Disability, Handicap & Society
Publication details, including instructions for authors and subscription information:
http://www.tandfonline.com/loi/cdso19

Vulnerable Victims? A Current Awareness of the Victimisation of People with Learning Disabilities
Christopher Williams a
a Norah Fry Research Centre, University of Bristol, 32 Tyndall's Park Road, Bristol, BS8 1P4, United Kingdom
Published online: 23 Feb 2007.

To cite this article: Christopher Williams (1993): Vulnerable Victims? A Current Awareness of the Victimisation of People with Learning Disabilities, Disability, Handicap & Society, 8:2, 161-172

To link to this article: http://dx.doi.org/10.1080/02674649366780131

PLEASE SCROLL DOWN FOR ARTICLE

Full terms and conditions of use: http://www.tandfonline.com/page/terms-and-conditions

This article may be used for research, teaching, and private study purposes. Any substantial or systematic reproduction, redistribution, reselling, loan, sub-licensing, systematic supply, or distribution in any form to anyone is expressly forbidden.

The publisher does not give any warranty express or implied or make any representation that the contents will be complete or accurate or up to date. The accuracy of any instructions, formulae, and drug doses should be independently verified with primary sources. The publisher shall not be liable for any loss, actions, claims, proceedings, demand, or costs or damages whatsoever or howsoever caused arising directly or indirectly in connection with or arising out of the use of this material.
Vulnerable Victims? A current awareness of the victimisation of people with learning disabilities

CHRISTOPHER WILLIAMS
Norah Fry Research Centre, University of Bristol, 32 Tyndall's Park Road, Bristol, BS8 1P4, United Kingdom

ABSTRACT  The general victimisation of adults with learning disabilities has received little significant attention. This position paper outlines relevant literature, and a current awareness of the nature of victimisation, police and reporting, and court procedures. It aims to provide a basis for research or other actions, which can contribute to minimising victimisation and maximising the means of support and redress for victims.

Introduction
Care in the community presents the likelihood of new perspectives on the victimisation of adults with learning disabilities. Police and court procedures are not conducive to obtaining convictions on their behalf. There is, consequently, a low expectation of redress and a low rate of reporting. Whilst much has been written concerning people with learning disabilities as defendants or offenders it appears that little significant attention has been given to general victimisation against this group, in the UK or abroad.

This position paper outlines relevant literature, and a current awareness of the nature of victimisation, police and reporting, and court procedures. Informal research at the Norah Fry Research Centre (University of Bristol) suggests some of the issues for more thorough investigation. The paper aims to provide a basis for research or other actions, which can contribute to minimising victimisation and maximising the means of support and redress for victims.

Relevant Literature
A formal awareness of the vulnerability of people with learning disabilities seems to stem from the 1970s:

... the scandals surrounding the treatment of ... mentally retarded ... persons ... require that an enlarged list of victims receive the attention of criminologist and other scholars. (Drapkin & Viano, 1974 , p. 121)
The theme was taken up in the United States by Balkin (1981) in a paper called 'Toward victimisation research on the mentally retarded'. In the UK, Disability, Handicap & Society provided some preliminary thoughts from Hewitt (1987) concerning 'The abuse of deinstitutionalised persons with mental handicaps'. The author was a former police officer.

More recently Margaret Flynn (1989) included an excellent overview of general victimisation as part of her study, Independent Living for Adults with Mental Handicap: a place of my own. This covers descriptions and types of victimisation, consequences, associated factors, and prevention. From the United States The Criminal Justice System and Mental Retardation (Conley et al., 1992), although largely concerned with people with learning disabilities as defendants, also includes a short chapter on victimisation, dealing with prevalence, limitations of data, crime patterns, fear of crime and its consequences, possible strategies for the justice system, and victim assistance.

