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Disability Accessibility in Washington Courts

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Cover Page Footnote

I wish to thank my thesis advisor Dr. Jeff Cohen for his advice, support and wisdom during the writing and research process.

Abstract

In this article, disability access is first explored in the United Kingdom, Ireland, and Canada, examining court systems and the rights of defendants in a literature review. Then, disability accessibility and diversity are explored within the Washington court system utilizing semi-structured interviews with 17 practicing Washington State attorneys from diverse backgrounds and legal experiences who primarily practice criminal law in the courts. The article describes the current state of sign language interpretation and communication barriers within the courts for those who are disabled and the current accommodation standard and various communication and physical barriers for those with disabilities in the court system in Washington. Additionally, technology access is discussed which is especially prudent for blind individuals. The need for further supports and accommodations, especially for those who have mental illness or developmental disabilities, is also apparent.

Disability Access in Washington Courts

The purpose of this paper is to explore disability accessibility within the Washington State criminal legal system. Insights from this study illustrate dynamics across U.S. criminal court systems. Included in this paper are the perspectives from court personnel on issues of accessibility regarding disability, access to sign language interpreters in the criminal justice system, and how courts can accommodate people with disabilities, including accommodations for those with severe communication disabilities. This study also explores experiences of witnesses giving evidence in court, including those with intellectual disabilities, and the impact of accessibility on sentencing decisions for people with intellectual disabilities.

Through qualitative analysis of semi-structured interviews with attorneys, this study employs jurisprudence theory to examine criminal justice court system accessibility. Jurisprudence theory is best described as theory construction of philosophy of law rather than definitions, concepts, or conceptions, as there are various theories depending on one's purpose (Bayles, 1990). The study is relevant to the practice of law, as it explores access to criminal legal systems and the courts. It explores methods, practices, and strategies through which judicial members and legal participants such as attorneys can create opportunities for community partnerships within the disability community to foster accessibility and inclusion for defendants with disabilities (Dooley & Wood, 1993).

Literature Review

There is a significant amount of literature on topics related to disability accessibility and inclusion within criminal justice systems and, more specifically,

courtrooms. Both Turner (1995) and Devonald (1995) discussed access to the justice system and provided a review of progress to date in the United Kingdom. Devonald noted the geographical distribution of courts and how real equity of access depends on a level playing field within the court system. Devonald additionally explained the difference between litigants who are well resourced and how the average private litigant is more constrained. Turner noted only the rich and those so poor as to be eligible for legal aid can afford thousands of dollars in legal expense and how many cases could be resolved through mediation and never see the light of a courtroom. Turner also addressed how justice delayed is justice denied and the need at all hearings for the available time to be limited for each side to present and finish their case so each case can be heard within the time frame set by the court.

Chappell (1994), in a discussion of discrimination against people who experience developmental and intellectual disabilities in the British criminal justice system and their treatment under the law, noted that these individuals suffer immense discrimination in society, including within the legal systems. Chappell also discussed police procedures and processes, and suggested people with learning difficulties are a vulnerable social group or a problem social group. He argued that the vulnerability to wrongful conviction where there has been a miscarriage of justice in recent cases in the British criminal justice system is a sort of institutional discrimination that must be acknowledged more broadly as part of the campaign for civil rights for disabled people.

Similarly, Chester (2018) described the way people with intellectual and developmental disabilities are treated within the criminal justice system in the United Kingdom. Key themes from the study included prior involvement with the criminal justice

system. This involvement is seen with the police and courts, as well as fitness to plead, insanity defense, diminished responsibility, courtroom support, sentencing, prison, and inpatient services for intellectual developmental disabilities. These themes also include the prison release process and inpatient services. What follows is a discussion of some of the significant dynamics around disability accessibility in criminal legal systems that emerged in a review of the relevant literature.

Program Accessibility and Communication Improvements

In the United States, Dooley and Wood (1993) noted that “program accessibility” with the implementation of the Americans with Disabilities Act (ADA) is a challenge requiring vision, creativity, and resources. There is a need for partnership to fashion an inclusive judicial system. The ADA is the most expansive disability rights legislation, under which the courts are held to accommodate individuals with disabilities, in addition to other statutes and laws at the federal and state level. Dooley and Wood also addressed communication improvements, particularly around access to American Sign Language (ASL) interpreters for deaf individuals, accessible pathways, facility and procedural changes, jury accessibility, and community resources, which are just as important as funding resources.

