

**Prosecutors & Law Enforcement:**

**Victims & Witnesses  
with  
Developmental Delays**

*Bill Fulbright  
Ravalli County Attorney  
Hamilton, Montana*

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*2011 Statistics:*

**Kids with  
Developmental Disability  
3 times  
More Likely to be  
Abuse Victim**

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*2011 Statistics:*

**Kids with  
co-occurring  
Cognitive Disability  
doubles  
that risk**

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# High Risk Highly Vulnerable

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## Neglect & Brain Development:

- severely neglected kids:
  - high levels of cortisol
    - toxic to brain
    - impairs memory consolidation
- affects neurological development

Bruce Perry, MD, Ph.D  
<http://www.lfcc.on.ca/mccain/perry.pdf>

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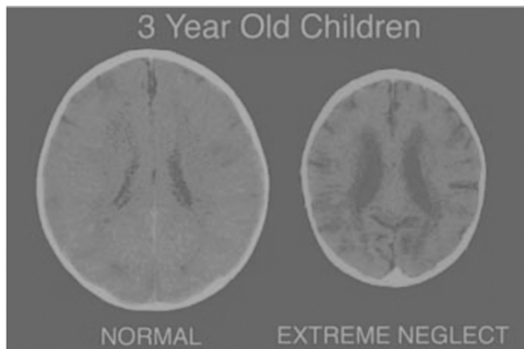
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## Neglect & Brain Development: 3 Year Old Children



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Neglect & Brain Development:

- exposure to Aggression & Violence:
  - increased risk of impulsivity  
high blood pressure
  - enlarged amygdala  
(survival instincts; emotions)  
(fear conditioning)
  - *slow development* of neocortex  
(higher reasoning)  
(decision making)

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Neglect & Brain Development:

- exposure to Aggression & Violence:  
mis-read faces:  
  
when you are “confused...”  
they might read “angry”  
& shut down

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***What is this child  
dealing with??***

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***“Developmental Disabilities”***

***“Developmental Disorders”***

***“Developmental Delays”***

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1 in 6 children:

- Autism
- ADHD
- Specific Learning Disorder
- Motor Disorder
- Intellectual Development Disorder
- Communication Disorder

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Increases in the last decade:

- Autism – up by 289%
- ADHD – up by 33 %
- Hearing loss – up by 31%

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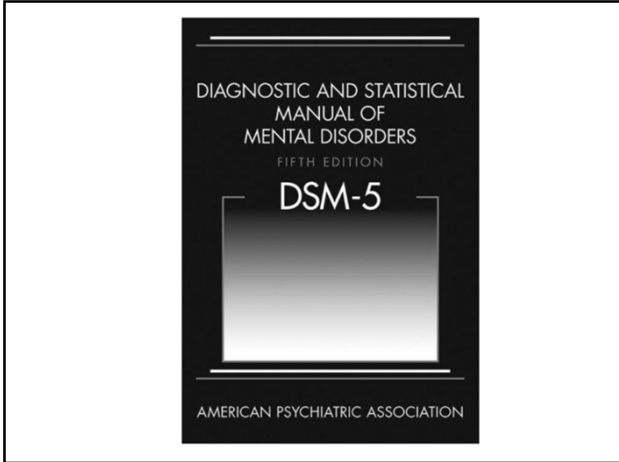
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**ADHD**

- **Attention Deficit/Hyperactivity Disorder**

**Persistent Inattention**

**Hyperactivity or Impulsivity**

**Impairs Social or Academic Functioning**

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**Intellectual Disability:**

(“Intellectual developmental disorder”)  
(“mental retardation”)

- IQ: still in “text description” of DSM 5  
no longer diagnostic criteria  
so not “overemphasized”
- ability to function in 3 domains:
  - conceptual (3 r’s; memory; reasoning)
  - social (empathy; communication; friendship abilities)
  - practical (personal care; \$\$; recreation; organizing school & work tasks)

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**Intellectual Disability:**

(“Intellectual developmental disorder”)  
(“mental retardation”)

- IQ: 70 or below

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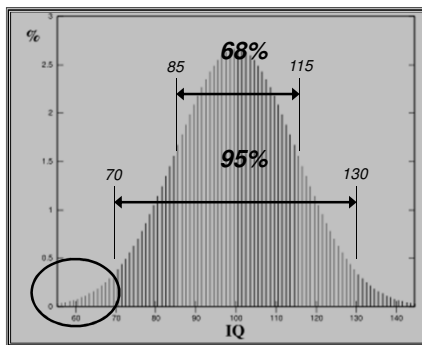
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**Modern:**



**mean = 100  $\sigma = 15$**

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	<u>IQ</u>	
Mild ("Educable"):	55 - 70	← 85%
Moderate:	40 - 55	
Severe:	25 - 40	
Profound:	<25	

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*Implications*

USA: 100,000 births per year  
2.5 million persons (est.)

