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Rape and Sexual Assault: The Criminalised Disabled Sex Offender

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ABSTRACT

The collective belief that a sex offender is dangerous, is powerful in considering sexual norms and incarceration. In this article, I tell stories of sex crimes via life-story interviews with neurodivergent men who have additional learning difficulties, who were criminalised for sexual assault or rape, and mothers. This research cannot eradicate the harm for those who are historically institutionalised, nor can it help victims of sexual assault. However, there is a need to challenge troubling micro and macro-bureaucratic processes across institutions and systems such as education, health, and criminal justice, to support disabled people and their families carefully and ethically.

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Introduction

Stigmatized identities, social control, social norms, and the social/political gaze occur as persistent themes throughout much criminological texts, where “monstrous” humans are commonly under surveillance and often incarcerated (e.g., Cubellis, Evans, and Fera 2019; Mancini and Mears 2016; Tewksbury 2012; Ugelvik 2015; Waldram 2009; Werth 2022). Whilst sociology might be present in considering inequalities, neurodivergence (e.g., autism and learning disabilities) does not feature in the same way as, for example, classed, gendered and racialized injustices. Moreover, scholarship that refers to intellectually disabled people and/or autistic adults, especially those who have committed sexual offenses, is often pathologizing (Goddard 1915; Radzinowicz 1957; Sutherland 1950; Wootton 1959), situated within forensic psychology, and focuses on health, treatment, and assessment (e.g., Hocken et al. 2020; Lievesley et al. 2018), where criminalized disabled people need to be “fixed.” Crime and disability narratives, particularly those about social and sexual norms, are therefore missing from this landscape, leading to an undeniable socio-political death (Rogers 2020a).

In this article, to redress this omission, I draw upon the life-stories of five criminalized disabled men, and two mothers who have neurodivergent sons and who have been incarcerated for a sex crime. I aim to highlight the issues around mental health, monitoring, and divergence from social and sexual norms that result in rape, sexual assault, and grooming. Furthermore, how a lack of support and early identification of problems around sex and violence for disabled men with additional learning difficulties, can result in their incarceration. Consequently, this article critiques institutionalization and incarceration, listens to stories that challenge in the context of norms, mental health and surveillance as well as attempt to understand a criminal pathway for disabled sex offenders. Significant for criminalized disabled men is, as Ugelvik (2015:29) describes, unlike “proper criminals,” who have committed crimes of violence, theft, or drug trafficking, the rapist is considered “evil, perverse, sick, and insane – a monster that the prisoner society, like the society outside, needs to identify and exclude.” Furthermore, as unpalatable a person’s actions are, even in the context of sex crimes, Nussbaum (2021:228) proposes, that we find a “core of dignity and worth, and further,

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a potential for change and growth, however obscured and blighted by the history of that person's deeds." Especially as "deeds can be utterly denounced, but the person always retains potentiality and movement."

No deed such as rape can be reduced to a misunderstanding about social and sexual norms, without any form of adequate response. Yet how we manage and process disabled men who have committed sex crimes, needs reform, as too many are unsupported on release from prison, are returned to prison for lesser crimes, or are left for years in secure hospitals – forever institutionalized. For criminalized disabled men who feature in this article, their encounters with the criminal justice system (CJS) have been experienced as frightening and harm inducing, leading to mental health deterioration at best, yet on release, , no further sex crimes occurred. We cannot always understand the actions, interactions, or motivations of humans, nevertheless, as sociologists, perhaps we can imagine and construct better pathways through a criminal justice process for disabled men who have raped and sexually offended, as like others who commit heinous crimes, they are "real world human beings – not zombies" (Schiff, Altimore, and Bougher 2023:240).

Criminalised disabled adults and sex offending

In recent decades, criminal justice policies and narratives have emerged that are aimed directly at people who have been convicted of a sex offense (e.g., House of Commons 2023; Lussier and Beauregard 2018; Mancini and Mears 2016; MAPPA 2023; Nussbaum 2021). The carceral logics bound up in these narratives and policies are based on the notion that certain individuals are characterized by some fixed and stable predisposition to commit a sex crime. Notably, if released from incarceration, the sex offender is judged as a threat, imagined or otherwise (Spencer 2009). Further, a sex offender is deemed monstrous, and perceived as especially "aberrant, predatory and irredeemable" and more often related to pedophilia and violent sex crime (Werth 2022:2). The collective conscience is such, that a sex offender will always be a danger, and is powerful in contemplating carcerality, criminal justice processes and mental health surveillance.¹ This along with initiatives to rehabilitate criminalized disabled people where attempts to "manage and ultimately prevent, the risk of violent, sexual and sometimes mentally disordered, [sic] offenders from committing offences" (Trebilcock and Weston 2020:64) is evident.

Public calls for tougher sentencing, new penology that focusses on incapacitation rather than rehabilitation, and moral panic, means criminal conviction can carry disadvantages long after release (Ben-Moshe 2020; MAPPA 2023; Steele 2017, 2020). For example, Werth's (2022) qualitative research with probation/parole personnel within the US context, found his participants envisaged the inevitability of a future crime, leaving the criminalized disabled adult vulnerable to immediate re-incarceration for any slipups including minor offenses. Furthermore, Hamilton, Sanchez, and Ferrara (2021), Rolfe, Tewksbury, and Schroeder (2016, 2018) and Trebilcock and Weston (2020) identify long-term isolation from family and friends, and mental health decline, because of a criminal conviction. Yet Talbot (2015) highlight that for criminalized disabled adults, the family might be the only consistent and stable person in their life.

