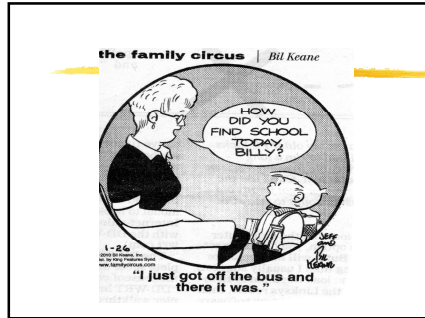



Criminal Law, Law Enforcement and Autism


Brought to you by
Autism one
 and
**The Elizabeth Birt Center
 for Autism Law and Advocacy**
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Areas of Forensic Concern 

- Criminal Court
 - Evaluation of Competency to Stand Trial
 - Evaluation of Sanity at the time of the Offense
 - Mens Rea** "guilty mind"
 - Intent to commit the act
 - Irresistible Impulse
 - Diminished capacity hoping to reduce charge.
- Expert Witness
 - Explain Characteristics of ASD Individual (Defendant and Witness)
 - Sentencing Recommendations
 - Jury/ Defense Consultation

Areas of Forensic Concern (cont.) 

- Juvenile/ Domestic Relations Court
 - Custody/ Visitation
 - Parenting capacity
- Work related
 - ADA Evaluations
 - Fitness for Duty


Forensic Competency to Stand Trial

The mental condition of the defendant at the time of trial.
 There are four areas relevant to trial competence:


- Understanding of the legal process,
- Appreciation of the legal process as it applies to their particular case,
- Capacity to communicate with counsel, and
- Capacity to make decisions (decisional competency).

Forensic


- **Competency**- The mental condition of the defendant at the time of trial. If a defendant is found to be incompetent, our justice system will not usually punish him/her.
 - Understand concepts, procedures
 - ASD defendants are usually competent.
 - Competency of the individual depends upon specific manifestation and profile.
 - Individual may just want to plead guilty.
 - Need to be taught about plea bargaining.


Areas of Forensic Concern 


- Criminal Court
 - Sanity at the time of the Offense-Mens Rea
 - Insanity- to determine whether a defendant was mentally capable at the time an offense was committed, commonly by employing the
 - McNaughton rule -defect of reason, from a disease of the mind, as not to know the nature and quality of the act he was doing or, if he did know it, that he did not know it was wrong.
 - Irresistible Impulse- (i.e. Lorena Bobbitt) -unable to control his or her actions, also known as volitional impairment.
 - Durham rule- "that an accused is not criminally responsible if his unlawful act was the product of mental disease or mental defect."
 - American Law Institute- "if at the time of such conduct as a result of mental disease or defect he lacks substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law."

Areas of Forensic Concern 

- Jodi Picoult's House Rules
 - 18-year-old Jacob obsessed with criminology (like Dan Aykroyd) charged with the murder of his social skills tutor and "confesses".
 - Signs of Asperger's syndrome at three, shortly after his first vaccination series.
 - Has snuck out at night to "crash" crime scenes in his small Vermont hometown.
 - Brother Theo says "My mother will tell you Jacob's not violent, but I am living proof that she's kidding herself referring to his Meltdowns."


Areas of Forensic Concern 

- In December 2009, a defense psychiatrist concluded that credit card thief (170 million) Albert Gonzalez exhibited behavior consistent with Asperger's. A government-appointed psychiatrist rejected the claim, and Gonzalez received 20 years. 

Areas of Forensic Concern 

Roger, 16 y/o male with AS

- Severe, ongoing bullying- Received 504 for anxiety, but no real help.
- School refusal to consider for IEP
- Role-playing "getting even" with another student.
- Realized that the other student was serious about re-creating the Columbine massacre on the 10 year anniversary of the incident
- Mastermind threatened Roger's life and family. School transfer and told police 10 days before murders were to take place.
- Forced to plead guilty to two felonies and was expelled from high school two years in a row. Fabricated data, no manifestation hearing.
- Got ID's SPED, New atty., Testified against mastermind. Charges should be dropped in December after 12 months probation
- Happy that very small private school has a prom and graduation

Areas of Forensic Concern 

- 2009 former hacker of the NY Times Adrian Lamo, a man once hunted by the FBI, picked up a payphone outside a Northern California supermarket and called the cops. Someone stole his backpack containing his antidepressants. He wanted his medication back. But when the police arrived at the Safeway parking lot it was Lamo that was taken away.
- TDO of three days became nine.
- Asperger's might help explain his success in hacking, but not his willingness to do it, he says. "If, in fact, the diagnosis is accurate, it had zip to do with my actions at that time."