A number of recent papers deal with a specific aspect of victimisation: sexual abuse. Dunne & Power (1990) have documented a small, community-based study of sexual abuse in Dublin, and a broader study is in progress in England, funded by the Joseph Rowntree Foundation (Brown, 1991). The Roeher Institute has published Vulnerable: sexual abuse and people with an intellectual handicap (Senn, 1988) which deals with Canada; Marchetti & McCartney (1990) investigated the characteristics of the abused, the abusers and the informers in residential settings in America; Tharinger et al. (1990) dealt more generally with sexual abuse. Valerie Sinason (1992) deals with the topic from the perspective of a psychologist in Mental Handicap and the Human Condition: new approaches. A meeting at the House of Commons in June 1992, chaired by Edwina Currie, promoted the work of the organisation VOICE. The organisation was founded by parents who successfully pursued a case of sexual abuse, at a MENCAP home, through the courts (Cervi, 1992a).

There has been discussion of coping with the effects of sexual abuse. In 1982 Anderson produced a paper, 'Teaching people with mental retardation about sexual abuse prevention'. More recently Community Care (1991b) published an account of counselling for women who have experienced rape, and Haseltine & Miltenberger (1990) have considered 'Teaching self-protection skills to persons with mental retardation'. The Family Planning Association publish a comprehensive booklet, Working with the 'unthinkable': a trainers manual on the sexual abuse of adults with learning difficulties (Brown & Craft, 1992).

On a more general level, the London Borough of Hammersmith (LBH) embraced the victimisation of disabled people in a survey of needs, finding that people with disabilities are three times as likely to be conned into letting someone into their home and twice as likely to be attacked in the street (LBH, 1992). Unfortunately surveys such as the British Crime Survey (BCS) and the General Household Survey (GHS) omit the experiences of many people with learning disabilities. The definition of 'household' is limited; so-called 'institutions' are not embraced by the surveys. Health Authority or Social Service staffed 'group homes' are excluded, and the status of a house with day-time staff or weekly visits is unclear. Research officers
from the BCS are aware that 'better educated respondents seem more adept at recalling relevant events at interview', but no formal attempt has been made to include the views of less intellectually able people. As these surveys influence government policy, the lack of representation of people with learning disabilities raises important democratic questions.

There seems to be no comprehensive study of the victimisation of people with learning disabilities, which would provide the type of information gained by the standard victim studies concerning others. The Home Office *Victims' Charter* (1990) sets out expectations concerning the general population, which provides a good starting point for arguing for equitable outcomes for people with learning disabilities.

**The Nature of Victimisation**

The nature of victimisation of adults with learning disabilities is likely to be different to the general picture. For example, current surveys suggest that about one third of crime concerns cars and 95% of total recorded offences involve property (Home Office, 1991). People with learning disabilities rarely drive, and usually own little more than personal effects. The type of victimisation they are likely to suffer is suggested by recounts from the Bristol area. Incidents include harassment in public places, verbal abuse, simple assault, a murder, abduction by car, arson at a group home, and a taxi driver who exposed himself to a female passenger. Vandalism of group homes and day centres seems common (especially of greenhouses), and it is interesting to note that residents and users are not usually considered to be victims in these circumstances, although feelings of annoyance and trauma may be considerable.

Language is often used in a manner that disguises that particular incidents, if perpetrated on members of the general populace, would clearly be labelled as crimes. 'Abuse' of a person with learning disabilities might be considered an 'assault' of anyone else; 'sexual abuse' is often used when, more accurately, the crime is 'rape' or 'indecent assault'. The title of a recent journal article, 'Role inappropriate sexual behaviour between therapist and client', could be used to embrace anything from embarrassing comments to rape.

A further perspective is the strong likelihood of victimisation by others with learning disabilities. Reports of minor incidents are numerous, but there have also been serious outcomes. In January 1992 a man living in a Health Authority unit in Sheffield was charged with murdering his companion by setting fire to their house (Community Care, 1991a, p. 3). A recent study of sexual abuse indicates that most of the perpetrators were other people with learning disabilities and that "nearly 60% of the victims were still accessible to the perpetrators" (Turk, 1991, p. 18).