Considering criminalization, incarceration disability further, Weare (2017) suggests that prisons are full of the "Bad, Mad and Sad." If this is the case, then at least two thirds of prisoners – those who are "mad" and "sad" ought not to be in prison. Furthermore, Rt Hon Buckland (2021: np) claims "at least a third of all offenders in England and Wales have a learning disability or challenge, compared with an estimated 2% of the population." Moreover, prison abolitionists suggest much of criminal justice reform focusses on the "Non, non, nons' (nonviolent, nonserious, and nonsexual offenses" (Ben-Moshe 2020:123). Despite this, those who are neurodivergent – autistic and/or learning disabled – can start their criminalized carceral journey in secure and

¹Collective conscience is a commonly understood term amongst sociologists and criminologists, defined by Emile Durkheim, in the 19th Century, where beliefs and thoughts are common to many in a particular society, or community.

punitive enclosures, and are perhaps highly medicated, due to behavior that is experienced as challenging and disruptive, or assumed vulnerability, theirs, and others. For example, placing an adult who is considered a threat in isolation, or sedating them because they resist restriction is often justified to keep everyone free from risk of harm. However, Gormley (2017:66) states for these groups of offenders, “imprisonment creates new forms of disablism, [as] systematic marginalisation, routinised forms of oppression and exclusion places them at higher risk of being manipulated, victimised, and disadvantaged throughout the social fabric of prison;” even more so than their non-disabled peers. Whilst Talbot (2008) at the Prison Reform Trust observed that for a number of criminalized disabled people, the journey to prison can remain confusing. This is especially pertinent as their “inability to read and write very well, or at all and poor verbal comprehension skills relegates them to a shadowy world of not quite knowing what is going on around them or what is expected of them” (ibid: 75) leading at best, to mental health decline.

Considering disability and the CJS, Foucault (2016) in his lectures on “the abnormal” discusses the human monster and suggests that the frame of reference for such is . Furthermore, archeologically, his studies of medicine (Foucault 2003) and madness (Foucault 1989) provide us with a history of “truths” where human beings are subjected to surveillance. Consequently, patients are hospitalized where their bodies are objectified, and mental illness is contained and examined within specialized institutions. This is specifically relevant when considering criminalized disabled people, as once in the CJS, they are surveyed, monitored, often medicated, and pathologised (Ben-Moshe, Chapman, and Carey 2014; Fish 2018; Hocken et al. 2020; Steele 2017). Significant is, that punishment, control, and surveillance move from the domain of the private into a site that is visible and therefore controlled. Both the “fractured” physical and mental body are spoken about as abnormal, always in relation to a certain norm, such that a process of normalization evolves. If normalization does not occur – if a person veers away from the social norm, consequences, sometimes severe, are apparent.

Foucault’s genealogical work moves the focus on, from descriptive accounts via discourses, to an analysis of more discursive practices (macro to micro), in search of points of resistance. For Foucault (1991, 1990) prisoners and imprisonment, and sexuality were explored via techniques of power within institutions such as prisons, where power is considerably more anonymous, functional, and individualized. Furthermore, it occurs in relation to, and between individuals. Thus, “in a system of discipline, the child is more individualised than the adult, the patient more than the healthy man, the madman and the delinquent more than the normal and the non-delinquent” (sic) (Foucault 1991:193). Subsequently the criminalized, neurodivergent and disabled person who rapes and sexually assaults, will be excluded, treated, and/or incarcerated with fewer opportunities for life beyond their crime (Ben-Moshe 2020; House of Commons 2023).

Remarkably, in over 100 years, the terms for categorizing disability and impairment have changed, but how disabled people are treated, managed, administered, before and/or after breaking the law at any given time is still deeply problematic (Ben-Moshe 2017, 2020; House of Commons 2023; Jarrett 2020, Steele, 2020; Trebilcock and Weston 2020). Particularly if we regard locked wards, secure units, and imprisonment for public protection (IPP) sentences all part of processing criminalized disabled men and women where effectively learning disabled and neurodivergent offenders can be given indeterminate sentences to secure units, with little opportunity for release (Edgar, Harris, and Webster 2020; Fish 2018; Home Office 2022; House of Commons 2023). Monitoring behavior, as well as intelligence and mental capacity testing has continued and is often used in the law courts in the UK to divert criminalized disabled people away from prison (Steele 2020; Talbot 2015). Whilst court diversion might seem like a positive move for disabled neurodivergent adults, the result of this is often medicalization and medication, and long stays in specialist hospitals, with inevitable mental health deterioration and fewer opportunities to live in the community.

Research process

This article is drawn from research that explores the life-stories of criminalized disabled people, particularly those who are neurodivergent – learning-disabled and/or are autistic – mothers who have a criminalized disabled son, and those who work within education or the CJS. These stories are viewed and told through a particular narrative, and like narrative criminologists Presser and Sandberg (2015:1–2), I do not view “offender’s narratives as accurately – or inaccurately – describing events.” Furthermore, and in response to Sykes and Matza’s neutralization, I too recognize, unlike “narratives, neutralisations attend only to the offense, not to a lifetime of criminal and non-criminal actions” (Presser and Sandberg 2015:6). Critically, all the stories below are personal and often traumatic, yet more often they are rooted in broader socio-political structural and systemic violence, and always with a history, personal or otherwise (Schiff, Altimore, and Bougher 2023; Wright Mills 1959). In total I carried out over 40 life-story interviews with 15 criminalized disabled adults, five mothers with criminalized disabled sons, and 10 professionals who work in education with disabled young people, or in the community with criminalized disabled adults. I re-visited several participants over 18 months, although I remain in communication with a small number, for updates. All interviews were recorded and transcribed and lasted between one and a half to two and a half hours.

The purpose of the research was to,

- (1) Explore the life-story experiences of criminalized disabled adults who are neurodivergent, have additional learning difficulties and/or mental health problems.
- (2) Explore the life-story experiences of mothers who have a family member as above.
- (3) Examine how those who break the law make sense of, and cope with prison culture, routines, rules, and practices, and how this pathway impacts upon all their lives after the event.

I struggled to gain access to criminalized disabled adults and family members. I made lots of phone calls, and attempted to make relevant links to particular charities and individuals. Early on the process was chaotic and disappointing. Arguably, this chaos and disappointment is part of qualitative research, and yet so often it is left out of storytelling; to sanitize the research process. As researchers, we often say how we designed the research; what we did, who we did it with and how we analyzed the data. We do not talk about “missing data” with people who are not able to share their story and those who are inaccessible. Accessing individuals, groups, or communities of people can be challenging, not least because access to certain forms of communication such as e-mail and other online platforms might be limited or non-existent due to personal circumstances, sanctions imposed, finances, or literacy (McClimens 2007). In addition to this, the nature of the subject matter might deter potential participants from coming forward, and even if they do, they might not maintain contact.

In the early stages of gaining access, it was not simply about finding a gatekeeper, and being introduced to potential participants. For me, it was about how I negotiated relationships with that gatekeeper in the first instance. They had to consider me as someone trustworthy enough to be left alone with their colleague, service user/client, family member, expert by experience and self-advocate. Clearly, gatekeepers have substantial power to enable access or deny it. Particularly in this case, disabled adults and vulnerable families. I had to negotiate consent, not only with the participants but also with those who surveyed the space and place where we all coexisted in that moment. In one instance, after I had gained access to potential participants via a charity, I was asked to go to a meeting to introduce myself and my research to a group of men, all of whom were criminalized and disabled. This event was one of their regular meetings where they discussed what they needed to do to make positive changes to the CJS. My field notes tell a story of gaining access.

