



# JUVENILE JUSTICE AND AUTISM SPECTRUM DISORDER

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# Juvenile Justice & Autism Spectrum Disorder



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## Training Modules

Pg 4 Autism Spectrum Disorders in Juvenile Justice: What we need to understand and why.

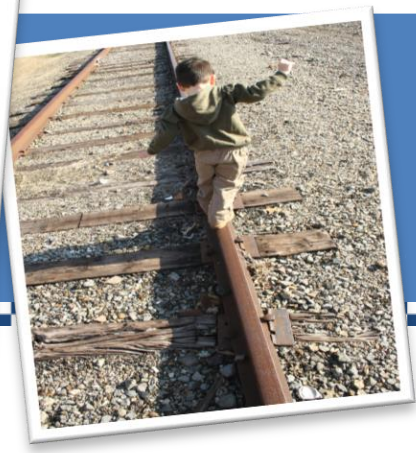
Pg 8 Autism Basics  
The Basics: Autism Spectrum Disorders

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## Crime and Autism Spectrum Disorders (ASD)

- People with ASD are more likely to be a victim of crime than to commit a crime.
- If individuals with ASD are in contact with the juvenile justice system their diagnosis and treatment needs are often unknown to relevant personnel.
- The treatment for ASD is different from traditional juvenile justice programs & often different from psychiatric programs.





# How to Use this Manual

## Preview ASD - Explore ASD & Crime - Identify Solutions

The goal of this training manual is to acquaint the needs of the autism community and the needs of the juvenile justice community. When communities come together youth can be better served. This manual does not seek to make every professional an expert in autism, rather we

recognize that juvenile justice agencies must prioritize community safety and personal accountability for illegal actions when they occur. This manual is to serve as a bridge to those priorities.

The training modules introduce readers to basic information about autism

spectrum disorders (ASD), how symptoms can predispose some to criminal activity and how some symptoms may perpetuate criminal acts.

Recommendations for effectively communicating to and with individuals with an ASD are provided.

### Seek Information About Autism Spectrum Disorders

Use this manual to:

- Review basic ASD characteristics
- Review how ASD and crime can be related
- Identify potential problems & solutions in agency procedures
- Learn effective communication to get information to individuals with ASD
- Learn effective communication to get information from individuals with ASD



education creates



## Autism Spectrum Disorders (ASD) and Juvenile Justice: What We Need to Understand and Why

Unique social and communication challenges might also place individuals with ASD at risk of committing socially inappropriate actions that reach the level of illegal, offending behaviors.

### **Criminal activity involving individuals with disabilities is a complex and controversial topic.**

Although there is some evidence individuals with disabilities are involved in the criminal justice system at much higher rates than those without disabilities (National Research Council, 2001) how certain disabilities are related to specific crimes is unclear.

It is inaccurate to conclude that the symptoms of ASD are directly related to the commission of criminal actions; most individuals with ASD are not offenders. However, it is estimated that **individuals with ASD will have up to seven times more contact with law enforcement over the**

**course of their lifetime than their peers** (Ghose, 2006; Miller, 2008). There is evidence that some individuals with ASD do commit crimes (Allen, Evans, Hider, Hawkins, Peckett & Morgan, 2008; Ghaziuddin, Tsai, & Ghaziuddin, 1991; Haskins & Silva, 2006; Kristiansson & Sorman, 2008; O'brien, 2002; Sutton et al., 2012).

Although there is limited information regarding the prevalence of ASD in the criminal justice system (National Research Council, 2001), **there are more individuals with ASD in prison or secured facilities than expected** (Haskins & Silva, 2006; Howlin, 2000; Scragg & Shah, 1994). Some of these individuals may already

have an existing diagnosis, many others **may not be properly identified when the unlawful acts occurred**, and still others may never be recognized in the criminal justice system (Mayes & Koegel



**...there are more individuals with ASD in prison or secured facilities than expected**

2003). Most often males who met the definition of high-functioning autism (HFA) or Asperger Syndrome (AS) are associated with offending

## Continued

behaviors (Langstrom, Grann, Ruchkin, Sojostedt, & Fazel, 2009).

Presumably, individuals with lower levels of functioning (e.g., classic autism) would have more supervision and feedback regarding their behaviors; when highly aggressive behaviors were present, the acts would be interpreted as part of the disability rather than a legal violation.

**Some symptoms (e.g., theory of mind deficits, obsessive interests, for example) or life experiences (e.g., social isolation with limited access to advice) or co-occurring psychiatric symptoms**

**may increase the probability of an individual with ASD committing an illegal act** (Newman & Ghaziuddin, 2008). There are also some variables that can maintain problematic behaviors. For example, if an individual is not caught and given appropriate feedback then they may conclude it is ok to continue an illegal act.

Why does this matter? The **driving factors that lead to criminal activity are usually distinctly different for individuals with ASD compared with other offenders** (Mayes & Koegel 2003). In fact, individuals with ASD often find themselves in trouble

(with police, detained in a juvenile justice facility or on probation) without an understanding they have violated a law. **Many disruptive behaviors that seem antisocial in nature** (e.g., physical outbursts, stalking, inappropriate sexual advances, and acting as an accomplice to crimes committed by false friends) **may actually be manifestations of the social misunderstandings that are common in individuals with ASD** (Debbaudt, n.d.).

## Competency

Regardless of intention, once it is clear that an illegal act has been committed, the question of how to determine if an individual can be held accountable is required. The traditional method for determining if an individual can be held accountable for committing

a crime is by first determining if they are competent to participate in the defense of their actions.

The legal view of one's competence and capacity to commit a crime are often the source of much debate (Mayes & Koegel, 2003). The **capacity to commit a**

**crime is related to one's mental state at the time of the offense.**

Competency, on the other hand, relates to one's ability to stand trial when accused of a crime. As described in Mayes & Koegel (2003), the Supreme Court of the United States defines



Juveniles  
accounted for 13%  
of all arrests in the  
U.S. in 2010

- Arson (42%)
- Robbery (24%)
- Property crime (23%)
- Violent crime (13%)

The most widely used  
consequence?