Additionally, Miller (2001), through an analysis of 22 post-ADA cases and a survey of 46 professional sign language interpreters working in criminal justice settings, considered access issues concerning sign language interpreters in law enforcement, courtrooms, and correctional facilities. Miller noted that access to sign language interpreters is in line with the U.S. Constitution’s guarantee of due process rights. Further, both Miller (2001) and Vernon and Miller (2005) discussed steps for improving

access and continuing access studies in the courtroom, during arrest procedures and in correctional systems. According to Miller, availability and access to sign language interpreters is severely lacking. Further research is needed to fully understand the cause for the lack of interpreters and how more can be secured to provide this essential support which underscores even after 20 years, little progress has been made and more support is needed.

There is a significant amount of literature available about communication challenges among those who need disability support. This includes access to ASL for witness testimony and cross examination, staffing the courtroom with competent interpreters, ensuring the interpreters' accuracy, and the need for accommodations for those with communication disabilities in the United States (US) and United Kingdom (UK; Beckene et al., 2017; Corra, 2020; Howard et al., 2015; Morrison et al., 2019; Morrison et al., 2021; Tuck, 2009; Vernon & Miller, 2005; White et al., 2020; White et al., 2021).

Howard et al. (2015) conducted qualitative focus groups with nine patients in a forensic learning disability service, to learn of their experiences in criminal justice settings in the UK. They found there were negative feelings associated with the participants' experiences in the criminal justice system and with professionals within the criminal justice system. In particular, police officers and probation officers were commonly found to be uncaring, disrespectful and lacking in learning disability awareness. The results showed that the participants consistently shared that the criminal justice system was not suitable for people with learning disabilities, and without prompt mentioned that the healthcare system is more appropriate for people with

learning disabilities and how there is a need for supports to be in place in the criminal justice system.

Also working in the UK, Beckene et al. (2017) conducted similar semi-structured interviews, using a grounded theory approach to examine the experiences of four people with intellectual disabilities and four caregivers or supporters, who all attended trials. Including the lived experience of those with disabilities in the studies is critical, as the focus should be on those with intellectual disabilities. The findings from Beckene et al. demonstrated that better training for legal participants such as attorneys who are in contact with vulnerable witnesses and better support structures for alleged victims are needed.

Courtroom Technology, Court Websites and Accessibility for Visually Disabled

Accessible technology is of high importance, especially to those who are visually disabled. Research underscores the importance of accessible digital legal information sources and technology (Donoghue, 2017; Rei-Anderson et al., 2018). Donoghue (2017) suggested that access to digital information sources and technology in the courtroom would increase participation and enhance efficiency, which in turn would counter injustice and highlight the central principles of justice systems. Rei-Anderson et al. (2018) conducted a two-part study in Canada to determine whether court websites they sampled met accessibility standards; they did this by having persons with visual disabilities test the websites for accessibility. The results showed that the sampled websites were largely accessible but fell short of best practices in that they presented challenges to users who have visual disabilities. The authors recommended that courts

remedy those website inaccessibility errors and assess the extent to which online legal resources are accessible to other vulnerable and marginalized individuals and groups.

Characteristics of Prisoners and Impact of Sentencing Decisions on People with Intellectual Disabilities

Characteristics of prisoners with intellectual disabilities and sentencing decisions may not appear to have any relationship with accessibility in criminal justice systems. However, research demonstrates a connection between inaccessible and difficult to navigate processes and procedures in court systems and courtroom sentencing. Chaplin et al. (2017), in interviews performed in a London prison, found that the prevalence of intellectual disability in prisoners is estimated to be 11% of remand, meaning a defendant on bail or in custody, and 5 to 7% of sentenced prisoners.

According to Chaplin et al. (2017), prisoners with intellectual disabilities are more likely to also have mental health challenges. Twenty-five percent of the prisoners they spoke with had thought about suicide in the last month and 63% had attempted suicide in the past. Cockram (2005) in research based in Western Australia, noted persons with intellectual disabilities are significantly disadvantaged in criminal justice systems. Prisoners with intellectual disabilities may be treated differently than persons who do not have intellectual disabilities and mental health difficulties. At the same time, first-time offenders with a variety of demographic factors including gender, suffer significant disadvantages. Addressing these discrepancies will provide equitable treatment for the persons in the criminal justice system regardless of demographic factors.

