

**MEMORANDUM TO JOSE CERDA**

From: Stanley S. Herr

Re: Crime and Persons with Disabilities

Date: April 5, 1994

As a followup to our conversation today, I'm attaching this brief "crime memo" from our Commissioner of the Developmental Disabilities Administration.

The gist of it is quite compelling: persons with disabilities, especially developmental disabilities, need police who have received training to recognize their unique needs and vulnerabilities as victims of crime or as suspects. Arguably this is already compelled by the Americans with Disabilities Act, but training and sensitivity awareness remains much needed.

For instance, there is a substantial literature, Jose, on the problem of acquiescent behavior by persons with mental retardation to persons in authority (i.e., police and prosecutors) leading to confessions even in the absence of an offence. Thanks for any help on these issues.

Attachment

# CRIME MEMO

Both as victims and those accused and convicted of committing crimes, individuals with developmental disabilities (especially mental retardation) are becoming increasingly involved in the criminal justice system. Moreover, these individuals often face unequal justice at the hands of police and the Courts precisely because the current system is ill prepared to respond or adapt to their disabilities. Advocates, scholars and others argue that people who have been very carefully taught all their lives to trust and please authority figures confess to crimes which they have not and could not have committed when urged to do so by prosecutors and police. On the opposite side of the coin, the much publicized gang rape case involving a young woman with mental retardation in New Jersey once again reminded many of us of just how much police, prosecutors and the public need to learn about the raw vulnerability of many of these citizens.

The Americans with Disabilities Act requires police departments to take steps, including training when necessary, to avoid discriminatory treatment on the basis of disability. However, to date, states and localities have received little direction on how to carry out these provisions in respect to Americans with developmental and other disabilities who get caught up in the criminal justice system in particular. Hence, much more focused efforts must be placed on identifying and replicating best and promising practices in this area.

This is especially true if the critical concept of community policing is going to be applied to individuals with disabilities in a fair and effective manner throughout our Nation. Much greater emphasis must be placed on providing current police and new recruits with the training and technical assistance needed to afford people with disabilities who are victims or alleged perpetrators of crime with equal justice under the law. In order to be most effective, training needs to be carried out at least in part by people with developmental and other disabilities themselves to better familiarize police and others with their unique range of needs and abilities. Additional training is needed to better prepare individuals with disabilities to avoid conduct which might place them at risk of becoming potential victims or perpetrators of criminal activities. State Developmental Disabilities Planning Councils and University Affiliated Programs funded by the Administration on Developmental Disabilities, in collaboration with local self advocacy groups, should be enlisted to develop and sponsor model projects.

# FACSIMILE TRANSMISSION

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