

Autism INFORMATION FOR ADVOCATES, ATTORNEYS, AND JUDGES

SERVING VICTIMS OF CRIME SERIES

CONTRIBUTED BY:
 Carolyn Gammicchia and
 Catriona Johnson, M.S.



PROSECUTING ATTORNEYS, JUDGES, AND OTHER VICTIMS' RIGHTS PROFESSIONALS MAY ENCOUNTER OR BE ASKED TO PROVIDE SERVICES TO AN INDIVIDUAL WITH AN AUTISM SPECTRUM DISORDER (ASD). UNDERSTANDING THE COMMUNICATION, SOCIAL, AND BEHAVIORAL CHARACTERISTICS OF INDIVIDUALS ON THE AUTISM SPECTRUM WILL ASSIST IN REPRESENTATION AND ADVOCACY ON BEHALF OF VICTIMS OF CRIME WHO HAVE AUTISM.

There is strong evidence that individuals with disabilities experience crime at rates higher than individuals without disabilities. Because individuals on the autism spectrum are generally taught compliance from a very young age, have difficulty picking up social cues, and may also have cognitive disabilities (mental retardation), they can be easy targets for abuse and victimization. Unfortunately, most of these cases are never successfully prosecuted, leaving the perpetrators to continue to victimize others (Mishra, 2001). Due to the nature of autism, which is a spectrum disorder, individuals with ASD may have varying degrees of understanding of the criminal justice system or the situation that has brought them into the system. Specific care should be taken from the very first interviews to ensure accurate accounts of crimes are obtained and the victims appropriately represented and their rights preserved. With the assistance of trained professionals and autism experts, many of these cases can be successfully prosecuted.





MOST PEOPLE WITH DISABILITIES WILL EXPERIENCE SOME FORM OF SEXUAL ASSAULT OR ABUSE DURING THEIR LIFETIME (MARGE, D., 2003).



WHAT IS AUTISM?

Autism is a spectrum disorder that affects every individual to a differing degree. Autism is a complex developmental disability. It is a neurological condition with a variety of symptoms that affect individuals in different ways. It knows no racial, ethnic or social boundaries. People with autism may have difficulties in communication and social understanding. They may also have unusual reactions to sensory input, and may demonstrate what appear to be inappropriate behaviors. Autism Spectrum Disorders (ASD) are now known to be more common than previously thought, affecting as many as 1.5 million individuals nationwide.

CONSIDERATIONS FOR PROSECUTING ATTORNEYS, JUDGES, AND VICTIMS' RIGHTS PROFESSIONALS

Evidence shows that individuals with disabilities experience crime at rates higher than their nondisabled counterparts. Most people with disabilities will experience some form of sexual assault or abuse during their lifetime (Marge, 2003). The risk of victimization varies according to disability; however, it is unknown how many adults on the autism spectrum are victims of sexual abuse, sexual assault, or domestic violence. There are currently no research studies specific to adults with ASD and there are no data available to document presumed high rates of abuse against men and boys with disabilities (Petersilia et. al., 2001). A survey of over 1,500 individuals on the autism spectrum and their caregivers by the Autism Society of America found that of the 35% who had been the victim of a crime, 17% reported physical abuse or assault, 13% reported being the victim of sexual abuse, 9% reported property crimes, 8% reported sexual assault, and 8% reported neglect; 3% reported being coerced to commit or participate in a crime (ASA, 2007). A study on child abuse and autism (Mandell, et. al., 2005) found that caregivers reported that 18.5% of children with ASD had been physically abused and 16.6% had been sexually abused. Property crimes against individuals with ASD may be prevalent in part due to the inability of many individuals on the autism spectrum to read social cues or understand social norms that may protect them from criminals seeking financial gain. Some individuals with ASD may have a guardian handling their finances, but if there is little or no monitoring and oversight, financial exploitation can easily take place.

Despite documented high rates of crime victimization against individuals with disabilities, police follow-up, prosecution, and convictions of perpetrators remain low. A review of Massachusetts cases found that only 5% of crimes against people with disabilities resulted in a conviction (Mishra, 2001). If convicted, sentences for crimes against individuals with developmental disabilities are typically lighter, particularly for sexual assault convictions. Theories explaining why include:

- The difficulty of investigations and lack of specialized police training
- Difficulties establishing whether an individual can give "consent"

- Negative stereotypes about individuals with developmental disabilities
- The perception that individuals with developmental disabilities lack credibility as witnesses
- The fact that individuals with developmental disabilities may be easily intimidated by the criminal justice system and be known by the perpetrator

Prosecutors and advocates should be aware that an individual on the autism spectrum may be dependent on a care provider, and therefore reluctant to press charges or assist in legal proceedings against that person. As part of these investigations, it becomes critically important to track the care provider's history, as he/she may move to another jurisdiction or state to avoid prosecution for abuse. State agencies administering programs for individuals with developmental disabilities are charged with assuring health and safety; however, in cases of prolonged abuse and neglect there may be a lack of quality oversight and investigation.

