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## Book Review: Deaf People in the Criminal Justice System: Selected Topics on Advocacy, Incarceration, and Social Justice

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**Book Review: *Deaf People in the Criminal Justice System: Selected Topics on Advocacy, Incarceration, and Social Justice***

In 1982, I was a graduate student in rehabilitation counseling at then Gallaudet College. This was before Gallaudet had a mental health counseling track in the Department of Counseling or a doctoral-level psychology program. I remember having an interest in mental health counseling with deaf people and searching the Gallaudet library's extensive deafness collection for any books on the topic. I found one small volume called *Counseling with Deaf People* (1971) by pioneering deaf psychologists Allen E. Sussman and Larry G. Stewart and devoured it, hungry for knowledge that did not yet exist. Discovering a first book on a topic can be exhilarating. Reading *Deaf People in the Criminal Justice System*, edited by Debra Guthmann, Gabriel Lomas, Damara Golf Paris, and Gabriel Martin, a far more substantial work than Sussman and Stewart's thin volume, I felt the exhilaration again. This book reveals a new domain of knowledge and intervention.

There have been a number of good peer-reviewed journal articles on aspects of deaf people and the criminal justice system, including solid pioneering work done in the United States by McKay Vernon (Vernon & Miller, 2001, 2005; Vernon & Raifman, 1997; Vernon, Steinberg, & Montoya, 1999), Katrina Miller (Miller, 2004; Miller & Vernon, 2003), and Robert Pollard (Pollard & Berlinsky, 2017; Pollard & Fox, 2019). In addition, important new organizations such as Helping Educate to Advance the Rights of the Deaf (HEARD) are championing the rights of deaf, disabled, and disadvantaged people against the criminal justice system. But only the team of Guthmann, Loman, Paris, and Martin and their wonderful contributors has attempted the ambitious project of organizing this information in one book. By doing this, they have laid the foundation, much as Sussman and Stewart (1971) did, for counseling and psychotherapy with deaf people, for a new speciality of legal work with deaf people. Hopefully, this will be the first of many works on this subject.

Gathering and organizing the information for *Deaf People in the Criminal Justice System* was a challenging task because, as all the contributors note, there is very little published research on this topic. Almost no data exists on how many deaf people are in the different state and federal criminal justice systems in the US. There are a good number of stories, many of which are shared in this book, of deaf people being victimized either by crime or by the criminal justice system, but there is little empirically researched data. The absence of data is partly because information such as hearing loss or language preferences of prisoners is rarely collected, and, except for the state of Texas, deaf prisoners in the United States have not had the option of being grouped in one place.

Creating congregate living settings for deaf people within prisons has some obvious benefits. We have research on deaf people with mental illness largely because we have Deaf mental health treatment programs, and some of these, such as those in hospitals and rehabilitation centers, offer residential treatment. Such programs are places where clinical sophistication regarding Deaf mental health can develop. People with relevant interests and skills, such as Deaf clinicians, will want to work there, and of course, there is a far greater likelihood that the communication environment will accommodate not only signing Deaf people but also deaf people with severe language deprivation. Deaf treatment settings create

opportunities for important research. The same applies with the criminal justice system. When deaf offenders are scattered, and when no one asks about them, it is nearly impossible to learn about them. In addition, deaf people isolated within prisons are especially vulnerable to abuse and face extraordinary challenges in accessing opportunities for rehabilitation. These ideas are explored in this groundbreaking book.

Part I of *Deaf People in the Criminal Justice System* (Chapters 1–3) addresses research and evaluation. Chapter 1, *Demographics and Etiology in Deafness: Sociocultural Elements of Relevance to the Criminal Justice System*, by Damara Goff Paris, E. Basil Kessler, and Gabriel A. “Tony” Martin, reviews the available demographic data. The best estimate cited for the number of deaf individuals in U.S. jails or state and federal prisons is 153,000 persons in state or federal prisons, based on a U.S. Department of Justice 2015 report that states 6.5% of all prisoners are deaf or have a serious hearing disability. However, inconsistency in how hearing loss is defined across a broad spectrum of deaf people as well as how such data is collected means that researchers, criminal justice system officials, and advocates are generally working without empirically generated data (pp. 12–14). It is especially hard to find data about Deaf people who use sign language or consider themselves culturally Deaf.