There is a significant number of individuals with intellectual disabilities in the prison population. Herrington (2009) assessed the prevalence of intellectual disability

specifically among young male prisoners in the UK. Using a stratified random sampling method, 185 male prisoners aged 18-21 years old completed a semi-structured research questionnaire that included the Kaufman Brief Intelligence Test, and the Vineland Adaptive Behavior Scales. Herrington (2009) found that 11% of the sample had a borderline intellectual disability, supporting suggestions that this group is both prevalent and easily hidden in mainstream criminal justice systems.

Furthermore, King and Murphy (2014) conducted a systematic review of the literature on the experiences of individuals with autism spectrum disorder in criminal justice systems in the UK. While often confused as a communication disorder, autism spectrum disorder is an intellectual disability that brings challenges within the courtroom. King and Murphy used a combination of search terms in a variety of databases, specifying inclusion and exclusion criteria, in order to find available literature on the topic. Through their systematic review, they noted that while there is emerging literature on the topic, there are a wide variety of methodologies used, making direct comparison challenging (King & Murphy, 2014). Based on this review, more research on the experiences of those with autism spectrum disorder in criminal justice systems is warranted.

Additionally, Anderson (2015), researching disability practices in Australia, highlighted the experiences of people with learning disabilities in criminal justice systems and summed it up in two words – confusion and isolation – noting that their voices are often ignored. Anderson focused on three emerging dynamics. First, the participants were bewildered by their experience of criminal justice systems, and most were fearful and did not understand what was happening. Second, the participants felt

that they were alone in these systems without support. Lastly, Anderson found that study participants experienced significant social isolation when transitioning to the community after incarceration.

Hashmi et al. (2021) reviewed sentencing decisions imposed on people diagnosed with intellectual disabilities who were convicted of sexual offenses in Canada. They used the legal databases Canlii and LexisNexis Quicklaw to search for full-text judgements from Canadian courts for adults (over the age of 18) diagnosed with an intellectual disability and charged with a sexual offense. In total, 61 cases were included within the full-text review. According to the researchers, many people with intellectual disabilities have complex social and medical backgrounds that require multidisciplinary perspectives to account for each person's legal and moral culpability, which in turn influences sentencing decisions, including placement in prisons versus rehabilitation programs. Despite the focus of the study on the Canadian criminal justice system, international research is reflective of these findings, such as those within the Australian criminal justice system (Cockram, 2005). Based on these findings, there is a grave need for better support for those who are navigating criminal justice systems to avoid prison and incarceration.

Navigating Criminal Justice Systems with an Intellectual Disability

Close and Walker (2010) focused on criminal justice systems in the United States and the manner in which these systems accommodate persons with developmental disabilities who have behavioral challenges and have been charged with serious crimes. Individuals with intellectual barriers are often disadvantaged and victimized by the normal operational procedures and expectations of justice systems.

For example, those who have developmental disabilities are often easily coerced into a false confession (Close & Walker, 2010). The Close and Walker study included case studies from actual criminal cases to illustrate these complex problems. They proposed a new role, called a forensic special educator, to assist individuals beyond what competent legal counsel could perform within the courtroom, guide them through daunting legal processes, and help them cope with their legal situations. Additionally, Close and Walker presented a “checklist of indicators” in order to alert criminal justice professionals that a person with an intellectual disability may be a target of their procedures. Further research is warranted on this topic as victim advocates are common in courts on the prosecution side, but no such supports are provided to assist the defendant beyond defense counsel.

In summary, it is apparent that further research is needed to address barriers and increase accessibility in criminal justice and court systems. Special attention needs to be paid to disability categories, including mental illness, blindness, autism spectrum disorder, intellectual and learning disabilities, and for those who are hard of hearing or deaf. The current study attempts to address some of the gaps in the existing literature by focusing on two overarching research questions:

- What barriers to effective communication exist in courtrooms for individuals with disabilities?
- How can court processes and procedures be better understood by defendants with hearing, mental, intellectual, or learning disabilities or autism spectrum disorder?

Methodology

Data Collection

The researcher conducted semi-structured, in-depth individual informant interviews with 17 participants. This interview format was most appropriate as it was “used here to characterize participants who are experienced and savvy in the scene, can articulate stories and explanations that others would not, and are especially friendly and open to providing information” (Tracy, 2013, p. 140). In order to gain insights into the research questions, this study focused on the experiences of court personnel in Washington State. Specifically, the current research study collected qualitative data through semi-structured interviews with attorneys who are currently or previously practiced criminal law in Washington State.