62% of adjudicated  
juveniles are placed on  
court ordered probation



Allegheny  
County Juvenile  
Population

148,331  
10 to 19 years old  
(US Census Bureau 2010)

3,479 juveniles under  
Court Supervision  
as of December 2011

(Juvenile Probation Annual  
Report, 2011)

## Continued

**competency as “sufficient ability to consult with a lawyer with a reasonable degree of rational understanding” and “a rational as well as a factual understanding of” the proceedings that will take place** (Dusky vs. US, 1960). It is critical that a person is able to work with their lawyer. When dealing with individuals with disabilities, the application of these broad and often unclear terms becomes difficult. That is, when considering the legal concepts and also a person’s disability the following questions arise: (a) were their criminal actions intentional or spiteful in nature and (b) does the person have the intellectual functioning to understand the prosecution process? (Mayes & Koegel, 2003).

**A disability diagnosis is not an exclusionary factor from prosecution.** However, an individual’s competence and capacity to commit a crime does need to be considered in relation to

the nature and severity of a person’s disability so that appropriate sanctions are balanced with community safety and treatment (rehabilitation) decisions.

Of course, it is important that each agency in the adjudication process are aware of how to access evaluation data for determining if ASD is present. If an ASD is present, how an individual’s symptoms are related to the illegal act will be important to consider.

# Quiz 1: Why We Need to Understand ASD in Juvenile Justice Settings

1. Individuals with ASD are at risk for contact with law enforcement over the course of their lifetime.
  - a. True
  - b. False
2. Regarding prevalence of ASD in the criminal justice system:
  - a. There are less individuals with ASD in prison or secured facilities than expected.
  - b. There are more individuals with ASD in prison or secured facilities than expected.
  - c. ASD has not been considered in the criminal justice system.
  - d. None of the above.
3. All individuals with ASD are properly identified when the unlawful acts occurred.
  - a. True
  - b. False
  - c. Some individuals may have an existing diagnosis while others may not be properly identified.
  - d. B and C
4. The driving factors that lead to criminal activity for individuals with ASD are \_\_\_\_\_ compared with other offenders.
  - a. Same
  - b. Complex
  - c. Different
  - d. Insignificant
5. Many disruptive behaviors that seem antisocial may actually be manifestations of the social misunderstandings that are common with in individuals with ASD.
  - a. True
  - b. False
  - c. Unknown
  - d. None of the above

# Quiz 1: Why We Need to Understand ASD in Juvenile Justice Settings

6. \_\_\_\_\_ is defined as “sufficient ability to consult with a lawyer with a reasonable degree of rational understanding” and “a rational as well as a factual understanding of” the proceedings that will take place.
  - a. Consciousness
  - b. Capacity
  - c. Competency
  - d. None of the above
  
7. A disability diagnosis is an exclusionary factor from prosecution.
  - a. True
  - b. False



# What is an Autism Spectrum Disorders (ASD)?

Autism is a neurological disorder that affects the way information is processed in the brain. Individuals with autism have severe deficits in **communication** and **social skills** and engage in **stereotyped** behaviors. Many also have difficulties modulating sensory input.

Autism is considered a **spectrum disorder** where individuals can have very severe symptoms (that are easily observed by others) or very mild symptoms (these may be hard for others to notice). Classic autism is used to describe very severe deficits in each area (e.g., communication, social skills, and stereotyped behaviors). Asperger's (individuals with autism symptoms but without language delay) and High Functioning Autism (HFA; individuals with autism symptoms with an early language delay that is no longer present) are terms often used to describe much milder cases of autism. For most people, the presence of autism symptoms are notable by age 3. However, individuals who are higher functioning may not be diagnosed or their diagnosis missed until adolescence or adulthood.

There is no known cause for ASD; likely there are combinations of gene mutations that result in mild to severe symptoms. The prevalence of ASD has been increasing in the US where, with 1 in 88 children being identified with an ASD (CDC). ASD is more common in boys 4:1.

**ASD is a developmental disorder**; this means its presence impairs typical development. **ASD is not a psychiatric disorder** where the presence of symptoms can improve (e.g., with therapy or medication) and normal functioning is restored. Instead, developmental disorders have restricted development and treatments are aimed at advancing skills. This is why treatments for neuro-typical youth and youth with psychiatric problems are not always useful for individuals with ASD.

Difficulties in processing information can lead to strange, disruptive and even highly aggressive acts. Some disruptive behavior may be directed at others, some may be directed at the self. Disruptions can seem to be unprovoked. As with most people, stress, anxiety and ambiguity tends to increase agitation and the probability of inappropriate behaviors. Similarly, individuals with ASD are likely to show disruptions when under stress or in unknown or chaotic situations.

People with ASD have **similar processing difficulties but their symptoms can look very different** in each individual. Also, how well a person is able to monitor and manage their symptoms fluctuates across individuals and the situation at hand. As such, it is important to have some familiarity with basic symptoms but it is entirely possible to miss or misinterpret a symptom. Formal diagnosis is always requires a trained clinician with experience.

# ASD Symptoms

Some symptoms of ASD are listed below accompanied by a description of how they can be misinterpreted by someone unaware of their presence. It is anticipated that classic autism symptoms would be obvious to most observers so milder deficits are expanded for review.