I was asked to get involved, not simply as someone who was to gain access, walk away with names and numbers in my pocket and interview, but to participate in their daylong meeting. My presentation punctuated the day somewhere in the middle; after they had met me, but before the lunch break. I was a little nervous about talking to the men, as I didn't know what to expect. That said, as someone who has worked in learning disability services many years ago and has an adult learning-disabled daughter, I wasn't completely out of my comfort zone. I introduced myself, and on the first slide told them I was a university researcher and a Mum with a daughter who has learning difficulties and that she had been arrested, interviewed, held in a cell and charged (her charge was later quashed due to misidentification, yet she was left traumatised for several months). I felt this was a short, but necessary part of my narrative I needed to share with them, or why would they want to talk to me? Or rather, what right have I got to walk away with their stories, without considering the interactive and relational part of this connection? I didn't want to focus on that part of my narrative, on me, but for the 12 men or so listening, it seemed an important part of their connection to me. Probably more than I realised. They were given the opportunity to ask questions and they were honest and reflective. I felt I needed to be candid in return. For example, we don't always get questions we expect, as evidenced here, when asked by one member in the questions and answers session, "are you doing this to better your career?" I paused, a little taken back by the frank nature of the question, and then told them truthfully, "perhaps that might be a positive outcome of doing the research, but that wasn't my motivation." I think they appreciated my honesty and the open discussion. (Fieldnotes)

There were many twists and turns along the way. This was one small but significant part of gaining access. Yet, evidently, when introducing research to potential participants, the necessity to consider the audience and what their requirements are, can be critical in the future research relationship.

Once I started data collection, as part of the life-story method, for those who wanted to contribute further, I asked participants to take photographs between the first and follow up interview. I chose photographs because for some, articulating feelings and their story, in any "traditional" narrative way was not easy, and the process of doing, seeing and imagining, is often how we make a connection to something, someone, or our feelings (Booth and Booth 2003). That said, all participants were able to communicate their story. Therefore, I gave participants who wanted a second interview a disposable camera and encouraged them to use it to record "feelings photographs" (Rogers 2020b). 10 criminalized disabled participants and 4 mothers contributed to photo-elicitation.² The photographs were an aid to our subsequent interviews and gave an additional account of "feelings," as well as facilitated discussion in a more in-depth way (Aldridge 2007; Rogers 2019). Furthermore, follow-up interviews were based on questions I had after listening to the first interview and discussions around the photographs (Copes et al. 2018).

Storytelling is pertinent in how this research is mapped, and more broadly has a rich history within sociological and criminological research (e.g., Anderson 2014; Becker [1963] 1991; Plummer 1995, 2013; Presser and Sandberg 2015). A story, Plummer (2019:140) suggests, can only survive if it lives "in human actions and significantly, when we stop acting towards it, it faces a narrative mortality, a narrative death." Furthermore, telling another's story is "one of the persistent challenges of narrative hermeneutics" (Schiff, Altimore, and Bougher 2023:224). Certain human stories are absent from sociology or sociological criminology because they are too difficult to hear, unavailable to access, or situated within medical, psychological, or psychiatric paradigms. Stories too, are based on our own remembering, and ability to recall, and as Baglieri (2019:167), says, "memory work is slippery work," as "stories are shaped in in the moments of their remembering, imagining and telling, as much as they are formed in relation to events originally ordered in space and time."

²I did not invite the professional participants to contribute to photo-elicitation or have a follow up interview.

Noteworthy in storytelling is stories and narratives are not quite the same. “All stories are narratives, but not all narratives are stories. Power feature in both” (Plummer 2019:5). Pertinent in my research is how Plummer (2019) discusses narrative power. He suggests that,

direct us to is told, while tell us stories are told. I take stories to be the skeleton of
 “who, what, where, when and why” of we tell and narratives to be the underlying ways we tell and
 communicate a story is deeply fashioned by apparatus of telling. (ibid 4–5) (italics in original)

Critically, the stories I tell in this article are personal and sometimes harrowing. Furthermore, the story is rooted in broader socio-political structural and systemic violence, and always with a history, personal or otherwise (Schiff, Altimore, and Bougher 2023; Wright Mills 1959). Yet, “how we research leaves a legacy that extends beyond that of which we are aware. So we do what we can in those spaces we have access to” (Brannelly and Barnes 2022:149).

To that end, I accumulated qualitative data that included fieldnotes (handwritten, voice recorded and typed), voice recorded face to face life-story interviews, letters to and from prison, and photographs. I carried out a qualitative thematic analysis, that was iterative in process, and I utilized reflexive fieldnotes, particularly as they

expose a range of emotional and practical responses to a chaotic data collection process, and more often a moment in time, a moment that perhaps is continuous and bound up with the micro-politics of a domestic environment and embedded in the socio-political sphere of the criminal justice system. (Rogers 2018:4)

Evidently data collection and analysis are interwoven and identify a reflexive process that is often wrought with ethical dilemmas and personal costs, where moral judgments are conceivably suspended. Moreover, I would like to think, as a feminist, in all troubled stories there ought to be hope (Nussbaum 2021).

In the UK, social science research generally requires ethical approval when involving human participants (BSA 2017). In the case of this research regarding ethics, I asked,

What claims can be made in addressing ethics for the purpose of exploring new knowledge around the diverse lives of these families and individuals?

As I understand, I cannot make “truth” claims, as my participants are not a homogenous group. Yet, it is important to understand from the very beginning of research into such areas of injustice, crime, disability, inequalities and everyday life, that doing, or at least attempting to do ethical and care-full research, is vital. I have asked with Geeta (Rogers and Ludhra, 2012: 43) before, (although adapted for the purposes here),

Whose voice is narrated throughout the research? The participant or the researcher?
 Who consents to the research? The gatekeeper or participant?
 How included in the whole research process (from design to analysis) is the participant?
 What role does the researcher play in the life of the participant and how does a relationship develop?