Chapter 3, *Research Methods With Deaf People in the Justice System*, by Rachelle L. Harris and Donna M. Mertens, describes what culturally competent research with diverse deaf people in the criminal justice system should look like. For me, this chapter more logically follows Chapter 1 than Chapter 2. The research approach outlined in Chapter 3 is relevant to the study of deaf people who are victims of crime and, generally, to deaf people in other contexts. Drawing on the Transformative Research Paradigm, the authors present eight principals for culturally and ethically competent research with diverse deaf people as well as seven specific recommendations for research with deaf people in the criminal justice system. This chapter is foundational, and it is unfortunate that there is so little existing research within the criminal justice system to report upon. There has certainly been quality research in Deaf mental health and Deaf education that could have been discussed in relationship to research methods. For instance, Robert Pollard (2002) wrote an important book chapter, *Ethical Conduct in Research Involving Deaf People*, covering some of the same ground, but it is not, oddly, referenced in the chapter.

Chapter 2, *Assessing Linguistic Incompetence in the Criminal Justice and Mental Health Systems*, by Roger C. Williams, should round out Part I of the book. If there is little or no data available on signing Deaf individuals, then there would be even less data on deaf people who are linguistically incompetent to stand trial. That is, they are not competent to work with lawyers in their own defense—not for the familiar reasons of developmental disability or severe mental illness, but for the unfamiliar (to the criminal justice system) reason of language deprivation. Yet language deprivation is a well-known problem among deaf people and those who work with them, and language deprivation can be related to (and possibly cause) a variety of behavioral health problems (Gulati, 2019). Chapter 2 is an essential contribution to this topic.

Williams and Crump (2019) have been leaders in the development of a communication assessment instrument highly sensitive to language deprivation. They describe how essential this instrument, and other language assessment approaches, are for Deaf mental health, interpreting, and Deaf education, but these assessment tools also have enormous utility in assessing linguistic competency in legal settings. For instance, linguistic ability has direct bearing on whether

defendants understand the charges against them, the defenses available, the concept of legal rights, the roles of various justice department officials, the concept of plea bargaining, and whether they can provide a clear narrative of the events surrounding an alleged crime (p. 26). Furthermore, a valid, reliable assessment of language abilities has direct bearing on whether a person can develop the language skills needed to learn these concepts and what an appropriate pedagogy would look like (Pollard & Fox, 2019). Because language deprivation is rare among neurologically intact hearing people, court officials, much like mainstream mental health clinicians, do not know the right questions to ask, much less how to assess this kind of unusual (for hearing people) challenge. When officials are not aware of language deprivation, evaluation mistakes will follow that can be disastrous for deaf defendants.

Part II of *Deaf People in the Criminal Justice System* (Chapters 4–7) addresses theory, practice, and specialized services. As a mental health practitioner, I found this part of the book the most compelling. Mental health professionals who specialize in working with deaf people, especially in institutional settings such as hospitals, will find themselves dealing with forensic issues when patients with severe behavioral challenges violate laws and when their legal competency to stand trial is in question.

Chapter 4, *School-to-Prison Nexus: Deaf Youth and the Juvenile Justice System*, by psychologist Gabriel I. Lomas, begins with a wonderfully illustrative case example in which Lomas explains how deaf youth face numerous personal vulnerabilities and environmental challenges that can put them on the path from school to prison. These include developmental trauma, language deprivation, poorly developed social-emotional intelligence, limited fund of information, low literacy, and school failure. Lomas also describes common experiences of deaf youth navigating the criminal justice system, including a common succession of mistakes made by educational, mental health, and justice system professionals. If you work regularly with deaf youth, you will see some of your own students or clients in the case histories and analysis that Lomas presents.

Chapter 5, *Substance Use Disorders Among Deaf Offenders*, by Debra Guthmann and Marcia Kolvitz, reveals that substance abuse and its implications are a major reason people end up in the criminal justice system. According to Guthmann and Kolvitz, “substance abuse among deaf individuals is *at least* as prevalent as it is among hearing individuals, usually to the extent of 18% to 10% of the general population” (p. 84). Guthmann and Kolvitz describe the vulnerabilities (risk factors) deaf people can have to substance use and addiction including communication isolation, poor education, fund of information deficits, and lack of access to peer-lead and professionally offered treatment resources. Two vulnerabilities they describe paternalism and convenience can sometimes lead people to excuse minor law violations committed by deaf people and, thus, not arrest them or refer them for treatment, until the problems become too big to ignore.