The interviews lasted between approximately 15 minutes and one hour and were audio and video recorded using Zoom, a video conference platform. After conducting the interviews, the researcher made use of Zoom’s built-in transcription function and listened to the interviews multiple times in order to conduct the analysis described in more detail below.

Study Participants

The researcher interviewed a total of 17 participants including defense attorneys, public defenders, prosecutors and a retired superior court judge. All participants were authorized to practice law in Washington State by the Washington State Bar Association.

To protect the confidentiality and privacy of participants they are identified by pseudonyms. Some of the attorneys were former prosecutors or defense attorneys who

currently practice civil law. Some participants only had limited experience with disabilities in the context of the courtroom, while others had personal experience with disability, either for themselves or family members. Some of the participants only had three to five years of practice, while others had more lengthy experiences in practice, including 30 or more years. All these participants were recruited through the Washington State Bar Association Legal Directory. The final group of participants, gathered utilizing purposive and snowball sampling techniques, included judges and attorneys at the Washington Superior Courts. Purposive sampling is when the researcher intentionally selects participants who are knowledgeable about the subject matter (Gill, 2020). Snowball sampling is when current participants recommend persons who might be willing to participate in the study.

Data Analysis

The interview transcripts and recordings were analyzed using a two-cycle coding process that included elemental and affective methods of coding, specifically descriptive, evaluation, and theoretical coding (Saldaña, 2009). Elemental coding methods are primary methods for qualitative data analysis, providing basic, focused filters that help lay the foundation for subsequent coding cycles. Affective methods explore subjective qualities of human experience such as emotions, values, conflicts, and judgements by directly labeling and naming those experiences. Descriptive coding is a straightforward coding method used to assign basic, descriptive labels to data to provide an inventory of topics. It summarizes a word or short phrase as the basic topic of a data-passage; in this instance, a topic is what is being talked about, whereas content is the actual substance of the passage—what is said about it. Evaluation coding

focuses on how the relative merit of various programs or policies can be assessed or judged (Saldaña, 2009). This coding process seemed to be most appropriate as it describes the challenges of accessibility in the courtroom and criminal justice system. Coding means reviewing the data and information gathered in the interviews in a systematic fashion using a process or set procedure. The researcher implemented grounded theory in the analysis of the data. Grounded theory is most accurately described as a research method in which the theory is developed from the data, rather than the other way around. This was an inductive approach, meaning that it moves from the specific to the more general (Davidson, n.d.). The definition of disability was based in the Americans with Disabilities Act.

Limitations to Research

There were multiple limitations to the current study. The sample size of 17 participants, while exceeding the number the researcher expected, is relatively small and may limit the range of perspectives this study was able to incorporate. Additionally, there was a general lack of diversity among the participants, which again limits the range of perspectives offered. The lack of diversity among study participants may be a function of the overall lack of diversity among the legal community in Washington State as well as the sampling procedures employed in this study. Finally, it must be acknowledged that the data for this study were collected through interviews conducted remotely over Zoom during the pandemic, which likely impacted the interview process. In-person interviews would have been the preferred method barring the disruption of the pandemic, as the researcher would be able attend to both the verbal and nonverbal responses to interview questions. However, a benefit of conducting interviews remotely

over Zoom was that individuals were able to participate from all over the state, including both Eastern and Western Washington.

Analysis and Discussion

The interview contents of the discussion included diversity in the bar, on the bench and in jury pools. The participants also discussed topics around disability accessibility and technology access in court, jury disability access, accommodations in court, the availability of court certified American Sign Language interpreters, the physical access of the courtrooms, and the use of therapeutic courts such as mental health and drug courts. In alignment with the overarching research questions of this particular study, the discussion of findings that follows focuses on seven key themes that emerged from the analysis of interview data.