**Identifying Victimisation**

Accurate recognition of victimisation is a prerequisite of seeking redress. Events such as these are not usually pursued through criminal or civil actions:
—youths paying a young person with learning disabilities to swear and goading others into petty crime. This might constitute incitement.
—verbal abuse of people waiting at a bus stop outside their day centre. Verbal abuse may be covered by the offence of, 'Use of threatening, abusive or insulting words or behaviour likely to cause harassment, alarm, or distress to others'.
—a defamatory description in a newspaper. In May 1991 the Sun newspaper was successfully sued for describing a child with behaviour problems as the 'worst brat in Britain' (Guardian, 1991b, p. 3).
—locking someone in their bedroom or otherwise restricting their liberty, at a group home. This could be 'false imprisonment'.

Mike Gunn (1990) proposes that crime committed by 'omission', (such as neglect by a carer), rather than 'act' (such as assault) may be a significant aspect of the lives of people with learning difficulties. Crimes of 'omission' are more difficult to identify and prove. Instances of alleged neglect at a mentally handicapped unit in Colchester included the failure to respond to a man with a cut lip who "was left to drip blood into his lunch", and leaving a female patient alone in a bathroom of males (Cooper, 1992, p. 11). The case resulted in the judge directing not guilty verdicts because of the unavailability of a witness.

A greater awareness of what might be pursued through the courts (both through criminal and civil proceedings), by professionals, carers and people with learning disabilities, is fundamental to encouraging reporting.

The Effects of Victimisation

Even the effects of a moderate victimisation can be serious. The Independent, under a headline stating that a man "died alone in his flat, a victim of Care in the Community", reported,

Shortly before he died, he was found with paint spattered in his dark hair. He said his "friend" had done it. Kay believes these same "friends" took his money and cigarettes, and saw him as a figure of fun. He was an easy and vulnerable target. (Sage, 1991, p. 21)

In 1984 The Times (p. 2) reported that a mentally handicapped man jumped to his death after being urged on by "goulish yobs" shouting, "We want some blood."

Margaret Flynn (1989) indicates more general, but certainly not unimportant, outcomes.

(i) Personal "debts are significantly more likely to occur when people are victimised." (p. 113);
(ii) Concerning 'relationships'—"Arguably people who experience victimisation are unable to trust others and, regarding themselves as prey, they do not or cannot take the necessary steps to form relationships. Some people are too frightened to leave their homes, and inevitably this reduces their opportunities to meet others" (p. 118).
(iii) Victimisation is a factor "associated with satisfaction with the home and loca-
A students' evaluation of a Community Service Volunteers work experience project in Bristol disclosed circumstances when victimisation interfered with employment. They complained of people begging from them, the fear of harassment at bus stops and of problems if the last bus failed to arrive. These situations reduced the number of locations in which they would seek employment.

Despite a growing awareness, the likelihood of victimisation rarely seems to feature as an aspect of planning for people with learning disabilities.

**Reporting and the Police**

Reporting seems low. One Canadian study found that almost 75% of sexual abuse cases were not reported (Sobsey & Varnhagen, 1989). There may be fear of further traumatising a victim through questioning. The case of exposure by a taxi driver in Bristol was not taken further for this reason, although the taxi firm dealt very responsibly with the matter.

Police procedures and attitudes are also likely to have an influence. After difficulty reporting an incident against a group home in the West of England, a sympathetic police officer is said to have told social workers informally not to give the name of the group home if they contact the police station in the future. To do so would probably lead to the report being ignored. In contrast, a police investigation of a sexual abuse case in the North of England was handled with extreme sensitivity by officers who were experienced in working with children. The result was a successful prosecution.

