



Public Defenders Office FAQ

The following frequently asked questions (FAQ) will assist you as you develop your ability to represent clients with Autism Spectrum Disorder (ASD) charged with criminal offenses.

What are signs that a client might be Autistic?

- Reference the **Diagnostic and Statistical Manual's definition**.
- Some signs of Autism include:
 - Avoiding eye contact
 - Reacting in an extreme way to sounds, touch, or lights
 - Standing too close or too far away; repeating back the last word/sentence that you say
 - Not matching the tone of voice to words

What accommodations can be offered to an Autistic client?

- Use written, short, concise, bullet pointed information.
- Provide visual aides.
- Use a quiet, less distracted setting.
- Check for understanding of information by asking to summarize, paraphrase and explain.
- Role-play to demonstrate courtroom norms.
- Attend all interviews and provide appropriate documentation to the interviewing source.

These are some of many factors that might be considered by a public defender. **This is not providing legal advice.**

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What factors might increase the likelihood of interacting with the criminal legal system?

Some **specific factors** that can increase the likelihood of interacting with the criminal justice system are the following:

- Social isolation and obsessional interests
- **Emotional dysregulation**
- Disturbance caused by a disruption of routines
- Challenge with recognizing the implications of their behavior as being criminal conduct
- Difficulty to understand abstract concepts or lack of explicit training regarding legal rules and/or social/moral standards

What questions should we ask Autistic people?

- Did you make any voluntary statements to law enforcement or in their hearing that I should know about? (Consider high incidence of **false confessions** by Autistic individuals.)
- Did you have an Individualized Education Plan (IEP) when you were in school? Can you tell me about where you went to school?
- Do you have a case manager or anyone who helps you in your daily life? Do you have anyone who has helped you or is helping you find or keep a job? Have you ever had a job and if so what?
- Have you ever had any psychological, diagnostic or occupational assessments conducted?
- Are you receiving Medicaid or Social Security?
- When speaking to law enforcement, did someone provide you with your Miranda warnings or rights? Can you tell me what those rights are?

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Issues to be considered:

- Did client make false statements or confessions due to their disability?
- Due to their disability, criminal or anti-social behavior can be a **manifestation of the disability**. Consider this in plea negotiations and motions to dismiss.
- Ensure that your client is considered for diversion programs and identify reasonable accommodations the client may need in order to successfully complete the **program pursuant to the ADA**.
- **Research** shows that recidivism rates for Autistic individuals are very low. Consider this when identifying mitigating factors.
- Learn about Autism organizations and services in your community by contacting your **State Council on Developmental Disability**, an **Autism Society affiliate**, and your county's chapter of **The Arc**. Be prepared with services in the community that your client can utilize.
- If the client has no evaluations and no school records, seek an evaluation for litigation purposes if your office will cover costs. Request a clinician with experience diagnosing and treating Autistic people.

Relationship between Autism and violence:

Autistic people are much more likely to be the victim of a violent crime, not the perpetrator.

Relationship between Autism and sexuality:

Autistic individuals get caught up in sexual crimes, but are often not deviant or predatory.

Document Resource Links

- https://kclpure.kcl.ac.uk/portal/files/88096113/Personal_experiences_of_the_HELVERSCHOU_Publishedonline22_March2017_GREEN_AAM.pdf
- www.csp.edu/publication/autism-spectrum-disorder-asd-and-the-criminal-justice-system-an-introduction-for-professionals/
- www.aane.org/wp-content/uploads/2019/11/Mahoney-Mark-J-Aspergers-Syndrome-and-the-Criminal-Law-2009.pdf
- <https://autismsociety.org/wp-content/uploads/2023/01/TCDLA-Dec-3-4-2020-Mahoney-Defending-Autism.pdf>
- https://kar.kent.ac.uk/47512/1/autismCJS_jan2014.pdf
- www.ncbi.nlm.nih.gov/pmc/articles/PMC5980973/
- https://link.springer.com/chapter/10.1007/978-3-030-70913-6_12