## **Communications Deficit**

- Talks in a monotone or sing-song voice
- Echolalia (repetition of words or phrases)
- Perseveration (talking about their interests; changing subject back to interests)
- Giving unrelated answers to questions
- Mimics others speech
- Incongruence between words and facial expressions
- Does not respond to pointing
- Does not understand jokes, sarcasm, teasing, or metaphors
- Inability to comprehend and respond to multiple prompts/directives

## **Potential Misinterpretation by Professional**

- Making fun of the question
- Failing to take the question seriously
- Failing to take the interaction seriously
- Not listening
- Back talking
- Has something to hide
- Lying
- Stubborn
- Noncompliant

# ASD Symptoms

## **Social Deficit**

- Poor eye contact
- Inappropriate laughing or giggling
- Flat or inappropriate facial expressions
- Unusual emotional reactions
- Difficulty identifying feelings
- Lack of fear to situations
- Lack of empathy

## **Potential Misinterpretation by Professional**

- Has something to hide
- Using Drugs or Alcohol
- Uncaring, Hostile
- Back talking
- Lying
- Planful, predatory

## **Related Behaviors**

- May inappropriately touch or sniff other people or objects
- Unusual reactions to sounds, smells, tastes, touch
- Insensitivity to pain
- Inability to tolerate environmental stimuli (noise, lights, touch, etc...)

## **Potential Misinterpretation by Professional**

- Aggressive
- Using Drugs or Alcohol
- Non-compliant (e.g., won't sit in a chair)

# ASD Symptoms

## **Stereotyped Behavior**

- Inflexible routines
- Unusual gestures
- Flapping hands, rocking body, spinning in circles (these can be very small movements)

## **Potential Misinterpretation by Professional**

- Non-compliant
- Using Drugs or Alcohol

# ASD & Crime

For an individual who shows many of these behaviors, it is likely that they would look sufficiently odd in how they present and respond causing adults to be alerted to the need to consider that this youth may be experiencing some difficulty. However, when someone with ASD presents with only a few of these symptoms they can be missed. Further, in the case where there is a report of criminal activity -- and the primary purpose of professionals is working to ensure community safety and personal responsibility -- these symptoms tend to be interpreted as a failure to understand and appropriately respond to a (potentially serious) legal situation.

## **How Characteristics of ASD can be Related to Offense Behavior**

Research in the area of ASD and the criminal justice system has found that **certain ASD related symptoms may help explain why some individuals with ASD commit unlawful acts**. These symptoms include but are not limited to the need for routine and sameness (Rapin, 1997; Rumsey et al., 1985), social functioning deficits (Baron-Cohen, 1988; Barry-Walsh & Mullen, 2004; Howlin, 1997; Morgan, Jones, & Jordan, 2001; National Research Council, 2001; Schwartz-Watts, 2005;), lack of empathy and theory of mind deficits (Baron-Cohen, 1988), language and communication deficits (Bankier, Lenz, Gutierrez, Bach, & Katschnig, 1999; National Research Council, 2001), sensory related issues (Mawson, Grounds, & Tantam, 1985), and special interests, obsession, or preoccupations (Allen et al., 2008; Chen et al., 2003), as well as psychiatric co-morbidity such as obsessive compulsive disorder (Newman & Ghaziuddin, 2008), conduct disorder (Kohn, Fahum, Ratzoni, & Apter, 1998), and mood disorders (Palermo, 2004).

### ***Social Functioning Deficits***

One of the **core issues defining individuals with ASD is a deficit in daily social functioning**. Social problems include poor eye contact, difficulty relating to others (see theory of mind deficits below), poor emotional attunement with others, limited reciprocal interactions that are mutually beneficial and a lack of understanding of the expectations in a social interaction. Various social functioning deficits have been identified for placing an individual with ASD at high risk for contact with the law enforcement (Allen et al., 2008; Barry-Walsh & Mullen, 2004; Morgan, Jones, & Jordan, 2001; Howlin, 1997). For example, a **lack of concern and awareness of others, social naivety, impulsivity and misinterpretation of rules**, and consuming obsessions were found in adults diagnosed with Asperger's syndrome who had engaged in offending behaviors (Allen et al., 2008). Similarly, individuals with ASD who were in criminal justice settings showed an **inability to understand and follow social rules** and cues that govern social situations (Palermo, 2004) as well as significantly greater **impairment in recognition of emotional expressions (specifically fear)** when compared to their non-offending peers (Cashin & Newman, 2009).

# ASD & Crime

## ***Language and Communication Deficits***

The second core characteristic of ASD is language and communication deficits, including both verbal and nonverbal social exchanges. Basic language deficits are noticeable by the presence of a **monotone voice**, **irregular speech rhythm** (prosody & cadence), and **poorly modulated volume** (too loud, great fluctuations). Social language deficits include a limited use of gestures to clarify meaning in communications, poor timing in verbal exchanges, **inappropriate use personal space**, and an **inability to understand sarcasm or humor in conversation** (Haskins & Silva, 2006).

When individuals with ASD are involved in illegal acts **misunderstanding and misinterpretations are often a primary cause**. Paterson (2007) also described how a young man had misinterpreted a young woman's interaction with him, resulting in sexual assault. The woman had spoken to the young man in a polite manner and because she had smiled at him and was physically attractive, he had concluded that she wanted to be his girlfriend. Later in the interaction, he did not comprehend the social cues that she had given him when she became uncomfortable with their interaction. Schwartz-Watts (2005) described the case of a young man who had killed his girlfriend's father because he felt that the man was going to harm him. He had difficulty recognizing the man's facial expressions and nonverbal cues, and believed that the man looked like he was going to hurt him, and therefore defended himself. Repeated difficulties in social communication are also a noted source of frustration in this population, researchers postulate it is a risk for offending behaviors (Bankier, Lenz, Gutierrez, Bach, & Katschnig, 1999; National Research Council, 2001).

## ***Difficulty with Transition/Changes***

It is important to note that individuals with ASD generally **do not respond well to transition/changes**. Changes in the location of household items, schools, social contexts, peer groups, and family interactions may have tremendously negative effect on a person's daily functioning, their attitude, and sometimes may even intensify disruptive behavior. These **difficulties tend to intensify as children age into adolescence** because physical (e.g., school building size and classroom options as compared to elementary school) and social environments (e.g., peer relationships) become larger and more complex. Due to social and communication deficits, the inability to address social problems (e.g., making and keeping friends) becomes more pronounced during this time. For individuals with ASD, **emotional distress** (e.g., feeling of loneliness, anxiety, and depression) **tends to also accompany poor social adjustment and/or social isolation** (Attwood, 1998; Bauminger, Shulman, & Agam, 2003; Gillott, Furniss, & Walter, 2001). Contact with the police, probation or juvenile court would certainly qualify as disruptive to a routine and a source of distress for an individual with ASD.