Forensic -Insanity and AS

Cannot use insanity as a defense for the condition of ASD alone. However, over time secondary depression may develop. If the depression develops into **Psychotic Major Depression (PMD)** as manifested by two weeks of:


- Depressed mood most of the day nearly every day **or**
- Loss of interest or pleasure in all, or almost all, activities most of the day nearly every day
- Delusions or hallucinations
- Three other major depressive symptoms

Forensic -Insanity and AS


- **Areas of potential consideration from a psychological perspective**
- Comorbid PTSD-Similar to Battered Womens syndrome
- Appelbaum et al.(1993) 0.3% of insanity defense use PTSD
- A "brief reactive psychosis" or a "brief psychotic disorder" may last a few hours or a few days. It usually is triggered by the sort of extreme event that we associate with PTSD. But unlike PTSD, it includes a clear departure from reality and therefore it may be the basis for a finding of NGRI.
- PTSD used in NC case re: damages against school system

Forensic -Insanity and AS


- For psychosis must display delusions, hallucinations, disorganized speech or grossly disorganized or catatonic behavior.
- Battered women-severe PTSD plus
 - intermittent abuse
 - Learned helplessness
 - Low self-esteem, depression
 - Other psychopathology-OCD, eating disorder
 - Cognitive disturbances
 - Traumatic bonding
 - Face imminent danger
- Then possibly justified not an excuse

Areas of Forensic Concern 


- **Criminal Court**
- **Sanity at the time of the Offence-Mens Rea**
- Special consideration has been given in regards to the issue of sanity at the time of the offense for those on the autistic spectrum.
- A 35-year-old male who was diagnosed with Asperger's Syndrome was found not guilty of murdering his neighbor since he experiences a severe emotional reaction when someone touches his glasses or head.
- Use of the irresistible impulse or similar defense method may be appropriate in some cases such as this.

Areas of Forensic Concern 


- **Criminal Court**
- 19-year-old male-Joe with a AS.
- Develops online relationship with 17-year-old female
- Eventually meet at her house when her parents were gone and while having sex with her, her father comes in and severely beat him and tells him that his daughter is only 14.
- Police refused to press charges against father
- Boy charged with statutory rape
- Complete psychological evaluation documenting condition and explaining characteristics such as naiveté, gullibility, lack of social skills, lack of relationships, etc. hoping for a reduced charge.

The Misunderstood Side 


- William Cottrell, a doctoral candidate in physics at California Institute of Technology
- aspiring physicist
- sentenced to more than eight years in prison and to pay \$3.5 million for his role in a spree of arson and vandalism that targeted gas-guzzling Hummers and other sports utility vehicles.
- Rejecting pleas for clemency, U.S. District Judge Gary Klausner added more time to the sentence after finding that Cottrell was trying to sway consumers with his anti-SUV message.
- The slogans Cottrell spray-painted onto vehicles included "Fat Lazy Americans," "No Respect for Earth" and "SUV = Terrorism."

Areas of Forensic Concern 


- **Criminal Court**
- John Odgren- when 16 years old stabbed fellow student after years of harassment and bullying by others.
- April 30, 2010 sentenced to life imprisonment without the possibility of parole.
- Prosecutor made plenty of references to books and videogames that allegedly influenced Odgren's behavior including Stephen King's Dark Tower series and Grand Theft Auto IV.
- "red flags" about the danger Odgren posed to fellow students was missed by school administrators.

Areas of Forensic Concern 


- Criminal Court
 - Competency to Stand Trial
 - Those on the autistic spectrum can be affected by developmental issues, cognitive ability, and emotional states.
 - anxiety/arousal level of the individual and subsequent cognitive decline as a result of the stressors that may be present in the courtroom setting.