There is never one easy answer to these questions, as negotiation is often key. I cannot claim to have done co-constructed research. In my research I needed to be flexible, empathetic, caring and responsive as I gained access, and listened to stories. As it is, many disabled others are excluded from being heard or are re-presented in different and sometimes negative ways, and in this research my participants are amongst those most marginalized. I gained ethical approval to carry out the

research in more than one university due to the ongoing nature of the research. All participants had the capacity to consent. No real names are used in any work I present.

For the purpose of this article, and the subject matter discussed, I draw on stories from five men; Ellis, Hugh, Harry, Vincent and Warren, who were criminalized for sexual assault or rape, and two mothers, Elaine (Harry's Mum), and Sorcha. It is constructed around the theme of sex-offending. Purposefully, I have not "cleaned up" the quotes, or made the language "universal."

Stories of sex offending

For the criminalized disabled men involved in my research, especially those who have sexually offended, negotiating social and sexual norms, rules and regulations as well as understanding the consequences of their actions has been confronting, and events that have transpired, life changing. They have wrestled with what "being a friend" means to the detriment of others, and their route through the criminal justice process has meant incarceration in either a secure hospital or prison. They have been medicated, medicalized, and have suffered with mental ill-health, self-harmed and some have attempted to take their own life. Furthermore, understanding what friendship and intimacy is, seemed to shift in terms of both experience of, and communication with, any one person. Notably, professionals I have interviewed (not referred to in this article), who work with criminalized disabled men and their families, spoke to me about how the revolving door of imprisonment will continue while the criminal justice process misunderstands learning disabilities, autism, and mental health (Rogers *forthcoming*). Significantly, Ellis, Hugh, Harry, Vincent and Warren, have been institutionalized one way or another, throughout their life, and have inhabited care-less spaces, yet too, have experienced care-full and meaningful relationships (Rogers 2016, 2021).

Navigating sex and relationship norms when it goes terribly wrong is devastating. In the context of criminalization, sex offending and disability, mental health deterioration is clear in listening to Ellis, Hugh and Harry. I interviewed Ellis (27) once in 2017, in England, UK, at his home; a small group residence, where he has 24-hour sleep-in support. Ellis attended a mainstream school until the age of nine or ten, when he was transferred to a school for children with additional or "special" education needs. When talking about his criminalization, Ellis told me he was falsely accused of sexually assaulting a female friend when he was 18. He was arrested and detained in a cell, where he experienced a stress-induced seizure. It was after then he said he began to hear voices and took a paracetamol overdose. A little time after this accusation, Ellis said, "I was arrested again, taken down to the police station, and all my clothes were taken to forensics, and stuff like that, and apparently I raped her (a woman) in the park."

In exploring this event, it is not about whether the rape happened, as I cannot know what did occur, but significantly, Ellis seemed to narrate a lack of ownership over this accusation in a matter-of-fact way. He said, "apparently I raped her," implying that he did not believe it happened at all, or that he did not consider this attack to be rape? He seemed unsure. This is a multifarious situation. However, having complex disabling impairments does not absolve anyone from a crime committed, but it does require us to listen to what is going on. If we do not hear or that Ellis was unaware about what he did, or was in denial about this attack, how can we support his care and education moving forward – so it does not happen again – so there are fewer victims of this type of crime, and fewer victims of damaging institutionalization and lifelong incarceration. The narratives from life stories told below, are their "truth." The unimaginable life changing events for any victim is important, but I am discussing sex offending from the perspective of the men, and mothers of criminalized disabled men. Despite a lack of clarity, sometimes, in what is narrated, the police were involved, and these men were convicted and incarcerated.

Like Ellis, Hugh (51) told me he was accused of sexual assault, in his late teens, and a few years later of rape. I interviewed him twice in 2017 at a local community center in England. He lives alone. Hugh told me at nine, he was diagnosed with a speech and language condition, and it took until he was 13 years old to receive speech and language therapy. At 14 he said he was transferred to a “different school.” Hugh finished school with poor grades and by the age of 17 said he was drinking heavily. At the age of 19 Hugh was living in supported housing, was officially diagnosed with a learning disability, stress, anxiety, and a personality disorder and was admitted to a mental health unit. He then began an admission-release cycle, in his 20s. By the time Hugh was in his 30s, and talking to me about his sex offending, Hugh said another resident where he lived “gave me the wrong signal” and “I thought that she quite liked me.” He went on to say about the staff, “they believed her, they would not believe me, so I got arrested for something like, er sexual, yeah yeah, sexual harassment and I think I’m, I’m on the sex offenders list as well.” I asked Hugh if this woman was a girlfriend, and he said, “er w-well, I thought, I thought that, I thought that she was [. . .] I’m not meant to sorta like be anywhere near her, and that’s one of the reasons that I had to move.”

Ellis and Hugh both said they did not commit a sex crime. They suggest that if they did have sex, it was consensual. Yet Ellis and Hugh, in the UK context, were placed on the sex offender’s register (Nacro 2023), impacting on their interaction with the community, their life chances, and their mental health (Hamilton, Sanchez, and Ferrara 2021), as both talked about extreme forms of self-harm. Ellis told me he took an overdose, but clarified that with, “I didn’t wanna end my life, I just wanted to end the pain,” and Hugh made several attempts at his life saying, “I tried to k-kill myself.” In the week before our interview Hugh told me he had threatened to jump from a height. Arguably any kind of systematic (or indeed caring) support was not forthcoming then. This is perhaps the nuanced difference between super surveillance and caring support.

Reflecting upon sex and relationships further, Harry’s narrative goes beyond the accusation. In 2016, I interviewed Harry (22) at his family home in England, where he lived with his mother (Elaine). When Harry was nine, he was diagnosed with “ADHD,” and spent his primary years in “special education” but at 11, he carried out the rest of his education either excluded (no education provision), or in a pupil referral unit (PRU). On talking about his criminalization Harry explained how he was feeling about it all. Harry said that when he was 18, he met a girl, who was 15, but told me he was unaware of her age as they met in a nightclub. He went on to say they did have sex. He revealed how their relationship developed quickly and “I began to push the [sexual] boundaries, and I thought nowt about it. Two weeks later, I’ve got the coppers at my door.” It was telling that Harry expressed shock about what transpired, as he had not considered his behavior to be anything other than consensual sex with someone he met at a club and told me after getting arrested,

I can remember sitting in the cell and I overheard, and they were like “oh it’s for the rape of a 15-year-old” and I was just like, whoosh, they’ve got the wrong bloke here, and I’m thinking through my head thinking, right it’s gotta be someone that I know, they wouldn’t have got the wrong bloke and all these questions ganning round in my head and obviously they fucking put us in a cell for 8 hours before I got interviewed, so I told them everything [. . .] well I obviously didn’t rape her.