APPROPRIATE RESPONSE/DELIVERY OF SERVICES

It is very likely that the ability of a victim with ASD to communicate will be impaired, especially in times of high stress. Professionals must be aware that no two people with ASD are the same; some individuals may be highly verbal while others are non-verbal, have above-average intelligence or cognitive limitations (mental retardation), and may respond differently to sensory stimuli. During instances of heightened anxiety or when they do not know what is expected of them, individuals with ASD may also lose some of their abilities more readily. Providing reassurance will assist in alleviating the individual's anxiety; however, the characteristics of autism may pose challenges to providing services. It is therefore extremely important that a wide range of individuals who know the victim be involved in assisting the individual while navigating the criminal prosecution process. Where appropriate, these could include parents/guardians, educators, and support staff.

The verbal communication skills of an individual with autism may be atypical or below his or her chronological age. It is therefore important to slow down speech, use simple language, present one concept at a time, and explain expectations often. Children and adults on the autism spectrum may have immediate or delayed echolalia (the repetition or echoing of verbal utterances made by another person). Immediate echolalia may be used with no intent or purpose or may have a very specific purpose for the individual. Delayed echolalia appears to tap into long-term auditory memory, can involve the recitation of entire scripts, and can also have both non-communicative and communicative functions. Individuals with ASD may also exhibit a pattern of pronoun reversal. Knowing the individual well is key to understanding his/her specific use of echolalia and other communication traits. This will also assist during the forensic interviewing process and for court room testimony.

Likewise, children and adults with ASD may have perseverative (repetitive) behaviors. While all individuals have routines to organize their lives, children and adults on the autism spectrum often take it to an extreme, spending hours on a single activity or repetitively talking about the same topic. This perseveration may relate to an individual's exaggerated need for sameness, expressed by the need for routines and consistency in his or her environment. These characteristics may become more prominent when they are anxious or in an unfamiliar situation, as in a court room.

Other considerations for an individual with ASD include preparing the person for any interviews, awareness of the individual's communication (including use of assistive technology) and reading abilities, reducing the number of or shortening interviews, eliminating noise and visual stimuli that could be distracting and, if the individual takes medication, making sure it has been administered on schedule.

The use of Forensic Interviewers, trained to assist individuals with disabilities, should be considered from the onset of an investigation and utilized prior to any interviews with counselors to ensure appropriate information is collected for prosecution efforts. Successful initial contacts and interviews are more likely to produce optimal results. In preparing for interviews it is essential that interviewers consider their own attitudes about disability in general and access individualized information about the victim via personal records, family members or care providers, and friends. Interview settings should not only ensure privacy, but be free of distractions. All professionals interviewing an individual with ASD should be aware that it will take more time than normal.

Within the court room setting, time will be needed to prepare an individual on the autism spectrum to participate in the process of a trial. If the individual is familiar with the setting, the concepts involved, as well as the expectations of them, it will allow them to participate more effectively. Providing information on autism to jurors as well as defense attorneys will reduce questions, as well as alleviate concerns regarding the individual's competence to participate. Unfortunately, misperceptions regarding individuals with autism often result in questions about their credibility as witnesses. Individuals with ASD often have very good memories and attention to detail, making them reliable witnesses; however, they can be easily confused in adversarial proceedings. Because individuals may be intimidated by aspects of the criminal justice system, repeated questioning, or the presence of a known perpetrator, familiarizing them with the setting and preparing them for testimony is essential.

The goals of court preparation are:

- To reduce the stress level in the witness
- To help the individual understand the nature and seriousness of the proceedings
- To minimize the likelihood that the individual will suffer negative court-related harm
- To improve the individual's ability to answer questions in court in the most accurate, complete, and truthful manner
- To maximize the individual's ability to be perceived as a credible witness

Partnerships with autism professionals can assist advocates and attorneys in communicating information to the individual, eliciting responses, and addressing anxiety and behaviors. Without appropriate support, individuals with ASD may appear to lack understanding of events and activities; however, when information is presented in a way that meets their needs and learning styles, they can contribute to prosecution efforts.

CHARACTERISTICS OF AUTISM

Persons with ASD may act in any of the following ways in an encounter with professionals within the criminal justice system and judicial sector. Care should be taken not to misinterpret some of these actions as deliberate, disrespectful or hostile.