Sir Frederick Lawton, a retired Lord Justice of Appeal, considers that there is a "widespread belief among officers, and probably reality, that promotion depends upon having a record of successful prosecutions" (Dyer, 1991, p. 3). If the police generally view crime against people with learning disabilities as unlikely to lead to convictions, their interest and support is likely to be less than for other citizens.

Police procedures concerning offenders are laid down in Home Office Circular 66/90—Provision for Mentally Disordered Offenders. It recommends that "particular care" is taken with interviewing, that a parent or other responsible person should be present, and that this person should also sign any document arising from an interview. Although similar approaches would be valid when people with learning disabilities are victims, these ideas have not been formally applied to mentally disordered victims.

Low reporting may also result from ignorance of procedures. The Scottish Society for the Mentally Handicapped provides brief guidelines in *Sex, Laws and Red Tape* (McKay, 1991). More comprehensively, *Abuse of Adults with a Mental Handicap/Learning Disability: procedural guidelines*, prepared by the Nottingham Health Authority and Nottinghamshire Social Services Department, describes formal procedures in detail for professionals (Notts. HA/SS, 1992). This also contains a valuable Outline of the Legal Position, by Mike Gunn.
Of equal import to a concern that crimes are not reported to the police is an almost total absence of civil proceedings on behalf of people with learning disabilities. A 'mentally disordered' individual may sue by the help of a 'next friend' under Order 80, Rules of the Supreme Court.

Victims who do not want to pursue an incident provide another aspect. The Law Commission concludes, “It is not generally clear at what stage intervention against the person’s apparent wishes is justified, or who should be responsible for taking this action,” (1991, p. 7). The wishes of victims must remain central, but can be difficult to reconcile if they appear based on minimal knowledge and experience of how police and justice systems work, or on fear of retaliation. People with learning disabilities will sometimes consider the maintenance of social harmony more important than retribution or punishment. An individual relating a story of sexual harassment in a Day Centre photographic dark room placed more importance on ensuring that the perpetrator’s wife did not find out, than on reporting and official action.

Even when a report is made and taken seriously, general attitudes can hinder investigation. The Independent (Dunn, 1991, p. 5) pointed out the difference in media attention given to the disappearance of an attractive Oxford student and that given to Jo Ramsden a young woman with Down’s Syndrome. The paper suggested that because “She's not attractive in the classic way,” Ms Ramsden did not capture press imagination. Her abduction did not receive the immediate press publicity that may have helped trace her. Ms Ramsden’s body was found 11 months later, 10 miles from home. In June a retired psychiatric nursing assistant was charged in connection with this incident.

**Court Procedures**

Few cases reach the courts. In a Rowntree-funded study, of 77 cases of strongly suspected sexual abuse, only four came to court (Cuffe, 1991, p. 15). If cases reach the courts, conviction rates seem low. Sobsey & Varnhagen (1989) found that in Vancouver of 20 cases where charges were laid only nine resulted in convictions. A small-scale survey by the Zonta Club of Hong Kong found conviction rates concerning sexual abuse ‘disturbingly low’ (Lau, 1988, p. 3).

Court attitudes may underlie some of this failure. Following the case of an alleged attack on a 48-year-old man by a member of staff at a day centre, it was reported

“It was not a serious act of violence,” said Judge Williams, who likened the incident to a parent smacking a child and later regretting the action.

(Western Telegraph, 1991)

Attitudes also seem to influence sentences. Recently, a man who had sexual intercourse, illegally, with a ‘defective’ was given two years in prison although the usual sentence for rape is from five years to life imprisonment (McCormack, 1991, p. 144). In a similar case, a judge stated that he was, “taking an exceptionally lenient course” in sentencing a social worker to three years probation for having sexual
intercourse with a 20-year-old woman in his care. The reason was that the man had been promoted from maintenance worker to social worker without training, and that this mitigated his actions (Guardian, 1991a, p. 5).