2000 Study: (Mild Mental Retardation)

Memory	}	<i>Same as matched mental age groups</i>
Suggestibility		

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**Autism Spectrum Disorder:**

Autism:

- Impaired communication
  - respond inappropriately
  - can't read non-verbal interactions
- Impaired social interaction
  - difficulty building friendships
- overly dependent on routines
  - & repetitive behavior
  - highly sensitive to changes  
(environment or activities)
  - intensely focus on specific item(s)

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Autism Spectrum Disorder:

Autism

Asperger's Syndrome  
not delayed in:  
cognitive or language development  
do experience:  
peer relationships are difficult  
no emotional reciprocity  
non-verbal = meaningless

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Autism Spectrum Disorder:

Autism

Asperger's Syndrome  
not delayed in:  
cognitive or language development

Pervasive  
Developmental  
Disorder-NOS  
(don't meet Autism or Asperger's)

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Conduct Disorder

Cerebral Palsy

Down Syndrome

Specific Learning Disorder

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**Specific Learning Disorder:**

DSM-5:

- now single, overall diagnosis
- persistent difficulties
  - reading
  - writing
  - arithmetic
  - mathematical reasoning skills

significantly interferes with

- academic achievement
- occupational performance
- activities of daily living

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**Vulnerable – at risk – because...**

- Physical & Mental Limitations
- ↑Care Demands  
=↑Caregiver Stress

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***My  
Simple  
Model***

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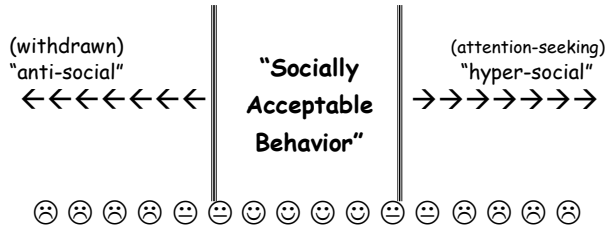
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**“Socially Acceptable Behavior”**



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**“Socially Acceptable Behavior”**



**↑↑Anxiety → Everyone Loses!!**

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**“Normal”  
is  
Their World**

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# Adapt to THEIR World

(let them invite you in...)

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## REACH OUT – GET HELP

### • General Information

- Medical/Psychological friends
- DSM-5
- Google Scholar
- General Characteristics

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## REACH OUT – GET HELP

### • Learn About THIS Child

- Parents / Foster Parents
- Teachers
- School Counselors
- Therapist/Psychologist
- Day Care Provider
- Anyone Important in Child's Life

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# Tips & Suggestions

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## Language:

- 1 concept at a time  
no compound q's or concepts
- do *not* clean up the kid's words...  
(telling them they did it wrong)
- Avoid negatives:  
"~~you didn't go to the lake, did you...~~"  
"Did you go to the lake?"
- use pronouns  
"~~did that happen 1 time or more than 1 time?!~~"  
"did John touch your private spot 1 time or more than 1 time?"

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## Language:

- Expect literal and concrete:
  - "shot stuff there [pointing to thigh]  
from his private"  
"what color was it?"  
"brown"  
"what was brown?"  
"his private"  
"what color was the stuff?"  
"yellow"
- In court: picture of kid's house:  
Q: "what's in this picture?"  
A: "I don't know"

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Language:

- Expect literal and concrete:
  - try to understand  
don't try to interpret  
ask follow up questions if answer  
doesn't make sense...  
it is probably *our* misunderstanding
  - if someone else present  
will assume they saw the crime...

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Language:

- Who What When Where Why...
  - Avoid *WHEN* questions  
will answer  
feels wrong not to answer  
generally not accurate
  - Ask *WHERE* to get the "when"  
memory anchors
  - do *not* ask "*WHY*" questions  
perceived as accusatory

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Language:

- Get help with questions for:
  - First meeting with child
  - Subsequent meetings with child
  - Testimony
- Get help from:
  - Forensic interviewers
  - Counselor(s)
  - Teachers
  - Trusted family members of child
- Patience
  - just relax & wait
  - it takes them *more* patience to deal w/ us!

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**Dissociation:**

- Understand Dissociation
  - brain takes mental break while body continues to function
  - stress:  
easiest coping skill = dissociation
  - Trauma:
    - victim might dissociate during trauma
    - questions about trauma might cause dissociation

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**Developing Positive Relationship:**

- meet them on their level ... *literally*  
never look down on them
- "...make you 3 promises..."
  - "I will never lie to you..."
  - "I will do my best to keep you from being surprised..."
  - "will not have to talk about the bad stuff every time you come in..."

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**Developing Positive Relationship:**

- meet multiple times  
short visits
- separate from parents  
more relaxed  
less traumatic for child  
parents are almost always more traumatized and dysfunctional
- If needed:  
invite child's counselor/therapist  
look for trusted adult

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Developing Positive Relationship:

- do different things  
not just in 'the office'  
"just checking in..."
- talk about everything *but* the abuse, until  
child asks questions or wants to  
actually preparing for trial
- ask child for their questions (every visit)
- never mislead

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Developing Positive Relationship:

- ask for help with your questions  
details you don't know  
terms for  
body parts  
sexual acts
- "what's the best way for me to ask you  
about..."
- get their "permission" to talk about bad  
stuff

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Preparing *any* child for court:

- spend time in the courtroom (empty)
- explain and show:
  - who everybody is
  - where everybody will be
  - let child sit in all the chairs
  - have conversation while child in  
witness chair
- is *never* a "rehearsal"
- is *never* "practice"
  - "just tell the truth"

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Preparing *any* child for court:

- empower the child with choices:
  - where to look  
    choose not to look at Defendant?
  - what clothes to wear
  - who there to support them
  - where support people might sit
  - anything you can think of...
- "just tell the truth"

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Case Preparation:

- Pre-trial motions:
  - Support Person
  - Courtroom configuration
  - testimony timing, length, breaks
  - child friendly language
  - anything to help the child

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Trial presentation:

- Theme: Always consider...  
  
    *Why* did defendant pick *this* victim??  
  
    Why was this kid vulnerable?  
  
        especially vulnerable to defendant?
- Can you develop your theme  
    around that vulnerability?

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Trial presentation:

- Before child testifies...
  - psychologist
  - the child's counselor
  - medical specialist
    - explain what everyone should expect to see
  - school counselor
    - special education system
    - victim's IEP
    - victim's limitations
    - victim's strengths

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