# ASD & Crime

## ***Lack of Empathy and Theory of Mind Deficits***

Many people with ASD have severe Theory of Mind (ToM) deficits. ToM is the ability to understand the perspective (e.g., think about) or experience (e.g., the felt emotion associated with empathy) of another person (Baron-Cohen, 1988). This requires the ability to **think about how the other person would understand an experience and an ability to understand how the other person would feel**. For individuals with ASD, this developmental task is often incomplete. For example, a person with ASD may not understand that their proximity to a store where vandalism was reported would result in questions from parents. That is, they miss the parent viewpoint. Haskin and Silva (2006) describe the case of a man who consistently talked about inappropriate topics in public, and believed he was popular and well-liked by others, despite evidence of the contrary; he was unable to recognize how other people perceived his behaviors. ToM deficits also **impair a person's ability to understand their impact on others**. That is, by obsessively talking about a (stereotyped / restricted) personal interest without regard to the situation at a minimum appears rude, is often judged as selfish and self centered and can be judged as non-compliant depending on the situational demands.

Lack of empathy (Silva et al., 2004, Wing, 1981), empathy impairments (Murrie et al., 2002) and severe empathy dysfunction (Jones et al., 2010) has been identified as a central component believed to explain why a person with ASD would commit a crime or reoffend (Paterson, 2007). The most consistent evidence presented by Murrie et al. (2002) highlights not only deficits in empathy but also the inability to perceive the impact of one's behavior in interpersonal relationships which may **distort the understanding of the consequences of their actions**; an **inability to detect the emotional distress of others** has also been reported (Silva et al., 2004). Six cases are described in the literature where each of each offender reported committing crimes (e.g., sexual assault, attempted murder, and arson) reportedly truly unaware of the harm or damage they had brought on to their victims. Interestingly **individuals with ASD tend to report their misdeeds and unlawful acts** – also apparently unaware of the consequences of the behavior to themselves – rather than the under reporting, minimizing or cognitive distortions / justifications often observed in traditional (neuro-typical) offenders.

## ***Sensory Related Issues***

The hyperactivity to noise, light, touch and temperature has been identified as trigger for some offending behaviors in individuals with ASD (Mawson, Grounds, & Tantam, 1985). In a comprehensive review of the literature Bjorkly (2009) found that sensory hypersensitivity was the **second largest cause of violent behaviors in individuals with ASD** where 21% of the incidents were activated by this ASD-related characteristic.

# ASD & Crime

## ***Special Interests, Obsessions and Preoccupations***

Special interests, preoccupations, and rigid adherence to routines are **significantly more common among individuals with ASD than their peers** (Baron-Cohen, 2003). These obsessions can lead individuals with ASD to disregard the social consequences of their behavior (Cashin & Newman, 2009; Haskins & Silva, 2006). For example, Murrie et al. (2002) describe an individual with ASD who had a transportation obsession; he was arrested on several occasions for driving subway trains and directing traffic in New York City without proper authorization. Similarly, stealing special interest objects has been reported in individuals with ASD (Chen et al., 2003). The tendency to focus on unusual details (Frith, 1989) might predispose offending behaviors when obsessions are not appropriate for the setting (Silva et al., 2004) such as talking about sex, sexual development, and masturbation.

## ***Psychiatric Co-Morbidity***

An estimated 29.7% (Newman & Ghaziuddin, 2008) to 38.7% (Langstrom et al., 2009) of individuals with ASD **also meet the criteria for a psychiatric disorder**. In general, ASD is associated with ADHD, depression and anxiety as well as personality disorder, psychosis and substance abuse (Ghaziuddin, Weidmer-Mikhail, & Ghaziuddin, 1998; Langstrom et al., 2009; Tantam, 2003; Wing, 1981). When violent offenders with ASD are compared to non-violent offenders with ASD researchers find higher levels of co-occurring psychopathology (e.g., personality disorders, psychotic disorder, and any substance abuse) in the violent offenders. Conduct disorder is also found in youth (Kohn, Fahum, Ratzoni, & Apter, 1998). Although the relationship between psychiatric disorders and ASD is unclear, researchers suggest that **co-existing psychiatric disorders may increase the possibility of a person with ASD offending**.

## ***Other Contributing Factors***

In addition to the risks described, other stressful experiences can increase the likelihood of offending behaviors in individuals with ASD. For example, **social rejection, being bullied, sexual rejection, family conflict, bereavement, and previous physical and/or sexual abuse** experiences have been associated with offending behaviors (Allen et al., 2008; Murrie, et al., 2002; National Research Council, 2001; Walters, et al., 2013). In one study, social rejection precipitated offending in 69% of the cases (Allen et al., 2008).



## Quiz 2: ASD Symptoms

1. Individuals with ASD have severe deficits in \_\_\_\_\_, \_\_\_\_\_ and engage in stereotyped behaviors.
  - a. Communication, social skills
  - b. Intelligence, memory
  - c. Gross motor skills, language
  - d. None of the above
2. ASD is a \_\_\_\_\_ disorder, not a \_\_\_\_\_ disorder.
  - a. Psychiatric, developmental
  - b. Mild, severe
  - c. Developmental, psychiatric
  - d. Physical, mental
3. All individuals with ASD experience equal severity of symptoms.
  - a. True
  - b. False
4. People with ASD have similar processing difficulties but their symptoms can look very different.
  - a. True
  - b. False
5. Perseveration, Echolalia, and talking in a monotone or sing song voice are all examples of:
  - a. Social Deficits
  - b. Communication Deficits
  - c. Stereotyped Behaviors
  - d. All of the above
6. An example of a Social Deficit associated with ASD is:
  - a. Poor eye contact
  - b. Unusual emotional reactions
  - c. Lack of fear to situations
  - d. All of the above