Built Environment of the Courtroom and Technology Use

The participants discussed the importance of the physical built environment of the courtroom, and how not every courtroom in each county in Washington is as accessible as it could be. Brent explained it is a “capital investment to have you know things in Braille for the visually impaired and those are options in most courts now, but not at all.” Many participants shared that while the entrances of most courthouses are accessible, once you enter you may experience barriers to access. The issues lie with the witness stand and the jury box not being accessible to the disabled. Additionally, when the courtroom is small the gallery might be difficult for disabled individuals to navigate especially when using wheelchairs and walkers. As Nancy shared,

The half wall that separates the front part of the courtroom from where people can watch is actually pretty tight. I had a foot surgery a couple years ago. And I

was on a scooter and then I was on crutches, and my client had to completely get up from the table move both chairs, so I could get around, so I could ask my questions of the witness. Because there wasn't enough space for me, and that was precious, they're not convenient, but they don't take up a lot of space. I can't imagine what counsel or a defendant or a prosecutor with a wheelchair, what difficulties they would have in that tight space.

Participants additionally shared experiences with the use of technology in the courtroom and how it has benefited accessibility for defendants and others. For instance, Brent noted the use of hearing assistance devices in the courtroom:

A lot of courts have sound amplification systems. Courts are about storytelling.... talking about storytelling, showing pictures and things. While there are accommodations to assist those who are deaf or blind, they are expensive. Accommodations can include infrared hearing systems where sound is amplified from different speakers and microphones set up in the courtroom. However, sometimes these work and sometimes they do not.

Brent also acknowledged the difficulties that arise when the hearing assistance devices malfunction, leaving the defendant unable to follow the court proceedings. Due to the pandemic, many courts pivoted to remote video hearings using technology such as Zoom. Many of the participants found this to be exceedingly beneficial to their clients as they were able to attend court hearings from the comfort of their home or other location. As Lilly explained,

A lot of things are via Zoom, so it's more accessible for people than it's ever been because normally, you would have to go to court. And it had been previously very

infrequent for Zoom virtual hearings or teleconference hearings to ever be allowed. Now, because of the pandemic, a lot of courts have invested in the technology to allow Webex, Microsoft Teams, Zoom. All kinds of different options for people, so they can live out of state, and they can log in from the comfort of their home or their car.

However, several participants also indicated judges' reluctance to conduct remote hearings due to not being familiar with technological platforms, such as Zoom. Similarly, Mark also indicated difficulties with the logistics of a remote court proceeding, such as the difficulty of taking fingerprints in a criminal case. Ultimately, however, many of the study participants indicated they would prefer to have remote hearings as an option for their clients.

Therapeutic Courts: Mental Health Court

Participants consistently discussed therapeutic courts in relation to disability accessibility, as there is an access issue with not enough participants being referred to the therapeutic court programs. While most participants described both the Superior Court Felony Mental Health Court and drug courts, this discussion focuses on the mental health court and its benefits for individuals with mental illness. Therapeutic courts provide an alternative method of resolving cases that involve defendants accused of certain crimes receiving the mental health treatment they need in lieu of jail or prison sentences under court supervision. The defendants must meet certain criteria and be willing to go into treatment to qualify. Fred and Kimberly discussed the requirements to participate in mental health court. Those requirements include "a nexus between the crime and the mental illness and they need to be amendable to treatment,"

as they explained. If the defendant is successful in their treatment, then the charges against them are dropped. Jennifer said the program is rather “risk-adverse,” as they do not permit high needs individuals that would benefit the most from the program. This is partly because of funding for the program, and because the courts want to be successful and keep the success rate high. Thus, they do not take on more serious crimes such as assaults with knives or arson. Jennifer said,

I had one gentleman who repeatedly went to hospitals to get assistance, and he would always end up in some sort of physical altercation and constantly being charged with assaulting doctors and nurses. They won't take high needs individuals, which is contrary to what I believe their best practices are supposed to be. So mental health court is good kind of, but it doesn't help the people that really need the most help. So, there is pros and cons of mental health court.

This program assists in the continuity of care of those individuals who need this therapeutic approach to the law. Therapeutic courts are a valuable asset to criminal legal systems, and courts such as mental health court should be expanded so more defendants in need of those supports can be served and can move forward in their life without criminal charges looming. Those in the court system who struggle with mental illness have an immense struggle to stay out of the system, which is exactly where they need to be, in treatment which the therapeutic courts attempt to achieve with cooperation from those defendants. However, others who are deaf and communicate in American Sign Language also experience difficulties in the courtroom.