Imprisoned deaf people are at risk for many kinds of abuses. They typically do not have access to the meagre rehabilitation services that help prisoners make the case for their release. Guthmann and Kolvitz also describe the nightmarish situation that deaf prisoners frequently face of obstacles to their discharge including difficulty accessing postincarceration programs. Chapter 5 includes a review of the few studies of deaf prisoners available and recommendations to mitigate the enormous injustices imprisoned deaf people can face.

Chapter 6, *Deaf People Within the Justice System: Insights From the United Kingdom*, by Susan O'Rourke, Sally Austen, and Elizabeth Wakeland, three of the leading figures in Deaf mental health in the United Kingdom. They present what they have learned about prevalence, risk, and protective factors as well as, importantly, sexual offending by and against deaf people in the United Kingdom. They also describe the tendency to initially not hold deaf people accountable for minor offending behaviors, only to have the criminal justice system crash down on them when behaviors reach a certain level of seriousness. The experiences of deaf people in British prisons seems as atrocious as those in U.S. prisons. The United Kingdom does have specialty forensic units for deaf people where they have access to appropriate assessments and interventions. I wished this chapter included more information about these specialty programs because this is an area where the United Kingdom leads the United States and can be a model for us.

Incidentally, the treatment of deaf sexual offenders is one area where much more work needs to be done. The UK forensic units include many deaf sexual offenders. Susan Lemere (2003) did groundbreaking theoretical and practical work on this subject in the United States. The topic is particularly challenging when working with deaf offenders with language deprivation, as existing curricula, even if translated into American Sign Language, are often of little value. Perhaps some readers of this review, or this book, will seize the wide-open opportunity to develop knowledge and intervention strategies with deaf sexual offenders. There is certainly a book in that!

Chapter 7, *Discourse, Sign Language Interpreters, and the Criminal Justice System: Implications for Communicating With Deaf People*, by renowned interpreter educator Theresa B. Smith, addresses the ignorance, misinformation, and bad practice regarding interpreting and communication access for deaf people in the criminal justice system. Most legal interventions with deaf people, as with most clinical interventions, depend on collaboration with qualified legal interpreters. Smith shares valuable wisdom related to how interpreting errors, and systems that interfere with interpreters' ability to do a difficult job, rebound against deaf people, sometimes with devastating consequences. I especially appreciated her powerful case examples; for example, about Frank, a deaf man whose nonverbal communication was misunderstood by a police officer; or Charles, a deaf man who was forced to work with a nonqualified "interpreter;" or the disastrous results that can follow if interpreters interpret too literally the meaning of a phrase like "resist arrest." Smith ends the chapter with practical guidance regarding best practices for working with interpreters in legal settings.

Part III of *Deaf People in the Criminal Justice System* (Chapters 8–12) focuses on various legal aspects of deaf people and criminal justice. Chapter 8, *Deafness, the Individuals With Disabilities Education Act (IDEA), and the Juvenile Delinquency System*, by Daniel Shaw, addresses the problem of ensuring that deaf youth within the juvenile delinquency system receive appropriate educational services, as required by the IDEA. Because a child or teenager is in the criminal justice system does not mean they lose their rights to a free and appropriate public education; therefore, the IDEA still applies, even though the obstacles to making this happen are far more difficult than they are with deaf children in general. The challenges vary by state depending on whether statewide legislation about the interplay between the IDEA and the juvenile delinquency system exists. This chapter provides an essential legal guide for people advocating for the rights of deaf youth in the Juvenile delinquency system.

Chapter 9, *Nondiscrimination in the Criminal Justice System: An Examination of the Americans With Disabilities Act and Section 504 of the Rehabilitation Act*, by Barry C. Taylor and Rachel M. Weisberg, provides a comparable analysis of the rights of deaf adults within the criminal justice system and addresses how to advocate for them. Taylor and Weisberg provide overviews of the ADA and Section 504 of the Rehabilitation Act, focusing on the laws' requirements to provide "effective communication" as it applies to criminal proceedings. They review the relevant case law with particular attention to the provision of qualified sign language interpreters and appropriate telecommunication devices. They address effective communication at all stages of criminal proceedings and in correctional facilities.

