

AND JUSTICE FOR ALL: UNLESS YOU HAVE AUTISM
What the Legal System Needs to Know About People
With Autism Spectrum Disorders

Ideas shared by Barbara T. Doyle and Emily Doyle Iland

One goal of human services is that individuals with Autism Spectrum Disorders (ASD) do not become involved in legal and police related issues. However, when they do, providers and families need to inform police and legal systems personnel about the relevant features of ASD. These diagnostic features have a profound impact on the individual's ability to be treated fairly and with understanding. This handout presents the relevant features of ASD and provides suggestions for service providers and families.

Some points to remember:

- ✓ The diagnosis of an autism spectrum disorder (autism, pervasive developmental disorders, Asperger Syndrome and related disorders) is ALWAYS relevant and needs to be explained to police and legal personnel.
- ✓ If an individual has been assessed to be "autistic like" or to have "autistic tendencies," providers and families need to explain the features of ASD that the person *does* have. It is safest to do the same type of explaining as you would if the person carried an official diagnosis of an ASD.
- ✓ A diagnosis of an autism spectrum disorder is as relevant to police and legal proceedings as a diagnosis of mental retardation or mental illness would be, no matter how bright, high functioning, and/or verbal the individual may be.
- ✓ A diagnosis of an ASD means that the person does have a developmental disability if criteria for developmental disability are met, even if there is no mental retardation.
- ✓ A diagnosis of an ASD is very important no matter what other diagnoses the individual carries.
- ✓ If a person with an ASD is involved in legal or police matters, others who know the individual well need to *quickly* provide information about how the individual thinks, communicates, interacts and understands others. Always provide that information in writing AND in person to all involved authorities.
- ✓ Each person with an autism spectrum disorder is unique. However, they share some common features. Assess to determine impact of autism on the individual.
- ✓ The individual will usually be responding to the best of her or his neurological

ability at that time and in that place. Types of responses to others may not be optional but more driven by internal state, sensory input, and previous learning.

- ✓ People with an ASD respond and perform neurologically inconsistently depending on emotional state, familiarity with the people and situation and various sensory experiences. For example, they may be very talkative in one setting at a particular time and later be UNABLE to speak well in the same setting.

Legally Relevant Features of Autism Spectrum Disorders Diagnoses

1. People with a diagnosis in the autism spectrum have significant problems in both verbal and non-verbal communication and in both sending and understanding messages. This results in behavior that needs to be explained and understood such as:

- ✓ The individual's facial expressions and body language will not necessarily reflect the internal states or emotions of the individual. Affect may be flat or "fixed" into a grin or grimace. This may lead others to think that the individual is not interested or concerned with proceedings or does not care about what is happening or with what they did or did not do.
- ✓ The individual with ASD may not respond in a typical way to the facial expressions, gestures, tone of voice or physical proximity of others. This may lead officials to interpret the individual as rude, sulky, uncaring, detached, or oppositional.
- ✓ The individual may interpret what is said in literally, missing information that is inferred or implied. This may cause the individual to seem hostile, oppositional, or obstructive.
- ✓ The individual may have problems understanding the passage of time and in being able to distinguish between what is known NOW and what was known at some time in the past. This may cause the individual to appear to have known something in the past that has been learned by the individual more recently.
- ✓ The individual may use out of context speech, talking about a topic that seems tangential or irrelevant. It may seem that the individual is trying to "change the subject" or distract others.
- ✓ The individual may have memorized whole segments of language and movements from movies and television. The individual may use this memorized speech at inappropriate times when something from the present reminds them of the scene in

the movie. This can cause others to believe that the individual has loose associations or is not in touch with reality. "Movie" language and movements may frighten others or result in the use of excessive physical control.

- ✓ The individual may have greater expressive language skills than receptive language skills. This means s/he may be able to say more than s/he actually understands. This leads to an overestimation of the individual's level of functioning and understanding.
- ✓ The individual may have formal or odd and pedantic speaking habits. If someone sneezes, for example, the individual may tell a judge or police officer that he should say "God Bless You" in a way not appropriate for the circumstances.
- ✓ The individual may have memorized responses to certain communicative initiations. For example, if someone says, "How are you feeling?" the individual may always say "Fine." This can lead officials to believe that the individual is not taking the situation seriously enough or is not feeling remorse or concern.
- ✓ The individual may take what others say to them "at face value." They may be very easy for others to fool, trick and manipulate. They may have a level of naiveté that their intelligence belies.

2. People with a diagnosis in the autism spectrum experience significant problems in social interaction and reciprocity. This results in behavior that needs to be explained and understood such as:

- ✓ The individual may not answer immediately when spoken to nor consistently respond to initiations of others leading others to interpret the individual as rude or aloof.
- ✓ The individual may not use eye contact in a typical way. S/he may prolong eye contact in what is to others an uncomfortable way or may avoid eye contact even when asked to "look at me." Others may conclude that the individual is discourteous or manipulative.
- ✓ The individual may not respond to or use social conventions such as greetings, handshakes and topics used for social "small talk."
- ✓ The individual may not shift topic when the conversational partner does so leading others to assume that the individual is self absorbed and uncaring about the needs of others.