American Sign Language (ASL) in the Courtroom

The court system has a salient concern with the need for and use of ASL interpreters. The court system relies on interpreters to provide access to deaf defendants and others who are in the court system. The availability of ASL interpreters is a serious concern especially in rural parts of the state where the supply of interpreters is exceedingly low, according to Chad, with “only two or three sign language interpreters that are available [across] all of Eastern Washington.” While Chad acknowledged that this may cause a delay in the case, they explained, It is something that this court system is going to be able to set up and hopefully get them there; it just sort of makes everything take a little bit longer. But we do our best to make sure that those people... have those resources, so they can effectively communicate what's going on and effectively also be communicated with about their case.

It is critical that the interpreters are court certified. As Fred noted, it “is really important, because sometimes my experience has been that different terms and different traditions and different language groups can lead to misleading results and outcomes.” Fred warned about the danger of communication when a relative interprets during the hearing or process, which can lead to a poor outcome:

A case I was involved with as a lawyer when I was at Group Health Cooperative, the providers agreed to let a family member interpret. The family member didn't want to disclose that there had been a previous miscarriage or what they call a shoulder dystocia. This woman had a hard time delivering. But the family member interpreter was ashamed of that and so hid it. And it was not a good outcome.

Accommodations in the Courtroom

There are a variety of accommodations that can be made based on the individual and their specific disability. These may include frequent breaks in trials, hard of hearing listening devices, and ASL interpreters. While not a formal accommodation, some participants discussed appointing guardians ad litem, which under rare circumstances allow the court to assist people with disabilities who are unable to participate in their own case. It is imperative that defendants, witnesses, and other court participants including jurors be reasonably accommodated. As Frank explained, “access to justice requires us to acknowledge those necessary accommodations and make reasonable accommodations so everybody can serve.” Nancy explained that it is important for the client to trust the attorney, describing an instance in which this did not happen:

In order to ask for those reasonable accommodations, I've had clients with learning disabilities who struggle with reading and writing, and they were embarrassed and didn't want to tell me and I'm learning that down the case. I mean it's easy to accommodate that, we just read each form to them line by line, and we take time and ask questions. But I think I find success as long as my clients are open and honest with me about their barriers on finding the reasonable accommodations.

Nancy also shared that it is important for judges and prosecutors to have more opportunities to learn about disability accessibility and to have training on disability accommodations and how to ensure those accommodations can be made. The court considers accommodations earnestly, as they are important to court participants with various disabilities. The courts consider accommodations so seriously that the

Washington State Supreme Court issued General Rule 33, which requires that trial courts provide assistance and accommodation when necessary. Additionally, many of the district and superior courts have ADA coordinators whose role is to facilitate disability accommodations in accordance with the ADA and state law. While these policies and state laws go a long way toward disability access, more work is necessary to ensure true accessibility for the disability community in Washington state courts.

Mobility and Transportation Challenges to Court

Participants identified mobility challenges for people with disabilities as an issue in the courtroom, as they may create difficulties in complying with court orders. It is difficult for court participants to travel to the court, especially in rural communities that lack adequate public transportation. Moreover, once at court it may be difficult to navigate courtrooms that do not have an accessible witness stand, defense table, prosecution table, or jury box. As Lilly shared, for court participants to attend and travel to court they must travel by ferry from one island to another, which can be exceedingly challenging. Jennifer shared that Washington State used to have a bail jump law for those who missed court, which was a felony and often resulted in a more significant penalty than the underlying charge. As she explained, the bail jump law was repealed, so this “doesn't happen quite as often anymore, where someone can't get to court, you know because of a disability, physical disability or mental disability, and then they're prosecuted for bail jump... which is really good.” As Jennifer shared in her interview, despite the challenges with transportation to court, COVID-19 changed a multitude of the processes within the court system. Technology such as Zoom has helped to increase accessibility within the court, as it allowed defendants to Zoom into the

courtroom from the comfort of their home, office, or another desired location that works best for them.

Diversity in Legal System

Diversity in the legal system is important from a multitude of perspectives. There is diversity in the sense of increased disability accessibility by having court personnel, particularly judges, prosecutors, public defenders, and defense attorneys, who must represent defendants as who they are. Defendants with various disabilities, those of different races or genders, are also important to consider with an intersectional lens. It is imperative that prosecutors and, most importantly, judges be able to relate to the defendants for whom they are making decisions that will significantly impact their lives and liberty.