Harry was sentenced to three years for this offense (as well as a concurrent three-year sentence for fire-setting) and was incarcerated in prison. Harry admitted to having sex when asked by the police, but because of the girls age, (under the age of sexual consent in the UK context), he was charged with having sex with a minor and was placed on the sex offender’s register. Like Ellis and Hugh, Harry too has attempted to take his own life on several occasions.

These narratives confront us, because they involve a sex crime, and therefore the perpetrator is judged or imagined as the most monstrous and predatory of humans (Cubellis, Evans, and Fera 2019; Mancini and Mears 2016; Ugelvik 2015; Werth 2022). Furthermore, when it comes to a learning disability or irrational behavior, the possibility of reason (or lack of) and therefore affect can lend itself to the justification of medical intervention and indeterminate sentences such as imprisonment for

public protection (IPPs),³ and despite the abolition of IPPs in 2012, “their legacy lives on” and “concerns have now emerged about the high recall rates, with the number of IPP offenders being recalled to prison” (Trebilcock and Weston 2020:89). Especially as “recent data shows that on 30 June 2022, there were 1,492 offenders serving an IPP sentence who had never been released from prison” and a further “1,434 offenders subject to IPP sentences who were in prison having been recalled to custody” (Newson 2022: np). Although Hugh would have been sentenced before 2005, Ellis and Harry would have been sentenced before their abolition. That said, the impact and public perception remains as evidenced – Ellis lives in 24 hour supported living and Harry is in prison. Furthermore, these policies and narratives feed into the super surveillance of sex offenders who have disabling impairments (Ben-Moshe 2020; Foucault 1989, 1991; Steele 2020), the omission of nurturing caring spaces (Rogers 2016:2020), and how criminal justice professionals imagine criminal activity occurs, even if there is little evidence to prove this is the case (Werth 2022).

These stories also challenge, because for these men, the impact on their mental health is long lasting, and their life chances significantly curtailed (Fraser 2020; Hamilton, Sanchez, and Ferrara 2021; Saunders 2020; Waldram 2009). Ellis and Hugh take a concoction of medication. Ellis, as I have said, lives with 24-hour support, and Hugh continues to attempt to take his own life. Furthermore, Harry, as Elaine (his mother) who I interviewed several times between 2016 and 2022 (and remain in e-mail contact – 2024), told me, he was recalled to prison, while on license for a relatively minor offense and continues to self-harm.⁴ These findings align with Werth’s (2022) assumptions made by parole officers – that dangerous criminals will reoffend. This blatantly evidences the revolving door of carceral enclosures, as Harry’s story in 2024, seems a long way from when I interviewed him in 2016 at the age of 22, when he had served his prison sentence, and was attending college. He was clear on what he had done, yet could not forgive the consequences and the continued surveillance, as suggested here, “I did a crime without intention to anyone, I did a crime, [. . .] I will take the blame for that, I am an adult, I’ll happily do that, but the aftermath is something totally different.” I asked Harry to explain further, and he went on to say,

The SOPO [being on the sex offender’s register] that’s what gets to us. All the time it’s a sex offenders prevention order, like, I have to sign every year. I’ve gotta do this, I’ve gotta do that, I’ve gotta speak to these fucking horrible people. They come out to the house as well and visit, right and talk to us about stuff and it’s, it’s like I’m tarred with the same brush as like an actual paedophile.

Harry, during the interview, suggested that he was struggling with the fear of being recalled to prison for something he did not do and it significantly impacted his day-to-day life at college. This is unsurprising, as Harry had spent time in prison, for a first-time sex offense, and as Victor and Waldram (2015:101) found, first time sex offenders must find a new normal as they “may be especially disturbed by how their actions contrast so sharply with the views they hold of their ‘authentic’ selves.”

This “new normal,” is almost impossible for some to manage, and eventually Harry was recalled, to prison, and attempted to take his own life again, as I heard from Elaine, when I interviewed her in December 2021 for the fourth time. She said she had,

rung the prison to tell them he was struggling, and he’d been saving up his medication and he took em, and the prison officer hadn’t took him seriously, so it ended up at 11 o’clock on the Sunday, he eventually went to hospital. All it needed was for him, was someone to talk to.

Harry’s stigma is felt, not least as he had experienced life in prison, as a convicted sex offender, and as Ugelvik (2015:30) argues in relation to, ex-offenders in prison, “revenge on

³Imprisonment for public protection were indeterminate sentences given by the courts between 2005–2012 in the UK for serious violent or sexual offenses. These were introduced in the Criminal Justice Act 2003. Those sentenced would need to serve a minimum sentence (a tariff), but then subject to the parole board decision would be considered for release. However, once on license can be recalled to prison without, for example, a court hearing.

⁴I interviewed Harry in 2016, at the age of 22. He was attending college having seen out his sentence. He was recalled to prison, when I interviewed Elaine, his mother, in 2017, and was then released. But he was returned to prison for another crime and sentenced to 6 years. We are now in 2024, and he is still in prison.

behalf of the victims is seen not only as a legitimate action, but also as the moral thing to do.” And yet, Harry clearly places his sexual offense on a hierarchy, as he refuses the pedophile label and despises the whole process. As a convicted sex offender, the rules about how to progress in life are murky – unclear, and dangerous, and mental health decline is evidenced, yet the level of surveillance (rather than care, support and education), too impacts upon mental well-being.

Evident in Harry’s narrative is his anger at the registration, the surveillance, and therefore limitation on his potential friendship networks and life chances, as he seems concerned about how he will be able to keep to the rules as indicated here,

like they [the professionals monitoring his registration], even asked us like “oh would you say you’re sexually attracted to children?” I was like “well no, but from the offence, I was sexually attracted to the girl that I had sex with, she was a child, am I sexually attracted to children? No?” Right, it’s a bit fucking [that] kind of thing, but then at the same time, where’d you draw the line cause they’re like saying ‘right you can’t have videos of anyone under the age of 18, you can’t talk to anyone under the age of 18. I’m like ‘alright then, there’s a lass from the corner shop, she’s 17, I ask her for curry, rice and chips, am I breaking the law? No? Alright then. So I can talk to them, but I can’t make friends with them.