## Quiz 2: ASD Symptoms

7. Transition and change are normally:
  - a. Easy for individuals with ASD to adapt to
  - b. Difficult for individuals with ASD to adapt to
  - c. Unnoticed by individuals with ASD
  - d. None of the above
  
8. \_\_\_\_\_ deficits impair a person's ability to understand their impact on others.
  - a. Point of View
  - b. Theory of Mind
  - c. Memory
  - d. None of the above
  
9. \_\_\_\_\_ was/were the second largest cause of violent behaviors in individuals with ASD.
  - a. Social Deficits
  - b. Lack of Empathy
  - c. Sensory Hypersensitivity
  - d. Miscommunication
  
10. Researchers suggest that \_\_\_\_\_ may increase the possibility of a person with ASD offending.
  - a. Co-existing psychiatric disorders
  - b. Bullying
  - c. A & B
  - d. None of the above

# ASD: Effective Communication

Given the symptoms described there are several easy modifications that can be used when working with individuals with ASD; also these tips are helpful when working with any youth.

## **Plan Communications**

- Face each other directly, calmly draw their attention
- Give single step instructions (stop walking now NOT come over here & put down that bag)
- Ask single answer questions (where did you get that bike NOT where were you today)
- Use short sentences
- Use concrete terms (stop walking NOT hold on a minute)
- Show pictures when possible

## **Allow time for processing**

- Wait 10 seconds
- Repeat questions

## **Check for Understanding**

- What do I want to know?

## **Avoid if Possible**

- Chaotic, loud environments
- Touching; neither positive touch (pat on the back) or negative touch (restraining) is useful
- Asking open ended questions
- Don't restrict self-stimulating behaviors (e.g., tapping, clicking, finger rolling, etc...)

## **FYI, Sometimes Individuals with ASD:**

- Run when they are afraid, anxious, unsure what to do
- Can not keep a story straight (details, timelines, can be mixed up or missing)
- May hear what you are saying but do not know what you mean

# Quiz 3: Effective Communication

1. Use short sentences with concrete terms when talking to someone with ASD.
  - a. True
  - b. False
  
2. Showing pictures to better communicate with individuals with ASD is:
  - a. Useful
  - b. A distraction
  - c. Irrelevant
  - d. None of the above
  
3. When communicating with individuals with ASD:
  - a. Wait 10 seconds or more to allow time for processing
  - b. Repeat questions
  - c. Speak loudly
  - d. A & B
  
4. It is useful to avoid:
  - a. Chaotic environments
  - b. Touching the individual
  - c. Restricting self-stimulating behaviors
  - d. All of the above
  
5. Sometimes individuals with ASD will run (abscond) when they are afraid, anxious, or unsure of what to do.
  - a. True
  - b. False

# ASD in the Juvenile Justice Context

This page is adopted from Autism and Law (Debbaudt, n.d.)

Juveniles with ASD experience processing delays and **require additional time to respond to questions and instructions**. They tend to process information very literally and so may not understand the information presented unless it is concise and clear. Juveniles with ASD also demonstrate echolalia, and **will repeat back words and phrases that are said to them or copy mannerisms of those around them**. This behavior, along with poor understanding of social rules such as maintaining personal space, is often **misinterpreted as the juvenile being inappropriate or disrespectful**, and may influence the perception of the police officer, magistrate, or others involved in the processing of charges. It is important to remember that juveniles with ASD may **seem to be functioning at a high cognitive level and may demonstrate a broad vocabulary and language skills that would suggest an understanding of their behavior and appearance in court**, but are still functioning at a lower social and developmental level than their age would indicate.

When a juvenile with ASD confesses to an offense, circumstances surrounding that confession should be carefully examined. The **interrogation process can be very stressful** for these individuals, especially if (a) the interviewer is unaware of the needs of an individual with ASD, (b) **questions are asked too rapidly** or (c) **there is too much environmental stimulation** (e.g., chaotic interactions, loud noise, bright lights). This stressful situation can result in the juvenile being **unable to process information, shutting down, or becoming combative out of frustration**. Also, because of their poor understanding of personal boundaries and personal accountability, juveniles with ASD **may also admit to offenses to befriend the interviewer or stop the interview process**.

If an ASD diagnosis is known or suspected:

- A familiar individual should be present during questioning
- Provide extra time – a day, if possible, is recommended – between question sessions to allow feelings (e.g., panic, anxiety) to subside, information to be processed and their own questions to be formulated
- A visual presentation of the timeline and procedure they are engaged in

# Court Related Experiences

In the following section, read the relevant court proceeding. Anticipate where an individual with ASD will have difficulty. Notice problem areas and plan for effective communication.

Read the following scenario. (1) Circle one area where an individual with ASD would likely have trouble. (2) Consider the anticipated difficulty. (3) Give two suggestions on how to effectively move through this requirement.

## General Overview: Pre-trial sequence

### Filing a Petition

The hearing process officially begins with the filing of a verified petition. The petition is required to include the name and signature of the petitioner; the juvenile's name, age, and address; time, place, and summary of the alleged offense and a description of the law violated; statements that explain the law violation and the need for treatment, supervision, or rehabilitation; name and address of parent or guardian; location of the juvenile if already in custody; and an explanation of whether it is appropriate to limit public information about the case.

Private citizens may make written allegations about delinquency and law violations (Pennsylvania Juvenile Delinquency Benchbook) but only a juvenile probation officer or Commonwealth attorney are permitted to file a formal delinquency petition. County District Attorneys have the option to require that only a Commonwealth attorney can file petitions (Pennsylvania Juvenile Delinquency Benchbook; chapter 7). Juvenile probation and the District Attorney must approve the allegation prior to proceeding. Immediately after a petition is filed, a copy must be served either in person or via first-class mail to the juvenile and the parent or guardian, the juvenile's attorney, the Commonwealth attorney, and juvenile probation (Pennsylvania Juvenile Delinquency Benchbook; chapter 7).