- ✓ The individual may have problems distinguishing what is known NOW from what was known in the past. If asked if s/he “knew” what another person was going to do, the answer may be affirmative even though at the time, s/he did not know. Once the individual with ASD knows what has happened, they may be unable to recall a previous time when they did not have that knowledge.
- ✓ The individual may be unable to predict the behavior of others by looking at them or listening to them. Signals that typical persons would use to predict what another person would do next (tone of voice, gestures, implied or inferred information, etc.) are often missed by a person with an ASD. They may predict and interpret the behavior of others more at “face value.”
- ✓ The individual may assume that the communicative partner knows what the individual knows. This assumption can lead the individual to fail to provide important and relevant information, because s/he believes that the other person knows already.
- ✓ The individual may be guileless and easily led or shaped by others if the individual is led to believe that there will be a positive outcome. They can be influenced and controlled by others even if they appear to be high functioning and capable.

3. People with a diagnosis in the autism spectrum will be likely to have restricted, repetitive, stereotypic and unusual patterns of interests, behavior and activity. This results in behavior that needs to be explained and understood such as:

- ✓ The individual may not shift topic at the lead of another person or may keep coming back to the same topic many times in a repetitive way. This leads others to believe that the individual is trying to avoid other topics.
- ✓ The individual may be “rule bound” and feel a strong need to obey learned rules. For example, if the individual does something against another person, s/he may feel compelled to apologize because s/he has learned the rule “if you hurt someone you must apologize.” This can lead to violations of restraining types of orders.
- ✓ The individual may experience “sensory overload.” This results from too much sensory input coming into the brain at one time. The brain cannot cope with all of the input. People with ASD describe this as becoming very overwhelmed quite suddenly and as a kind of “shut down.” It may be similar to a panic attack. During sensory overload, the individual may not be able to take in more information or understand what is said. This situation can lead to extreme behavior such as running out of a room or trying to hit or push others away, unintentionally injuring self or others. The individual may over react when touched by another person, particularly if the touch was unexpected,

sudden or from behind.

- ✓ The individual may have a “delay in processing” information that is told to them. This delay may result in others believing that the individual is refusing to comply and unnecessary punishment or force may be used. The delay in processing usually increases in times of stress or in unfamiliar circumstances.

Case Scenarios

Here are some case stories (with some features changed to protect privacy) that illustrate the need for police and legal system officials to have a full understanding of the impact of an autism spectrum disorder.

1. A young man with a diagnosis of pervasive developmental disorder lives in a small town. He likes a young woman in the town. He often goes up to her and talks about his favorite topics (restricted interests). She tries to “brush him off” but he misses the subtle, social cues (social interaction problem). He begins to wait for her in places where she is likely to be, just so he can see her (repetitive behavior). She feels stalked and harassed. She tells him she has a boyfriend but this does not deter his attentions (does not understand what is inferred). He feels happy when he sees her and thinks that maybe someday she will be his girlfriend, like Superman was to Lois Lane (confusion with what was seen in movies, and innocence not in keeping with his other skills and age).

The young woman files a restraining order. This upsets the young man and he decides to write a note of apology and put it in on her desk at the office where she works while she is out to lunch (rule bound, he is “supposed” to apologize). He does so, violating the restraining order and is arrested. Later when asked why he violated the restraining order he insisted that he did not. It had been explained to him that he had to stay away from “her.” In his mind, he did stay away from her. He just went close to her desk (literal interpretation of language).

2. A young man with a diagnosis of high functioning autism plays on a co-ed basketball team in his neighborhood. The other young men recognize how unworldly he is and decide to play a trick on him (socially naive). They tell him that it is the birthday of a pretty, young woman on the team. They tell him that she loves birthday spankings particularly on her bare bottom. They tell the young man that if he spanks the girl on her bare bottom she will probably kiss him and be his girlfriend.

After the game, the young man with autism approaches the girl. He sings Happy Birthday to You (rule bound) while trying to pull down her shorts, and spanks her. The young woman screams and other people restrain the

young man with autism. He is terrified and becomes aggressive trying to defend himself from what he believes to be an unprovoked attack (sensory overload). Several people are injured. He is arrested for battery and sexual aggression.

3. A young woman with a diagnosis of Asperger Syndrome is in a small shop and sees a purse that she knew her mother wanted to have. She decides to take it to her mother. She intended to pay the next year because she had seen a sign on the shop window that said, "Take home what you want today with no payments until January of next year!" (literal interpretation, language misunderstanding, and missed inference). She is arrested for shoplifting.

In court, she sits very still. She avoids eye contact with the judge and lawyers and only sometimes answers when spoken to (social reciprocity problems). Her face has a fixed grin type of expression on it (non-verbal communication issue) and she continuously lines up some pencils on the table appearing to be fully concentrated on this task (restricted, repetitive behavior). The judge gives her the maximum penalty possible stating that her grin was an insult to the court, that she did not pay attention to the proceedings and that she showed no remorse.

4. A woman described all of her life as "autistic like" has a car. She lends the car to a man who tells her that he wants it to use to go buy groceries for his family. The man commits serious crimes while using the car. Later, the woman is arrested as an accomplice. Her attorney decides not to mention the "autistic like" diagnostic information to the court because he believes the court would think that the attorney was trying to prejudice the court.

In court, the woman displays a flat affect no matter how serious or upsetting the testimony becomes (nonverbal communication problems). She does not speak when spoken to in court (inconsistent neurological functioning and issues in social reciprocity). When the judge asks her if she knew what the man planned to do when he borrowed her car, she answers "yes" (literal minded: he was going to buy groceries. Another possibility is that she now knew that he had committed the crimes and was unable to perceive a time when she did not have that knowledge.). The judge remands her to a medium security prison for the maximum term as an accomplice. He cites her lack of concern and remorse and her knowledge before the fact of what the man intended to do. Later the man is set free after a technical mistrial. She is still in jail today.

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