This level of surveillance, which will be developed in the next section, continuously places the criminalized disabled person who has been charged with a sex offense, at risk of being recalled, for a much lesser offense than those committed in the first place, particularly as we find the number of recalls to prison is beyond acceptable (Newson 2022). Moreover, mental health deterioration is obvious for Hugh, Ellis, and Harry, as they navigate their criminalized identity and pathway.

! ”

The rules around who does what with whom can seem blurred and confusing for disabled or neurodivergent adults, especially those who have additional learning difficulties. Furthermore, if someone has been institutionalized from a young age, for example, in “special education,” pupil referral units (PRUs), or residential settings, and is then incarcerated in a secure hospital or prison as an adult, living in the community and following social and sexual norms can be a challenge; difficult to manage. As Ben-Moshe (2020:79) says, “In segregated settings like group homes and sheltered workshops, all life’s activities, including eating, hygiene, sexuality and intimacy, are policed and surveilled constantly.” She goes on to say that those who work with disabled people in these environments “become authorised to regulate sexual behaviours, even if no behaviours are present” (ibid) (Foucault 1989, 1991; Steele 2020; Werth 2022). Arguably meaningful inclusion, or deinstitutionalization, and support, rather than exclusion and surveillance ought to be prioritized. This, at least, means a shift in cultural perceptions about the “dangerous few,” and a diversion from incarceration (rather than simply prison), to caring education and support.

In 2017, in England, UK, I interviewed Vincent (44), at a local authority office, with a support worker present. Vincent told me he was the result of a rape. At the age of eight, he moved to a residential school for children with additional/“special” educational needs, but by the time he was nine, he was placed in foster care, alongside attending a day school for disabled children. At the age of 16 years old Vincent was moved to a group home. He said it was while he was living there, and still 16, he first raped someone. Vincent seemed clear in what had happened as he recalled

I borrowed a CD off her (a friend) and I listened to it, and I took it back to her bedroom, and she put me in an awkward position. She said, “if you leave the bedroom, I’ll tell the staff you raped me, and if you stay, I’ll tell the staff you raped me.” So I raped her anyway.

As a result of this rape, Vincent said, he was remanded in custody, but went on to tell me, “they didn’t think prison was suitable for me, so they sent me to a locked home, as I was 16.” It was from there that Vincent was moved around from one carceral enclosure to another. I asked Vincent if he had raped anyone before, and he told me he had not. He went on to say, that he knew “rape was forced, non-

consensual sex” and that he “was honest with em (the police) but at the time they (the police) didn’t know anything about learning disability people.” It is significant here that Vincent reflected upon this in a measured manner, but equally recalled, he was impulsive and in the moment.

The second time, Vincent was charged with a rape, it was with having sex with a boy under the age of consent, when he was in his late teens, and living in an assisted housing facility. Vincent told me again that “prison was unsuitable.” As a result of this offense, Vincent was sectioned and referred to a secure assessment and treatment hospital, where he lived for nine years. In 2013 and after 20 years of institutionalization and surveillance, Vincent told me he was “free.” He revealed that initially it was an emotional upheaval, but he did adjust, and he was “living a full and independent life” (with some support). His friends at the local pub where he worked, were unaware of his criminal history. Which given the potential stigma and vigilantism (e.g., Cubellis, Evans, and Fera 2019; Tewksbury 2012) was significant.⁵

Warren (46) who I interviewed in my car in England, UK, in 2017 and lives alone in a social housing flat, revealed that when he was eight years old his mother began to abuse him sexually. An educational psychologist assessed him at his school when he was 14, and he was transferred to “special education” classes. Like Vincent, Warren seemed impulsive, and yet unaware of the repercussions of his actions as he told me he,

committed a serious offence, it got me, got me arrested and stuff, got me remanded into prisons, you know, indecent assault, er a 25-year-old female, indecent assault, yeah, but it was that, it was that serious that they, I probably did get done for rape, but in my eyes, in my head, it was indecent assault. [...] It was on the street, in the- the open. Daytime, you know. I saw this lady, she was walking her dog, that’s what she was doing. She walked up this grass verge off a main road. [...] I was com- coming up. I seen her cutting off, and then I cut off, and then it happened you know. She got dragged to gr-ground, and er I was touching her private parts and stuff, and i-i-it’s it just, it’s, it weren’t like I, you know, it’s jus- it’s just weird, it really is.

I asked, how did this sexual assault get reported? And he said, “she went to the police. I didn’t beat her up, but the police were in the area within, within a matter of no time, then I got caught, yeah.” I asked Warren if he admitted to it, and he replied,

‘yeah yeah, they put me straight on remand, remanded to er, that was the first time yeah, remand centre. I was there quite a long time [...] and then I was, I was taken, I was sort of sentenced to this hospital, to go to this hospital into er, an adolescent unit as I must have been 17. I got to a certain age, they had to release me from that, you know so I ended up, I was, I were classed as homeless cause I had nowhere to go.

Warren carried out a serious offense and was incarcerated in a secure adolescent unit. In this case, Warren “disappeared” with no support on release. Yet, he had already been institutionalized as a youth, told me he was unhappy, and was historically abused, which leaves him culturally and socially disadvantaged – and a risk to himself and others.

The fact that Warren was left to his own devices, with nowhere to live and no support, is notable, as we understand families and relationships are an important factor in desistance (Comfort 2008; Condry 2007; Farmer 2017; Hamilton, Sanchez, and Ferrara 2021; Saunders 2020; Talbot 2015). This lack of care and support had terrible impacts on other victims, as Warren told me about further offending.

It was on a kid this time, it was a sexual assault, more or less, yeah, same, more or less yeah, same. They said, they did they said, the victim says that she saw me riding a mountain bike, you know, they were, they were in a park, a local park it happened, it was sunny like it is now. [...] There was two of ‘em yeah two, two girls, yeah, the other one run off! [...] probably about same age, 10? The police come the next day, [...] he took a swing at me, you know, he hit me, like and he hit my head that hard that I fell over the other side of my bed, yeah he hit me yeah like, it was a DCI, he just whacked me in my face.