The numbers are exceptional for Washington State in terms of diversity with respect to judges in the courts who are people of color. Upon an internet search, it was determined that there is no statistics or other evidence of disability diversity of representation among judges, commissioners, and magistrates in Washington State courts. However, there is a diversity directory of judges, commissioners, and magistrates of color in the state of Washington published in 2022 (Washington State Minority and Justice Commission, 2022). As demonstrated, there is a need for further diversity of disability, as these statistics are not reported, compared to information about diversity of race and other characteristics.

The way to increase diversity in the legal system is to promote, recruit and retain a diverse community of judges and attorneys who have various disabilities and

experiences with disability accessibility. This will assist in their decision making concerning complex cases with defendants with various disabilities. As Brent noted:

I think that we should take a hard look at our judicial election laws I think it's a 2% rule, where, if you get more than 2% of the vote, there are certain federal matching funds [that] become available. And I think that should be expanded for people in the judiciary. I think that if people establish themselves somehow as capable and qualified candidates, I think our state should say we're going to fund these elections so that these people have just as much a chance, or a decent chance at getting their message out to the community, that they are good candidates. There is a need to ensure that those candidates who run who have experiences with disabilities are funded to make sure they have the support they need to win their election to ensure diversity for disabilities and other intersectional communities.

As Brent said, it is “hard to get these diverse experiences on the bench. Often it comes down to money.”

Funding

There are two fronts to funding. One is funding for a diverse slate of attorneys with disabilities to run for elected positions such as prosecutor or judge. The second is to ensure there is ample funding for disability accessibility improvements in courtrooms throughout the state, regardless of the budget circumstances from each county. As Brent shared:

Money has to be there....Those counties administer their superior courts, and I think that counties typically are listening to what they consider to be stakeholders, the

plaintiffs' bar, the defense bar, the Democrats, the Republicans. I think that they should be encouraged to listen more.

Funding is critical to ensure necessary accommodations can be made for defendants and other court participants with various disabilities.

Solutions

The most important solution from a global perspective is to develop an international standard for ensuring the rights of those with disabilities, whether they are defendants, witnesses, or other court participants. While there are standards and laws requiring that individuals with disabilities receive reasonable accommodations in the United States, such as the Americans with Disabilities Act, there is no international standard. Garnering support for a law to protect the rights of individuals with disabilities can ensure they are provided with appropriate accommodations for their disabilities. Globally this is important, as it can help ensure protections are in place and there will be no inequity between those who are entering court in the United States and those who live abroad. In this way, everyone will be able to participate in the courtroom on a level playing field regardless of their abilities and the disabilities that are part of who they are.

There has been significant progress towards disability accessibility in Washington State courts. Many solutions will be of benefit to disability accessibility in the courtroom and legal community in the future. Continued use of accommodations such as hearing devices and ASL interpreters and continued alignment with the accommodation General Rule 33 in Washington State will be significant in the advancement of disability justice and accessibility in the state's court and legal systems. Additionally, the appointment of guardians ad litem can help ensure access to court

systems for individuals with disabilities, such as those with mental or developmental cognitive disabilities. While victims of crime have victim advocates and support staff within the prosecutor's office, these services are not confidential; thus, there is a need to use community-based advocates for victims to have a confidential space to discuss the case and the matter at hand.

Increasing funding is another essential solution to increase disability accessibility in the court system. Furthermore, funding is necessary to increase diversity on the bar and bench. There must be a commitment to fund campaigns for candidates who bring a diverse perspective to the bench, including individuals with disabilities, persons of color, those from LGBTQ+ communities, and women. Adding diversity to the bench will increase the perspectives of those who are on the judiciary and thus will bring their experiences as similarly situated defendants and victims. A call to action is to ensure that more diverse and disabled individuals in the state choose to attend law school and obtain a law degree. These individuals can then enter the profession to ensure diversity representation for all in the community and encourage those who are diverse to run for public office, specifically for those qualified for prosecutor or judgeships.

There are inevitably inequities in terms of access to accommodations. It is important to increase funding in smaller, more rural counties, as they may not be able to access the same accommodations as those in larger counties within Washington. Delays in those accommodations can delay the court cases, which may cause legal problems for defendants, including potential violations of their right to a speedy trial. It is important that delays due to gaps in accessibility are minimized to the extent possible

without negatively affecting defendants' and other court participants' access to fair trials in accordance with the law.

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