 1464 people in the CD cohort (All CD)
- Approx 2/3rd in the CD group experience compounding / complex needs
Pathways into, through, around, out of and back into CJS
MHDCD Study: Education

- Diagnosed groups even lower levels than general prisoner pop

- Those with some form of CD have significantly worst levels of education.
Out of home care

- 12% of the cohort had been in OHC
- 60% of the OHC group have complex needs
- 80% of this group has cognitive impairment

- Earlier police contact
- Twice as many police contacts
- Twice as many custodial episodes
- Three times as likely to have been incarcerated as juvenile
Out of Home Care (OOHC): example

Eddie has an ID, Borderline Personality Disorder and an AOD history from age 6. He was first placed in OOHC at age 9 for 2 weeks, and over the following 6 years was placed in 9 different foster homes which often only lasted between 5 days to 2 weeks. Eddie had first police contact at age 11 and his first custodial episode at age 13. He was regularly imprisoned for breaching bail conditions which stated that he could only go out accompanied by a responsible adult.
- Of those in the ID range (680) 26% ADHC clients.

- Of those BID range (783) 5% ADHC clients.

- Very low rate (15%) of CD in cohort with ADHC services.

- Only 10/709 JJ CD group were ADHC clients.

- 79% of ADHC clients imprisoned prior to becoming a client.
Housing Assistance

- High level of housing assistance sought: 70-80% of those with MHDCD
- Very high level housing assistance given
- Problems in maintaining tenancy: eg frequent re-imprisonment, behavioural issues.
Homelessness

Complex needs had the highest rates of homelessness

NB: NFPA = No fixed place of abode
Average Age First Police contact

CD complex – significantly lower av. age 1st contact with police

Those who were JJ clients sig. lower av. age of police contact for CD complex (12-13)
Police contact: example

Matthew is diagnosed with a BID and MH disorder. His first police contact was at age 7, and he had contact with the police on 20 occasions by the age of 10. By the age of 18 he had 349 police contacts for escalating crimes.
Police Contacts

People with Complex Cognitive Disability had significantly more police contacts over their lives and significantly higher rates of police contacts per year.
Police Custody: example

Casey, who has an ID and multiple MH diagnoses, went into DJJ custody for the first time within a few months of her first police contact at age 12. During this year Casey was also in police custody 35 times and was detained at least weekly by police. Within a 6 month period Casey was in a Juvenile Detention Centre 9 times for between 1-39 days with a total of 128 days.
Contact with Juvenile Justice

Sig. higher rate of being a JJ client for compounding CD groups - between 40% to 60%;

But ~ 20% for those with no diagnosis or MH only
Juvenile Justice (JJ): example

Natalie was first in JJ custody at the age of 15. The following year she had 7 episodes in JJ custody over four months. Natalie also had 3 JJ custody alerts during this time for threatening self-harm and escape. Natalie is recorded as being an ADHC client, however when aged 17 ADHC stated she was no longer under their care.
All custody episodes

Those with compounding disability sig. higher av. lifetime rates of custody episodes and higher rates of custody episodes per year than single & no-diagnosis groups
All custody

Those with compounding disabilities have shorter duration each time in custody than BID, MH or no diagnosis but similar av. number of days per year in custody (ie more short stays).
Section 32 (at any time)

Few dismissals under Sec 32 – total 618 over the whole cohort’s history

17% of MH-ID; 14% of MH-BID ever had Sec32 dismissals
All matters finalised by rate per year

Complex groups more matters & higher rates of matters finalised per year than single & non diagnosis groups
Offences

- Average National Offence Index rating for all offences was in lowest (least serious) 10%
- Most common: road traffic & theft (50% of all convictions), justice, public order & acts intended to cause injury (~ 10% each)
Health service contact

Significantly more hospital admissions for both mental and other health problems for all disability groups with multiple diagnoses than MH only and no diagnosis groups.
Gender

- **Women**: higher rate of custodial episodes per year than men
- **Women with complex needs**: sig. higher number and rate of custodial episodes than male counterparts
- **But Men**: significantly **greater number of days in custody** than females
- **Women** - more custodial episodes **but shorter** in duration - greater rate of cycling for women with complex needs
Gender (cont)

- Women with complex needs: less time in remand but higher number of remand episodes than the av. and than those with single or no diagnosis

- Only 7% women with cognitive disability supported by Disability Services
Women and Girls: example

Casey is an Indigenous woman who has an ID and multiple MH diagnoses. From age 12, Casey had a very high number of police contacts including 87 events over a 10 month period, and she frequently cycled between the community, the CJS and psychiatric hospitals. It appears that Casey received minimal support for her complex needs and police were often used as a service of ‘last resort’.
Aboriginal persons in the cohort

- 86% Indigenous cohort is male, 14% female.
- 91% Indigenous cohort identified with MHDCD; most complex needs; eg of those with MHD 77% have AOD with 36% also CD.
- significantly higher number and rate of convictions than non Indigenous persons.
Pathways

Complex CD have significantly:

- higher rate and earlier contact with police
- worse education experience & levels
- lower level disability services than community counterparts
- higher housing support but also higher failed tenancies
- Very high LA provision
- low rates of Sec 32
- higher rate of JJ contact
- higher offences, convictions, imprisonments (particularly remand) from an earlier age than single (although these are also generally worse than non-diagnosis) and non-diagnosis groups
- shorter and more frequent prison episodes
- higher continuing lifelong CJS episodes
Pathways: iterative, looping, cycling, compounding

- Poverty/disadvantage
- Lack Disability services
- Poor School Education
- Mental Health
- Courts
- Housing/homelessness
- Police
- Legal Aid
- Prison
- Post-release
- Breaching
- Reincarceration
New Conceptualisation of Disability in CJS

- Highly disadvantaged places early in life & funneled into a liminal marginalised community/criminal justice space
- Not falling through the cracks, rather on the conveyor belt / given a ticket on the CJS train. Systematic and patterned.
The lack of appropriate support and services and the use of control agencies for persons experiencing multiple disadvantages together with mental and/or cognitive disability, compounds these life issues creating complex needs.
From the literal to the socially constructed treadmill
Reducing offending and contact with the CJS - examples

- Children / young people: support not criminalisation; ensure care & protection
- Disability support for families (especially Aboriginal families) with child with cognitive and learning disabilities
- School education: recognition / support for disadvantaged children with CD, behavioural problems
Reducing offending & contact with CJS

- Police & parole access to innovative programs
- More staff with complex needs skills
- Secure supported strengths based disability accommodation programs
- Pro-active MH work with persons with complex needs in community/criminal justice space