Seemingly spontaneous and impulsive, Warren was matter of fact about relaying this memory to me. Yet, he did display a combination of emotions, as he went on to tell me that he was sentenced to six

⁵Vincent died in the summer of 2023 aged 50. This means that he experienced 10 years of de-institutionalization – of living in the community.

years that time. Initially he was incarcerated in a young offender's institution, but then went onto an adult prison. He told me he was "frightened in the adult prison," which is unsurprising given Ugelvik's (2015) findings about how convicted rapists are treated by other "proper" criminals (see also Cubellis, Evans, and Fera 2019; Tewksbury 2012). Furthermore, this time he was "refused parole because I didn't have no fixed abode to come out to, no fixed address." On this occasion Warren was not given parole, due to a lack of support post release, and nowhere to live. When he was eventually released he gained meaningful support and . Arguably, institutionalization (incarceration) causes harm, in whatever form that takes, but critically it does seem building and maintaining relationships, including families, communities, support/caring staff, and friendships is important for remaining out of prison and in the community, as well as importantly, not causing harm to another.

Notable in considering Vincent and Warren's stories, and then how particular institutionalization and surveillance can manifest, Hamilton, Sanchez, and Ferrara (2021), found collateral consequences for sex offenders are two-fold. Formal consequences include, policy and legal requirements, for example, registration and fixed abode, but informal consequences around social control limit community participation and are often implemented by friends, family, employers and local community members, "out of self-protection or a desire to distance themselves from the 'deviant' individual" (Hamilton, Sanchez, and Ferrara 2021:2) (see also, Rolfe and Tewksbury 2018). Formal consequences are often operationalized via legal procedures, and include additional punishment, yet significantly in the aftermath of punishment it is likely consequences fall into the informal category and are often unintended and long lasting (Hamilton, Sanchez, and Ferrara 2021), such as homelessness, discrimination, loss, harassment, abuse, mental ill-health, and relationship challenges (Rolfe and Tewksbury 2018). And as Waldram suggests, for sexual offenders "moral exile remains as they face a hostile community" (2009:225). Furthermore, maintaining relationships is critical for remaining out of prison and in the community (Farmer 2017; Saunders 2020), but it goes beyond this as we have heard (Werth 2022). Vincent from a young age was monitored, and then more securely after his rapes, yet if work had been done before, with him, these attacks may have been averted. For Warren, he was left without support between sexual assaults leading to dire circumstances for the victim, and for him. Once supported in the community however, both Vincent and Warren lived "independently" and with no further criminal activity.

#

We have some insight into sex offending in terms of social norms, stigma, criminalization, surveillance, and mental health. But what happens the sex offence? Perhaps we can gain some insight, by listening to mothers of criminalized disabled adults. Below are two examples from mothers whose sons were criminalized for sex offending. Key is that from a young age support was requested by the mothers, yet very little was forthcoming. Elaine told me that Harry, who we heard from above was previously accused of sexual assault at the age of 11. Elaine went on to say, "Harry's teacher said, 'we'll send him for counseling,' but I knew he hadn't done it, but thought, oh aye, if it does the job." Despite Elaine thinking Harry had not been involved in any sexual assault she remained supportive and open to any care offered. None was forthcoming. Elaine went on to talk about when Harry was a teenager, and said "he was always in trouble, and was suspended from school," and continued "I had to really fight. They weren't listening to me, to the help he needed. He ended up going to the one-to-one unit" (pupil referral unit [PRU]). This "fight" that occurs for mothers who have children identified with "special educational needs" in England and Wales, is exhausting, common, and not just a battle for mothers in the context of serious violence and aggressive behavior, as evidenced in my previous research (Rogers 2007, 2016). In the case of Elaine, she spoke of how Harry's violence escalated, when he was a teenager, and said, "he'd smash the place up, get violent, he didn't care about anything, he was suicidal, he tried to commit suicide, I didn't know what I'd come home to." Elaine and Harry were in

a cycle of violence that started from a young age. Furthermore, Harry's behavior toward women did result in him having a custodial sentence for sexual assault, as we heard above.

In a similar way, and reflecting upon early years, Sorcha told me about how her son at a young age dealt with his emotions. Her son who is autistic and has been through the CJS and incarcerated for "grooming" young teenage girls, says about him when he was 10 years old, "he had this cage in the back of his head." She continued, "in the cage there's a monster, and for 90% of the time it's locked up and can't get out." Sorcha said her son was so terrified of it, that when "the monster comes out, he goes in the cage, and shuts himself in and the monster takes over. He's described this to me. Yeah, and it's how I made more sense of it." Sorcha went on to talk about what happened after her son's "monster" had finished, she said, "it calms down, they swap places again. [. . .] Once he's processed it, then he's like 'I shouldn't have done that mum, I know I shouldn't have done that'" Although Sorcha and her son were evidently experiencing challenges from a young age, she suggested because her son was violent, predominantly toward girls, he was "made out to be the demon child of the school" and had several school exclusions in the mid-2000s as a 10-year-old boy. In the UK context, these exclusions can occur with no support offered for education or care (Rogers 2016), leaving both Sorcha and her son in a care-less space (Rogers 2021, *forthcoming*).

The situation with Sorcha's son was such that he was charged with grooming when he was in his late teens. He sent "dick pics" to a small group of girls under 16 years old, who according to him were his friends. Sorcha said, "he, was texting, messaging, all that sort of thing, and encouraging these girls to send pictures. And he was sending pictures of him. And he sent pictures of his erect penis." The transcripts of the text messages, Sorcha told me, read out in court, in the cold light of day, seemed wholly in keeping with how someone grooming might lure a victim in. She went on to say, "even the police officer said, 'you can see everything.' And they went through all the messages; pages and pages of them. And she [the police officer] says, 'you can tell he thinks he's in love'."⁶ It is not uncommon for disabled adults, particularly those with additional learning difficulties, to talk of love, especially if you like someone and they seem to like you. Equally it is not unusual for learning-disabled adults to get it so very wrong, when it comes to social and sexual norms (Vinter and Dillon 2020). However, regardless of professional involvement (education or forensic), no systematic (legal, health or otherwise), follow-ups occurred for these mothers, in response to their cries for help and support when their children were young. If intimacy, trust and care work (education) was carried out with these men, as boys, and if these mothers were listened to, the sex crimes might have been avoided, resulting in fewer victims and fewer criminalized disabled men.