The juvenile can be arrested with or without a warrant. Arrest warrants can be issued by magisterial district judges (MDJs), municipal court judges, common pleas judges, and court magistrates. In order to obtain an arrest warrant, written allegation and affidavit of probable cause must be submitted to one of the above listed issuing officers. If the juvenile is arrested without a warrant, written allegation is submitted directly to probation. The case then proceeds to the intake determination stage.

Police must answer calls from the community about behavior that is criminal in type, regardless of the reason behind the behavior. Officers will often approach MDJs with citations that are issued from these calls. If a juvenile "allegedly" commits a crime that is considered a summary offense, the police would file the allegations with the local magistrate's office and the case would be handled through the MDJ. The MDJs only handles summary criminal charges; all other charges must be taken to the juvenile probation office.

The MDJ has jurisdiction to determine what is best for the juvenile; this may be different from the police recommendations. Although police may approach the MDJ prior to issuing a citation if mental health issues are suspected, any information about possible diagnoses is often not available until the case reaches the court level (B. Larotonda, personal communication, October 24, 2012).

## Answer Key

### General Overview: Pre-trial sequence

#### Filing a Petition

The hearing process officially begins with the filing of a verified petition. The petition is required to include the name and signature of the petitioner; the juvenile's name, age, and address; time, place, and summary of the alleged offense and a description of the law violated; statements that explain the law violation and the need for treatment, supervision, or rehabilitation; name and address of parent or guardian; **location of the juvenile if already in custody**; and an explanation of whether it is appropriate to limit public information about the case.

**Private citizens may make written allegations** about delinquency and law violations (Pennsylvania Juvenile Delinquency Benchbook chapter 7) but only a juvenile probation officer or Commonwealth attorney are permitted to file a formal delinquency petition. County District Attorneys have the option to require that only a Commonwealth attorney can file petitions (Pennsylvania Juvenile Delinquency Benchbook chapter 7). Juvenile probation and the District Attorney must approve the allegation prior to proceeding. Immediately after a petition is filed, **a copy must be served either in person or via first-class mail to the juvenile and the parent or guardian, the juvenile's attorney, the Commonwealth attorney, and juvenile probation** (Pennsylvania Juvenile Delinquency Benchbook chapter 7).

The juvenile can be arrested with or without a warrant. Arrest warrants can be issued by magistrate district judges (MDJs), municipal court judges, common pleas judges, and court magistrates. In order to obtain an arrest warrant, written allegation and affidavit of probable cause must be submitted to one of the above listed issuing officers. If the juvenile is arrested without a warrant, written allegation is submitted directly to probation. The case then proceeds to the intake determination stage.

Police must answer calls from the community about behavior that is criminal in type, regardless of the reason behind the behavior. Officers will often approach MDJs with citations that are issued from these calls. If a juvenile "allegedly" commits a crime that is considered a summary offense, the police would file the allegations with the local magistrate's office and the case would be handled through the MDJ. The MDJs only handles summary criminal charges; all other charges must be taken to the juvenile probation office.

The MDJ has jurisdiction to determine what is best for the juvenile; this may be different from the police recommendations. Although police may approach the MDJ prior to issuing a citation if mental health issues are suspected, any information about possible diagnoses is often not available until the case reaches the court level (B. Larotonda, personal communication, October 24, 2012).



## Key Questions

### General Overview: Pre-trial sequence

If **location of the juvenile if already in custody** is selected than this question is administered:

1. If the juvenile is in custody, who explains the petition?
  - a. The judge
  - b. Staff at the facility
  - c. Parents are required to explain
  - d. The attorney
  - e. Any of the above, there are no rules regarding explanations

If **Private citizens may make written allegations**

OR

If **a copy must be served either in person or via first-class mail to the juvenile and the parent or guardian, the juvenile's attorney, the Commonwealth attorney, and juvenile probation** is selected than this question is used:

2. If the petition is based on a community member report, how is this likely to confuse an individual with ASD?
  - a. They may find it unfair that a community member can make a complaint
  - b. They may insist on disputing the community member in court
  - c. They may ask to speak to the community member
  - d. They may be confused about how the police would know what the community member saw

Everyone:

3. If a petition is served in person, what recommendations could help an individual with ASD?
  - a. Speak loudly, announce important news about an arrest warrant
  - b. Face the individual, gather their attention, preview the content of the warrant
  - c. Allow time to process the information & check for understanding
  - d. b & c

Read the following scenario. (1) Circle one area where an individual with ASD would likely have trouble. (2) Consider the anticipated difficulty. (3) Give two suggestions on how to effectively move through this requirement.

## General Overview: Attorney Representation

Juveniles have the right to representation by an attorney at each stage of the delinquency proceedings. If unable to hire an attorney, one will be appointed by the court. If a juvenile appears before the judge without representation, he must be informed of his rights in plain language, as not all juveniles understand the terminology used in the court setting. Basic points that need to be reviewed at this time are that the juvenile is expected to have a lawyer, this service is free, and it helps the court process continue as it should. If court-appointed counsel is needed, the assignment must occur before the detention hearing (if the juvenile is held) or before the adjudication hearing. This assignment will continue until the case is closed. A juvenile may waive the right to an attorney, but this must be assessed through a colloquy and judges should be hesitant to agree to such a waiver (Pennsylvania Juvenile Delinquency Benchbook chapter 7).

The Commonwealth must provide the juvenile and/or the juvenile's attorney with the following information: favorable evidence, written or oral confessions and the party to whom they were made, the way in which the juvenile's involvement in the alleged act was identified, results of any tests, physical, or mental examinations, any tangible evidence, and any transcripts or recordings. Either party may also be court-ordered to disclose additional information in order to adequately prepare for the case, including contact information for eyewitnesses, statements of eyewitnesses, and statements made by the juvenile (Pennsylvania Juvenile Delinquency Benchbook chapter 7).

