

Misunderstood Responses in Police Interrogation Rooms

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Twenty-five years ago, James Ellis and Ruth Luckasson (1985) wrote a 78-page monograph on persons with intellectual disabilities who were caught up in the criminal justice system. It appeared in the *George Washington Law Review*. In the monograph, Ellis and Luckasson attempted to cover the issue from every angle. In my opinion, it became one of the most important groundbreaking documents of the 20th century (Ellis & Luckasson, 1985).

Ellis and Luckasson's (1985) effort was timely. After all, while they were creating the document, hundreds of persons with intellectual disabilities were suddenly being moved out of large custodial institutions and back into regular society. Community-based agencies were springing up everywhere to help these returning citizens adjust to their new neighborhoods.

Although most of the interest in such persons in those days focused on the institution-to-community transition, Ellis and Luckasson (1985) chose to warn all of us about another issue, the criminal justice system and its impact on individuals with intellectual disabilities. They focused on areas such as police arrests, interrogations, charges, court trials, and, even, convictions. In their trailblazing mode, they listed eight eye-opening characteristics many people with disabilities might possess that could be misunderstood by police officers.

Knowing these eight vulnerabilities served as a godsend to those of us who advocated for persons with disabilities in the criminal justice system. We became skilled in digging up real cases that could be easily attached to each of these vulnerabilities. We used them as powerful illuminating tools when we taught segments on disabilities in police academies.

However, we did not stop there. In the questing spirit of Ellis and Luckasson (1985), we found other cases of persons with weaknesses that law officers might misunderstand. So, we built on the original list of 8 until we had created a list of 20, all with real cases attached to them. This larger list follows.

1. Relying on Authority Figures for Solutions to Everyday Problems

For many of us, satisfaction comes from personally solving our everyday problems. Some persons with disabilities, however, may not be very successful at figuring out what to say and do in certain situations. So, they trust police officers to give them all of the right answers.

2. Desire to Please People in Authority

This urge stems from both respect and fear. One needs to stay on the good side of those who help us survive in the community. That is why some of the persons we work with and care about have been known to say, "If you say I killed her, I killed her, but I don't remember doing it."

3. Inability to Abstract From Concrete Thought

When someone reads certain individuals their Miranda Rights, they may only grasp *rights* in concrete terms. They may think of things such as "waving at the *right*." After all, nobody should wave at the wrong in a police station. They may think about their *right* hands and consider raising them. They may be unable to grasp the abstract thought that Miranda Rights are based on a person's Constitutional rights as a citizen.

4. Watching for Clues From the Interrogator

Some individuals look closely at faces and listen for emphases placed on certain words, trying to sense what an officer wants to hear. They may even copy moods to come up with answers the officer wants.

5. Longing for Friends

Some persons hunger for friends who will not shy away from them because of their disability. Many would love to have a police officer as a good friend.

6. Relating Best With Children or Older Persons

When people their own age do not befriend them, individuals with intellectual disabilities often work at relating to those who are younger or older.

7. Plea Bargaining of Accomplices

Often, a hunger for friends can result in associating with the wrong person. Then, when both a person with a disability and another are picked up and questioned for a crime, the so-called “normal” suspect can plea bargain for a lesser sentence while testifying against the more vulnerable sidekick.

8. Bluffing Greater Competence Than One Possesses

We sometimes do everything we can to appear more knowledgeable than we really are. An untrained officer might reinforce this “cloak of competence” and use it against us.

9. An All-too-Pleasant Façade

Smiling at people is a way of getting approval from others. An officer might see this overuse of grinning as a lack of remorse.

10. Abhorrence for the Term *Mental Retardation*

This term has wounded some people so deeply that they will do almost anything to disconnect themselves from it. That is why we in the field have scrapped the term *mental retardation* and replaced it with *intellectual disabilities*. If a prosecutor is trying to argue that a person does not have “mental retardation,” that defendant might seal his or her own doom by agreeing with that argument.

11. Real Memory Gaps

Some people with disabilities have real memory lapses, not the “selective memories” crafty

people exhibit on the witness stand. Some will hide these lapses of memory by claiming to remember what others told them about the crime.

12. Quickness to Take Blame

Even if the tragedy is an “act of God” or an unforeseeable accident, some individuals will feel that someone must be held responsible. They may even take the blame, thinking the officer will like them more if they do.

13. Impaired Judgment

Unlike a shrewd criminal with antisocial tendencies, some people will do and say things that will make it easy for officers to charge them with crimes.

14. Inability to Understand Court Proceedings, Assist in One’s Own Defense, and Understand the Punishment

In spite of their cloak of competence, some individuals may be completely unaware of what is going on around them.

15. Problems With Receptive and Expressive Language

Although they may not show it, some people will not understand what the officer is asking them. If the officer pushes them too hard, their response system may shut down. The officer may see this silence as defiance.

16. Short Attention Span

Although a myriad of sights and sounds may strike a person’s sensing mechanisms, most people will be able to concentrate on a few and tune out the rest. Some individuals with disabilities may not be able to focus as well. They may be distracted by many more sights and sounds in the police station, even a noisy fan or the sound of voices in another room.

17. Uncontrolled Impulses

Sometimes, in pressure-filled interrogation rooms, people find it hard to be calm, to sit still, and focus. They become agitated and erratic. Because many crimes are the result of uncontrol-

lable impulses, the interrogator may feel too quickly that this present impulsivity came from a criminal when it did not.

18. Unsteady Gait and Struggling Speech

People with cerebral palsy may be excellent receivers of sights and sounds and ideas, but when they try to respond, the impulses sent to their muscles will appear to have been dispatched by a madman. Arms may flail. Heads may bob, and they will exert tremendous energy trying to shape the words they want to voice.

19. Seeing People With Disabilities as Less Than Human

This view can lead to all kinds of prosecutorial mischief. For example, consider a police officer who is under pressure to solve a 2-year-old crime and has two suspects: a local bank president and a person with intellectual disabilities. Which would be the easiest to lean on? Seeing a person as “dumb,” as a “nobody,” as a “fringe person,” or less than human can inspire a cruel advantage that has no place in an interrogation room or a court.

20. Exhaustion and the Surrender of All Defenses

If interrogating officers keep individuals with certain disabilities under pressure for long periods of

time, they can break some down and get them to say almost anything.

Summary

Today, disability workers are finding numerous ways to talk to law officials about the above characteristics. They can do it during investigations, in police academy training segments, during officer roll-call sessions, on court witness stands, and during joint police–community conferences. I remember how the original list of eight character traits (Ellis & Luckasson, 1985) grabbed my attention so vividly after reading them for the first time. This experience makes me hopeful that today, when others voice the list of 20, it will have the same effect, with the positive outcome of these persons we work with and care about experiencing greater safety, security, and justice in the communities in which they live.

Reference

Ellis, J., & Luckasson, R. (1985). Mentally retarded criminal defendants. *George Washington Law Review*, 53, 414–492.

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