Discussion and conclusion

For criminalized disabled men, the combination and coexistence of neurodivergence and disabling impairments such as learning difficulties and having committed a sex offense is complex and damning. Moreover, these men are perhaps committed to a life of microscopic super surveillance (Foucault 1989, 1991) as they are imagined as a threat, have a stigmatized identity (Goffman 1963), and experience potentially long-term moral exile. All of which often results in mental ill-health and limited life chances. Arguably, just as with the "dangerous sex offender" (Werth 2022:9) the sex offender can be surveilled and judged through the lens of his past, as the

past sex crime(s) of the dangerous sex offender enjoins past and future; they are mimetically reproduced in an imagined future. But for the interlocutors, this imagined future represents more than a possibility, it is

⁶Sorcha's son has a statement of "special educational needs" from the age of nine. He was charged with grooming girls under the age of 16 at the age of 20 and was subsequently sentenced to three years in prison. Once he was released after 18 months, the family wanted him home, however this proved impossible due to his charge and being on the sex offenders register, as his sister was under 18. He had to live "in the community." This was a challenge, and he was re-called back to prison after "re-offending" while on license. In 2018 I received an e-mail telling me that her son has returned from prison and, in her words "is living in the community and is managing well." She was always a consistent and constant advocate.

understood as an inevitability, a definitive account of the future. In this way the past does not just inform the future, it colonizes and foreordains it.

Added to this, the criminalized disabled sex-offender continues to be monitored, and medicalized, as well as considered unpredictable due to an intellectual disability, or lack of rationality. This type of surveillance and monitoring is pervasive both seen and unseen. Arguably, criminalized disabled men who have raped or committed a sex crime will therefore never normalize, reenter society in any meaningful way, and will always be “visible,” even if hidden away. Indeed, people who are disabled and break the law, who cause harm, especially those who commit a sex offense, often find themselves embroiled in a never-ending criminal justice process, as well as experience moral exile from communities, families, and friends (Hamilton, Sanchez, and Ferrara 2021). They are detained for years, and often recalled while on license in the UK, making them further institutionalized and therefore far less able to lead a meaningful life (Edgar, Harris, and Webster 2020).

Critically, Ben-Moshe (2020) connects deinstitutionalization and prison abolition in a genealogical mapping of carceral logics and enclosures. For abolitionist scholars, incarceration is against humanity, and no longer ought the trope the “dangerous few” justify the existence of prisons, secure hospitals, residential schools and group homes. I cannot claim to be an abolitionist, but I would argue that care, support and education in the community is a far better and more effective way of managing a criminal process for these men. Sexually assaulting any person is not acceptable and needs to be addressed. But how we process, understand, and explore what to do when faced with such abuse is a necessity, as it is “sometimes indeed very difficult to distinguish a strong demand for justice from retributive anger seeking primarily to inflict pain” (Nussbaum 2021:226). Prevention is the best solution, which is why I would propose more care and support for young disabled people who are evidently already struggling. This is conveyed by the mothers who spoke about their lack of support during the early days of schooling.

Embedded institutionalization, from a young age that compounds mental ill-health, leaves the individual far less able to reenter the community, even if released (Ben-Moshe 2020). Not only the imaginary recidivism thwarts life for “dangerous” offenders, so too does the body politic, where super surveillance, and medical interventions further damage the body and mind, as well as harm potential relationships. Individuals deemed “mentally disordered” are hospitalized where their bodies are objectified, and their mental illness is contained and examined within specialized institutions (Foucault 1989). This leaves them surveyed and monitored, often medicated (Ben-Moshe, Chapman, and Carey 2014; Fish 2018; Hocken et al. 2020; MAPPA 2023; Spencer 2009; Steele 2017; Werth 2022). Those who have been charged with rape or sexual assault, are judged, as “the rigid, unchangeable pariah in such a system, depicted as being gripped by a nature or biology that is completely depraved and thus, intolerable,” and always a threat (Spencer 2009:219). So much so, the “dangerous sex offender” is not only perceived as monstrous, but as a “ghostly being; a roving, lurking, nearly omnipresent individual that is difficult to locate or contain” (Werth 2022:3). Once returned to the community, the sex offender is imagined as certain to strike again. As Werth (2022:3) suggests, parole personnel “blur the boundaries between happening and not happening” as they have a feeling, a sense that something, an event has occurred, leaving the “dangerous sex offender” always at risk of reincarceration for even the most minor misdemeanor. Disabled adults, and arguably my participants, who have raped or sexually assaulted, are placed in an illusory waiting room, seemingly unable to control urges, and therefore likely to strike again, inevitably to return to a carceral enclosure.

Similarly, in terms of lack of control, Peay (2016:138) proposes that a lack of rationality, or volitional control, feeds perceived dangerousness of criminalized disabled people, perhaps making them,

both less culpable and more amenable to therapeutic or rehabilitative endeavours, drawing on our humanitarian instincts. These two contrasting images – of threat and illness – constantly shift the shape of the disordered offender [sic] evoking changing emotional response in us, and making “them” ungraspable or unknowable to a system that aspires to work with presumed certainties.

Disabled children and adults, have been locked away, incarcerated, and institutionalized throughout history, and there has been very little political movement to do anything about this, largely based on these concerns over the unknowable, ungraspable and uncertain.

I have listened to criminalized disabled men, and mothers tell me stories about rape, sexual assault, and grooming. It is evident that mental health deterioration, surveillance and monitoring of disabled/neurodivergent men who have additional impairments such as learning difficulties occur. These men have been incarcerated for rape, sexual assault and grooming. For criminalized disabled men, who have sexually offended, the ongoing and long-term impacts are significant. These can include exclusion, stigmatization, complex mental illness, surveillance, and registration (Hamilton, Sanchez, and Ferrara 2021; Rolfe and Tewksbury 2018; Rolfe, Tewksbury, and Schroeder 2016) and a release-readmission cycle of incarceration, regardless of the continuation of real or imagined offending behavior (Werth 2022). Furthermore, for these men the consequences of their crimes, are compounded by their disabling impairments and public perceptions on rehabilitation and reintegration into society due to their perceived (or actual) risk to wider communities.

This research cannot help those who are already a victim of sexual assault, nor can it eradicate the harm for those who are historically institutionalized. What it can do is highlight the issues around the early identification of problems that occur around intimacy, sex and violence for all concerned, as well join a conversation about criminalized disabled offenders and their incarceration with a view to make positive changes much earlier on in their life. Principally there is a need to challenge the troubling micro and macro-bureaucratic processes across institutions and systems such as education, health, and criminal justice to support disabled people and their families in a care-full, ethical and humane manner.

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