Persons on the autism spectrum may:

- Not understand their rights
- Not understand what is expected of them
- Not respond to verbal instruction
- Run or move away when approached
- Be unable to communicate with words
- Only repeat what is said to them
- Communicate only with sign language, pictures or gestures
- Avoid eye contact
- Appear argumentative or stubborn
- Say "No!" or "Yes!" in response to all questions
- Have difficulty judging personal space
- Be overly sensitive to sensory input (e.g., flashing lights, sirens, crowds)
- Have a decreased cognitive ability when experiencing heightened anxiety or frustration
- Become anxious or agitated, producing fight or flight responses, or behaviors such as screaming, hand flapping, or self-injurious behaviors
- Appear to be under the influence of narcotics or intoxicants
- Have an associated medical condition such as seizure disorder
- Be fixated on a particular object or topic and may ask repeated questions
- Speak in a monotone voice with unusual pronunciations
- Reverse pronouns ("Can I stop?" instead of "Can you stop?")
- Give misleading statements or false confessions
- Have problems speaking at the correct volume
- May, if verbal, be honest to the point of bluntness or rudeness
- Not be able communicate the extent of trauma due to a lack of understanding of healthy sexuality or appropriate boundaries in care provider or other relationships
- Have the need for a Forensic Interviewer with knowledge of autism
- Not have knowledge of the criminal justice system and the expectations to assist in prosecution



Improving the Lives of All Affected by Autism.

7910 Woodmont Avenue, Suite 300
Bethesda, Maryland 20814-3067
Phone: 301.657.0881 or 1.800.3AUTISM
Fax: 301.657.0869
Web: www.autism-society.org

This project was supported by Grant No. 2005-VF-GX-K023 awarded by the Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

REFERENCES:

- Autism Society of America. (2006). Results of the *victims of crime with autism* survey (unpublished).
- Baladerian, N. J. (2004). *An overview of violence against children with disabilities*. Presentation at the Best Practice II Conference On Child Abuse & Neglect, Mobile, Ala.
- Mandell, D.S., Walrath, C.M., Manteuffel, B., Sgro, G., & Pinto-Martin, J.A. (2005). The prevalence and correlates of abuse among children with autism served in comprehensive community-based mental health settings. *Child Abuse Negl.*, 29(12):1359-72.
- Marge, D.K. (Ed). (2003). *A call to action: Ending crimes of violence against children and adults with disabilities: A report to the nation*. Syracuse, N.Y.: SUNY Upstate Medical University.
- Mishra, R. (June 10, 2001). In attacks on disabled, few verdicts: Despite evidence, law enforcement drops most cases. *The Boston Globe*.
- Petersilia, J., Foote, J., & Crowell, N.A. (Eds.) (2001). *Crime victims with developmental disabilities: Report of a workshop*. Washington, DC: National Research Council/National Academy Press.
- Sobsey, D. (1994). *Violence and abuse in the lives of people with disabilities: The end of silent acceptance?* Baltimore: Paul H. Brookes Publishing.
- Sobsey, D., & Doe, T. (1991). Patterns of sexual abuse and assault. *Journal of Sexuality and Disability*, 9(3): 243-259.

RESOURCES:

Autism and Crime

- Autism Society of America ~ 1-800-3AUTISM
www.autism-society.org/safeandsound
Find or contribute local resources for victims of crime at Autism Source™, ASA's on-line referral database, www.autismsource.org
- Office for Victims of Crime, U.S. Department of Justice ~ 1-800-851-3420
OVC has a number of useful publications and materials, including *Victims with Disabilities: The Forensic Interview* training DVD and manual & *Serving Crime Victims with Disabilities* DVD.
- California District Attorneys Association (916) 443-2017, www.cdaa.org
The CDAAs DVD, *Crime Victims with Disabilities: What the Prosecutor Needs to Know*, includes sections specific to autism.
- National Center for Victims of Crime (NCVC) ~ 1-800-394-2255

Disability, Abuse & Personal Rights Project
www.disability-abuse.com

L.E.A.N. On Us (Law Enforcement Awareness Network)
www.leanonus.org

Autism Risk and Safety Management
www.autismriskmanagement.com

Crime Victim Organizations

- Office for Victims of Crime, U.S. Department of Justice ~ 1-800-851-3420
- National Center for Victims of Crime (NCVC) ~ 1-800-394-2255
- National Domestic Violence Hotline ~ 1-800-799-7233
- National Organization for Victim Assistance (NOVA) ~ 1-800-879-6682
- National Resource Center on Domestic Violence ~ 1-800-537-2238

If you appreciated the information contained in this publication, please consider offering support through a donation that will continue the availability of this information to others in need. Help us continue the work so vital to the autism community by making a tax-deductible donation at www.autism-society.org/supportasa.