If a public defender is assigned, the first contact with the juvenile is typically a "cold interview," at which point the public defender has the police report but does not know specific charges. The public defender will give the juvenile the police report and then will ask him questions about the report. Notes from this interview are sent to the office and preparation begins based on the charges. A follow-up interview may be conducted if needed. If the juvenile and his attorney decide to plea, a colloquy begins. At this point the juvenile admits to committing the crime and legal rights are explained. The colloquy is usually not done until the day of the trial just prior to the scheduled court appearance.

## Answer Key

### General Overview: Attorney Representation

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## Key Questions

### General Overview: Attorney Representation

Answer all questions:

If **informed of his rights in plain language** is selected

OR

If **"cold interview,"** is selected

OR

If **ask him questions about the report** is selected than administer:

1. An individual with ASD is likely to have trouble responding to:
  - a. Understanding their rights
  - b. The cold interview
  - c. Meeting new people
  - d. All of the above
2. The cold interview is problematic for individuals with ASD because:
  - a. They may panic
  - b. They may agree to everything
  - c. They may not be able to process what is expected of them
  - d. All of the above
3. To help ensure good communication with an individual with ASD about the nature of the complaint it is useful to:
  - a. Let them read the complaint
  - b. Read the complaint aloud
  - c. Check for understanding
  - d. All of the above
4. Because public defenders are often faced with a limited staff to initiate contact before this process even begins, time is often running very short. When faced with a short time line, it is helpful for the attorney to notice:
  - a. Is the individual simply repeating phrases from the report
  - b. Is the individual violating personal space
  - c. Does the individual's vocabulary suggest they should demonstrate a better understanding than they are showing
  - d. All of the above

Read the following scenario. (1) Circle one area where an individual with ASD would likely have trouble. (2) Consider the anticipated difficulty. (3) Give two suggestions on how to effectively move through this requirement.

## General Overview: Intake / Pre-Adjudication

Recall:

- The Juvenile Court system can become involved with any delinquent act that is alleged when an individual is between the ages of 10 through 18.
- Prior to this meeting, the juvenile should have received a “Written Allegation” in the mail describing the delinquent act the police believe was committed and why it is believed to have been committed by the juvenile.

In PA, the juvenile probation department is responsible for conducting an intake conference with the juvenile and his parents/guardians (a defense attorney would be present). At the intake interview, the probation officer will ask questions about the juvenile’s school, family, friends, hobbies, and the written allegation. At the end of the meeting, the probation officer will decide whether the case should proceed to a judge or instead establish a set of rules for probation (Guide to Juvenile Court). The purpose of the meeting, it is determined whether petitions will be filed for the juvenile to be (a) detained, (b) an Informal Alternatives will be presented, or (c) the case will be dismissed.

If recommended for detainment, the juvenile will proceed to detention and a delinquency petition will be filed by probation so that pre-adjudicatory procedures can begin. Once a petition is filed, several actions can take place. The court can file a motion for transfer to criminal court, begin the process for an alibi defense, issue a summons for an adjudicatory hearing, file for relief, or issue a consent decree. If a transfer is approved, the case will proceed to criminal court and bail will be set. If relief is approved, the victim(s) will be notified of resolution.

An Informal Adjustment is a way to deal with the case without going before the judge. The probation officer can require counseling or establish a list of other rules for the juvenile to follow, such as regular school attendance, drug testing, nightly curfews, community service, and regular meetings with a probation officer. If these rules are followed, charges will not be formally filed. If an Informal Adjustment is not granted or another diversionary program is not offered, the juvenile will be scheduled for court (Guide to Juvenile Court).

The Judge may temporarily stop the court case and place the juvenile under the supervision of parents and require him/her to follow certain rules, similar to an Informal Adjustment. If this happens, the Assistant District Attorney must agree to a Consent Decree. If the rules are followed, any charges that were filed will not be prosecuted. If the juvenile does not follow the set rules, the Assistant District Attorney will bring the charges back (Guide to Juvenile Court).

## Answer Key

### General Overview: Intake / Pre-Adjudication

#### Recall:

- The **Juvenile Court system can become involved with any delinquent act** that is alleged when an individual is between the ages of 10 through 18.
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## Key Questions

### General Overview: Intake / Pre-Adjudication

Answer all questions:

If **Juvenile Court system can become involved with any delinquent act** is selected

OR

If **“Written Allegation”** is selected

OR

If **juvenile’s school, family, friends, hobbies, and the written allegation** is selected

OR

If **purpose of the meeting, it is determined whether petitions will be filed for the juvenile to be (a) detained, (b) an Informal Alternatives will be presented, or (c) the case will be dismissed** is selected.

1. Providing the written allegation is useful to an individual with ASD because they can:
  - a. Get their story (facts, timelines) straight
  - b. Ask friends to serve as alibis
  - c. Ask their family to cover up criminal activities in the house
  - d. Establish new hobbies that look community oriented
2. Providing the written allegation may NOT be useful to an individual with ASD because they:
  - a. Are known to tell the truth when thinking on the fly
  - b. Are known to lie when there is too much time to plan
  - c. A perceived error in the report may derail their ability to explain what happened
  - d. None of the above
3. An individual with ASD will likely have difficulty understanding:
  - a. That there are rules to follow
  - b. Parents need to answer questions
  - c. That breaking some rules are illegal
  - d. None of the above
4. An individual with ASD may have difficulty understanding:
  - a. That their actions are illegal
  - b. How their behavior effects others
  - c. Why a probation officer gets to pick consequences to problem behavior
  - d. All of the above

# The Hearing: Preparing for the Experience

## Preparing for the Hearing

Juveniles should be reminded to dress appropriately for the hearing. This includes clothing that is not too tight or revealing, suitable footwear, and no derogatory logos. If the judge is notified that a certain type of clothing (e.g., tight clothing) or special items (e.g., key ring) will increase attentiveness, this is often allowed.

