

Challenges Faced by Individuals With Autism Spectrum Disorder in the Legal System

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Introduction

- ❖ The fifth edition of the Diagnostic Statistical Manual (DSM-5) analyzes two broad categories to determine diagnostic criteria for Autism Spectrum Disorder (ASD) (APA, 2013).
- ❖ The first criteria include impairments of social communication and interactions (APA, 2013).
- ❖ Communication and social deficits can change how a jury perceives an individual (Maras et al., 2019).
- ❖ The next standard criteria for ASD includes restricted or repetitive behavior, interests, or activities (APA, 2013).
- ❖ Although researchers believe there is a genetic aspect related to development abnormalities in brain structure or function, the causes of ASD are not yet definitively determined (APA, 2013; Maras et al., 2019).
- ❖ This scientific uncertainty causes many myths and misunderstandings about ASD to persist, including in the legal system.

Capacity to Stand Trial

- ❖ Individuals with mental illnesses or mental impairments are disproportionately involved in the criminal justice system (CJS) (Mayes & Koegel, 2002).
- ❖ An individual accused of a crime has to be competent to stand trial. A diagnosis of ASD does not exempt an individual from prosecution.
- ❖ However, the nature and severity of the diagnosis are relevant factors for identifying legal standards such as competency.
- ❖ A typical characteristic of ASD is impairments in communication. These impairments can render the individual incompetent to stand trial due to impediments in consulting and assisting counsel.
- ❖ The capacity to stand trial is determined after the offense occurs, at the time of trial or before trial. In contrast, criminal responsibility is based on mental state at the time of the offense.
- ❖ Many reported verdicts concerning ASD involve the insanity defense (Mayes & Koegel, 2002).

Credibility and Culpability

- ❖ Credibility and culpability of individuals with ASD in the CJS have been continuously analyzed (Freckelton & List, 2009; Maras et al., 2019), especially concerning juror decision making and perceptions of individuals with ASD (Maras et al., 2019).
- ❖ Maras et al. (2019) found individuals labeled with ASD had higher ratings of honesty and likeability among jurors. Jurors' knowledge and information they received about ASD resulted in lower guiltiness ratings. See figure 1.
- ❖ Judges who were presented cases on ASD claimed that high functioning ASD was a mitigating factor in sentencing (Berryessa, 2016). The knowledge of the disorder provided insights to the judges about reasons why a crime might have been committed.

Involvement in the CJS

- ❖ In a study conducted by Rava and colleagues (2017), prevalence and correlates of involvement in the CJS were analyzed to determine perceptions and experiences of people with ASD.
- ❖ Individuals with ASD reported that by the age of 21, 20% had been stopped by the police (Rava et al., 2017).
- ❖ The individuals who displayed externalizing behaviors were more likely to be involved in the CJS (Rava et al., 2017).
- ❖ The researchers concluded that externalizing behaviors that are typical in individuals with ASD could contribute to CJS involvement.
- ❖ Behaviors concerning individuals diagnosed with ASD could range from a lack of communication skills to severe aggression (APA, 2013).

Involvement in the CJS

- ❖ Females with ASD reported having more involvement in the CJS than males (Rava et al., 2017).
- ❖ A study conducted by Helverschou et al. (2018) reported the personal experiences of individuals diagnosed with ASD.
- ❖ The participant's offenses were misunderstandings, obsessions, and other idiosyncratic beliefs/behaviors typical to ASD.
- ❖ The results indicated stress was the most common explanation of their behavior and how this influenced their perceptions of the CSJ (Helverschou et al., 2018).

Implications

- ❖ Additional training and resources are needed in this field to assess the gaps in fundamental knowledge about ASD in the legal system.
- ❖ A study conducted in England and Wales reported that only 42% of police officers had satisfying experiences working with individuals with ASD (Crane et al., 2016). The researchers found that only 37% of law enforcement officers who participated received any training on ASD.
- ❖ Helverschou et al. (2018) asserted that the CSJ needs to significantly improve to legally protect individuals diagnosed with ASD.
- ❖ Attorneys in the CSJ will benefit from additional training and resources dedicated to alleviating legal challenges for individuals diagnosed with ASD.
- ❖ Forensic psychologists should acknowledge gaps in literature to provide inclusion in the legal system.
- ❖ Forensic psychology will benefit from additional research in ASD-specific credibility, culpability, experiences, and juror decision making obstacles in the CJS.

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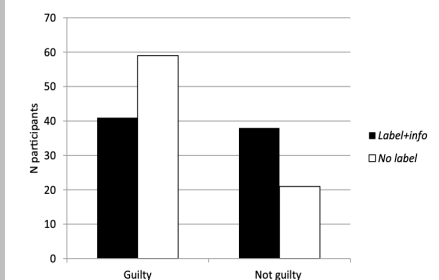


Fig. 1 Judgements of whether the defendant should receive a guilty or not guilty verdict by participants in each label condition