Chapter 10, *The Attorney-Client Relationship*, by attorney and certified legal interpreter Amber D. Farrelly, is primarily about getting the communication between attorney and client as aligned as possible. As is true for all chapters in this book, Chapter 10 applies to multiple audiences, but Farrelly appears to speak primarily to interpreters (with what they need to know about relationships with attorneys) and attorneys (with what they need to know about collaborating with interpreters.) Chapters 7 and 10 serve as excellent primers for either attorneys or interpreters who are beginning their work with deaf persons in the criminal justice system, as the first issues they confront are always how they will communicate and how they will work together. I think that, in terms of book structure, Chapters 7 and 10 should have been grouped together in their own section.

Chapter 11, *Disability Justice in the Age of Mass Incarceration*, by attorney Tailia A. Lewis, presents many powerful case examples illustrating how deaf people are victimized by police, courts, and even their own attorneys. Lewis's intent is not just to document these injustices, explaining how and why they happen, but to situate them in the broader sociopolitical context that targets and victimizes marginalized and disadvantaged groups. She emphasizes the impact on people considered disabled; however, within this heterogeneous group, the poor responses to people with intersectional identities related to race, gender, sexuality, class, education, cognitive functioning, etc., result in injustice upon injustice.

Talia describes how various false solutions—placards, registries, and identification bands and cards—that were designed to reduce communication problems between police and citizens fail. She also describes why police trainings are often ineffective and why hiring "signing" police or offering sign language classes is not "better than nothing." When working with deaf people, a little knowledge is a dangerous thing, and when criminal justice system officials have a little knowledge of deaf people, it often means that genuinely qualified people or appropriate resources are not drawn upon. We certainly see that problem in the mental health and education fields.

Talia states that "the purpose of this chapter is not to provide solutions but, instead, to serve as a framework to help move advocates and others toward the development of a set of values and principles that guide our collective struggle" (p. 288). After she so effectively demonstrates that our existing attempts to address injustices against deaf people in the criminal justice system fall short, this admission is disappointing. Her recommendations for "principled struggle" are about much broader structural social change such as "dismantling white supremacy and providing marginalized communities with the knowledge, tools, and resources necessary to reduce health, education, income, and other inequalities..." (p. 289). These are certainly worthy

goals, but it left me thinking that nothing really changes until everything changes and then feeling discouraged.

Chapter 12, *Deaf People in the Criminal Justice System: Concluding Thoughts*, by Debra Guthmann and Gabriel I. Lomas, the final chapter of the book, provides a practical solution-oriented focus by organizing the many topics in the book into key themes and recommendations that provide an outline for what one hopes becomes a forensic specialty (much as Deaf mental health is a clinical specialty). Theme one pertains to meeting all the various communication access needs of deaf people in the criminal justice system including congregate living situations like prisons such as one finds in Texas. Theme two concerns addressing gaps in data collection and research so that we are finally able to answer the questions that policy makers and funders always want to know: How many? Who are they? Where are they? What do they need? Theme 3 pertains to training for attorneys, court personnel, and prison staff. In service provision with deaf people, one always seems to be reinventing the wheel. Standardized quality trainings, with criteria for who can administer the trainings, would help enormously.

Theme 4 concerns setting standards and credentialing for qualified legal interpreters as well as expanding training opportunities for interested interpreters. Theme 5 pertains to all the many challenges to creating appropriate educational and social opportunities for deaf children, especially ensuring rich language access, to interrupt the school-to-prison nexus Lomas describes in Chapter 4. Theme 6 concerns creating advocacy structures such as an office of a special advocate in each state to advocate for marginalized populations.

The final theme, Theme 7, is about planning change and considers all the insights provided in this important book. There is so much to know, and so much to do, to create justice for deaf people within the criminal justice system. Clearly, we need more people who dedicate themselves to this vital work. Thanks to this groundbreaking resource, we at least have a blueprint for how to begin.

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