Evidence-giving

The Law Commission (1991, p. 40) concludes that, "Evidential problems may make it particularly difficult to obtain convictions for offences against mentally disordered people." In a recent court case concerning alleged rape of a 16-year-old woman, her evidence was deemed unacceptable because her 'mental age' was stated to be less than eight, and children younger than eight cannot give evidence under oath (McCormack, 1991, p. 143). The judge apparently considered that actual age referred to by law and a subjective view of mental age proposed by a professional were synonymous. There is no indication as to why the evidence was not heard without an oath, as is sometimes the practice with children under eight. The transcript of another case depicts the confusion of a 20-year-old woman which could have been avoided:

Judge: Do you understand what an oath is?
Mary: No.
Judge: When you swear to tell the truth, will you tell the truth?
Mary: (No answer)
Judge: If you are asked to tell the truth, will you tell the truth?
Mary: I don't know.
Judge: Does an oath on a Bible bind you?
Mary: (No answer)
Social Worker: Would it be all right if I help her out with the question?
Judge: No, it would not.
Prosecuting counsel: My Lord, I wonder if the term 'bind you' would be understood by this lady?
Judge: Do you believe in God?
Mary: Could be yes, could be no.
Judge: Let her be shown a bible, please, usher. If you are asked to tell the truth today, will you tell the truth?
Mary: Yes.
Judge: That book will make you tell the truth, will it?
Mary: Yes.
(Cuffe, 1991, p. 15)

A paper from the United States in 1988 (Kaufhold & VanderLaan) argued that mentally retarded victims could give evidence leading to successful convictions, if procedures are sensitive. Preparation seems a key to successful evidence-giving. Thomas & Mundy (1991) describe work with a woman, who had been sexually abused by her father, which included visits to a court, role plays, and familiarisation with court language. On a practical level, the Crown Office in Edinburgh has just
produced a training booklet on the interviewing of witnesses with a learning disability by Ray Bull.

In a recent case of sexual abuse in the UK, the victim was permitted to give evidence from behind a screen, and barristers and judges removed their wigs and gowns to create a less intimidating atmosphere (see Downey, 1992). The prosecution was successful, and the parents of the victim have now formed an organisation, VOICE, to promote the lessons from the case. VOICE identifies points for consideration:

- support and belief in the person,
- allowances for their disability,
- pre-trial methods of court familiarisation,
- duration of time to bring to trial,
- the laws of advocacy,
- awareness of the witness's limited ability by the judiciary/jury,
- the role of liaison with the police authorities and the Crown Prosecution Services,
- the use of a video link at disclosure interviews,
- the recognition (of the difference) between the chronological age and the age determined by psychometric testing procedures.

(VOICE, 1991)

Colin McKay (1991) makes similar recommendations in *Sex, Laws and Red Tape*:

Special procedures must be adopted to make it more feasible for witnesses with learning difficulties to give evidence in court. These may include videotaped statements; making pre-trial statements admissible in court; expedited trials; screens; less formality in courtrooms. There is also need for improved interview techniques at pre-trial stages. (p. 42)

On an academic level, a recent conference organised by the Department of Psychology at Portsmouth Polytechnic addressed the question, in relation to sexual abuse, 'How may victim's evidence be relied upon to produce more prosecutions?' Papers dealt with collecting evidence via interview (Ray Bull), suggestibility and admissibility (Gisli Gudjonsson), and statement reliability analysis (Günter Köhnken).

In Nova Scotia a court protocol has recently been introduced to provide support and accommodation to all victims and witnesses who have communication problems, including those with mental disabilities (Nova Scotia, 1991). Viewing evidence-giving more as a matter of facilitating communication as less as one of competence, might provide a productive way forward. In Australia, formal Facilitated Communication (supporting an individual to communicate via a computer keyboard or letterboard) is reported to have been used successfully in a court setting. But the likelihood of courts generally accepting evidence in this manner seems minimal without convincing research and acceptance by senior judges.