Upon arrival to the courthouse, juveniles with ASD need to be **prepared to go through the metal detector** and remove clothing items or accessories when asked. Without preparation and practice they may exhibit disruptive behaviors during this process or may not understand how to proceed without direct assistance and coaching. For these juveniles it may be **uncomfortable to surrender certain items**, such as cell phones, especially if this interrupts routines or expectations. These individuals may have difficulty waiting for extended periods of time in a loud space; they may not understand how to check in (L. Sutton, personal communication, November 8, 2012).

Juveniles with ASD need to **practice with their attorney before the hearing so that they are clear on when they are allowed to talk**. If the juvenile disagrees or begins talking over the judge, he/she can be held in contempt. Escalation of behavior at this point can have a significant impact on the case, as it demonstrates that the individual is not in control. The case may be sent to adult court, or the Sherriff may come to hold/restrain the juvenile. Individuals with ASD are likely to escalate further if approached in such a manner.



Read the following scenario. (1) Circle one area where an individual with ASD would likely have trouble. (2) Consider the anticipated difficulty. (3) Give two suggestions on how to effectively move through this requirement.

## General Overview: Conduct of Hearings

If the juvenile is detained, a hearing must be scheduled within 10 days of the petition being filed. A court order can extend this deadline for another 10 days in order to secure evidence. If this timetable is violated, the juvenile must be released. In cases in which a juvenile is not held, the only guideline is that the hearing must be held “within a reasonable time” (Pennsylvania Juvenile Delinquency Benchbook chapter 8).

Delinquency hearings ideally should include input from witnesses to the crime, victims, and family members of the juvenile who committed the offense. However, this is often not the case and juvenile hearings focus more on input of the professionals. If judges proceed through cases in rapid succession this can lead to important information being missed or overlooked (Pennsylvania Juvenile Delinquency Benchbook Handbook chapter 8).

Adjudication is determined through a series of distinct steps. The juvenile court must first determine that the petition is within its jurisdiction. The court then is required to assure that the juvenile is fully aware of his constitutional rights, at which time evidence and/or admissions can be heard by the court. The Juvenile Act requires that the accused have the opportunity to speak on his own behalf and introduce witnesses and evidence. The court must determine whether the juvenile committed the accused offenses within seven days of hearing evidence. Being found guilty does not automatically indicate a finding of delinquency. This requires a separate finding that indicates the juvenile is currently in need of treatment, supervision, or rehabilitation and requires a separate hearing to determine disposition. If the juvenile is found guilty of the charges, but does not require further treatment, it is reasonable to discharge the juvenile. According to the Juvenile Act, though, the fact that a felony act was committed is enough to designate a need for rehabilitation (Pennsylvania Juvenile Delinquency Benchbook chapter 8).

Juveniles do not have the right to a jury trial in juvenile court. Only the judge can hear the case and make decisions. If the juvenile wants to fight the charges, he/she can ask for a trial by judge. In this case, the Assistant District Attorney must prove that the juvenile broke the law beyond a reasonable doubt. He or she will have the police officer and other witnesses tell the Judge what they know about the incident. The juvenile has the option to ask these people questions, bring his/her own witnesses, and tell his/her own story. The juvenile’s lawyer then attempts to show that the Assistant District Attorney did not prove that the law was broken. The judge will then make a determination (Guide to Juvenile Court).

## Answer Key

### General Overview: Conduct of Hearings

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## Key Questions

Answer all questions:

If **assure that the juvenile is fully aware of his constitutional rights** is selected

OR

If **that the accused have the opportunity to speak on his own behalf and introduce witnesses and evidence** is selected

OR

If **juvenile has the option to ask these people questions, bring his/her own witnesses, and tell his/her own story** is selected:

1. An individual with ASD is required to demonstrate competency to stand trial?
  - a. True
  - b. False
  
2. Individuals with ASD may have difficulty telling their own story during the hearing?
  - a. True
  - b. False
  
3. An individual with ASD may have difficulty coordinating with their attorney?
  - a. True
  - b. False
  
4. To help an individual with ASD prepare for a hearing, it is best to
  - a. Plan what to say to the judge
  - b. Plan what to say to the jury
  - c. Practice what to say
  - d. a & c
  - e. b & c

# Additional Considerations

## Relevant Reading:

Approximately 21,300 children with ASD reside in Pennsylvania

Autism Services in Pennsylvania Pennsylvania Medicaid Policy Center Fact Sheet is available at:

<http://www.drnpa.org/File/publications/the-coverage-of-autism-services-in-pennsylvania---fact-sheet.pdf>

There were 38,978 delinquency-related dispositions in Pennsylvania during 2010. In Allegheny County there were 4,251 dispositions. Most offenses were toward individuals, followed by property, drugs, and other.

Center for Juvenile Justice Training and Research. (2010). Pennsylvania Juvenile Court Dispositions.

[www.ojjdp.gov/pubs/239114.pdf](http://www.ojjdp.gov/pubs/239114.pdf)

5 Essential Reasons to Keep Kids Out of Adult Jails

<http://psychologybenefits.org/2013/04/23/5-essential-reasons-to-keep-kids-out-of-adult-jails/>

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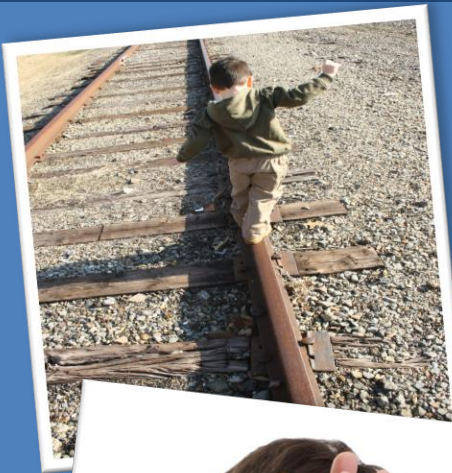
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## Adequate preparation and training will help juvenile justice meet the needs of individuals with ASD.

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