There are two important arguments for the improved facilitation of evidence-giving. First, there is need to prevent the further traumatisation of victims through
unnecessary court procedures. A guilty plea will usually spare a victim unpleasant questioning in court. An offender who suspects that a victim’s evidence will not be accepted is very unlikely to plead guilty. An increased probability that evidence from people with learning disabilities will be successful would lead to more guilty pleas and less traumatisation through court procedures. Secondly, the decision whether or not to proceed with a case, by the Crown Prosecution Service, is based in part on the likelihood of a successful prosecution. If it is believed that prosecutions are difficult to achieve on behalf of people with learning disabilities, there is the possibility that cases will not be pursued as they would for other members of the public (see Cervi, 1992b).

Conclusions

Comprehensive research, building on work that has focused on specific aspects of abuse, but which examines all facets of victimization and subsequent processes, is a starting point for improving the achievement of justice and the minimisation of victimisation for people with learning disabilities. This paper provides an awareness of the current position, which prompts the following questions:

(i) The experience of victimisation
- What types of crimes occur?
- Do some adults seem more vulnerable, e.g. age, sex, gender?
- Are crimes recognised as such by victims, carers and professionals; if not, why?
- How are victims affected in the short- and long-term? Does victimisation create a fear of leaving the house, for example?
- How might surveys such as the British Crime Survey embrace the adults with learning difficulties who are victims?

(ii) The causes of victimisation
- What are the common settings of victimisation, e.g. in the street, on public transport, in shopping centres, or in rural locations?
- What seem to be the precipitating factors and what are the stated motives of offenders?
- Are there reasonable means of avoidance, that do not culminate in blaming the victim?
- How can public or police awareness minimise the incidence of victimisation?

(iii) Reporting
- Why are some incidents reported and some not?
- What is the police response?
- How can reporting be encouraged?

(iv) Court procedures
- How many cases reach the courts and why/why not?
- How many convictions are obtained?
- What are the perceived and stated reasons for success or failure in court?
- What are the attitudes of court officials?
(v) Other actions

- Is the Victim Support Scheme used? If so, how?
- Are there other channels of formal or informal victim support?
- Are people insured against theft and are claims made?
- What is the involvement of the Criminal Injuries Compensation Board?

The eventual achievement of justice for people with learning disabilities seems dependent on a familiar circle of interdependent factors. Reporting will be improved by better identification of victimisation and the likelihood of greater success in the courts. Success in the courts will be achieved by better investigation, preparation, and improved procedures which are likely to be prompted by more reporting. Success in the courts is likely to deter victimisation and increase access to support and redress through Victim Support and the Criminal Injuries Compensation Board. The need to encourage productive attitudes is common to all levels of involvement.

NOTE

Dr. Christopher Williams is a Joseph Rowntree Fellow.

REFERENCES


CERVI, R. (1992b) Inquiry seeks action over alleged abuser, Community Care, 14 May, p. 4.

COMMUNITY CARE (1991a) Client accused of murder after fire in special unit, Community Care, 16 January, p. 3.


GUARDIAN (1991a) Odd-job man had sex with girl after being made social worker, Guardian, 31 August, p. 5.
GUARDIAN (1991b) Disabled boy forces Sun to pay for 'worst brat' libel, Guardian, 24 May, p. 3.
LAU, E. (1988) Sex abusers of disabled 'often get away with it', Hong Kong Standard, 1 May, p. 3.
NEWSBREAK (1991) People with a mental handicap have their say in court, Newsbreak, Summer, p. 5.
NOTTS. HA/SS (1992) Abuse of Adults with a Mental Handicap/Learning Disability: procedural guidelines (Nottingham, Nottingham Health Authority and Nottinghamshire Social Services Department).
Christopher Williams


VOICE (1991) Private correspondence, [VOICE can be contacted at P.O. Box 238, Derby DE1 9JN, United Kingdom].