20 y/o male 


- > 4.4 HS GPA-----Perfect SAT score
- > Parents fought over tuition at Ivy League university. Ended up at "average" public university
- > Obsessive with *Magic: The Gathering Stone*, having friends and being a good worker
- > Grades now last priority
- > Criminal Charge- Intent to distribute pot-felony
- > **Interventions**- Cog. Beh.- Support Group, SSRI, less stressful schedule- Reduce to misdemeanor.

Areas of Forensic Concern 


- Criminal Court
 - > Explain Characteristics of Autistic Individual (Witness)
 - > 61-year-old Bill charged with taking indecent liberties with a minor.
 - > Grandson suffered from high functioning autism or Asperger's Syndrome,
 - > Prosecutor heard that, "**they are always honest**".
 - > Explain to court the actual characteristics.


Areas of Forensic Concern 

- Competency to Stand Trial
- Can the individual assist in their own defense?
- **Monitor the client's stress level.**
- frequent breaks or stress reducing activity during.
- 57-year-old individual had severe emotional outbursts during all of the criminal proceedings against him for a relatively minor legal violation. The individual was found competent to stand trial by numerous psychologists during the time the individual was incarcerated.


24 y/o male 

- > Int. Ref. grad student on academic probation
- > Criminal Record- When a teen - Assault, Stalking
- > Married – conflicts
- > Obsessive with Role Play(RPG)
- > Reason for referral- To stay in school
- > **Interventions**- Disability office, "gag order", SSRI, Relaxation, exercise buddy, Cog. Beh/ Marital
- > Mock UN Volunteer activity led to Internship and Success ? (for now).. Why no political button

Areas of Forensic Concern 

42 y/o male 

- Nuclear Physicist- on probation at work for 3-5 minutes late consistently.
- Court ordered interlock devise. 2 drinks after work.
- Divorced – severe conflicts follows rules to the letter
- Judge planning to find in contempt. Ordered to stay off of school property but obtained city plat and saw that fence was beginning of school property.

42 y/o male 

- **Interventions**- Cog. Behavioral- Problem solving
- "This really helps to understand this"
- Asperger's Support Group (became leader)
- SSRI
- New job was less stressful, more interesting
- Invented interlock bypass device.
- Broke up with Ohio girlfriend matter of fact

Forensic Billy- 26 y/o male HFA

- > Riding bike from bible study to friend's home at nite. Tells boys wearing **all black** that they should not wear all black because they might get hit by a car. Comments back.
- > Friend not home, so rode back by them on the way home.
- > Words exchanged again. One boy "drew back" his arm and Billy felt physically threatened. Took out knife and almost killed the boy.
- > Contacted police. Confessed. Severe stress. Forgot to tell police that boy "drew back" or he felt threatened- just confessed his part. PTSD reactivation of brutal attack in the past.

Forensic Mary 28 y/o male HFA

- 80 IQ - lost fast food job she held for several years when new manager came in and would not "deal" with her
- Over 20 hospitalizations for suicidal ideation
- Sets shed of vacant house on fire then did it again when people were living there. Liked the positive attention when she called the police for the first one.
- Threw a piece of lit paper at other neighbor's construction debris pile.

➤ Sentencing evaluation- What to recommend?

Criminal Justice Response

What to do with a person with Autism?

Where do offenders go?

- 80% of Offenders Nationwide receive a community-based sentence – typically called Probation (APPA)
- Probation – "Period of proving"
- In the case of autism, proving what exactly?

Purpose of Probation

- The purpose of probation is to assist in reducing the incidence and impact of crime by probationers in the community. The core services of probation are to provide investigation and reports to the court, to help develop appropriate court dispositions for adult offenders and juvenile delinquents, and to supervise those persons placed on probation. Probation departments in fulfilling their purpose may also provide a broad range of services including, but not limited to, crime and delinquency prevention, victim restitution programs and intern/volunteer programs.

APPA Mission Statement

- The mission of probation is to protect the public interest and safety by reducing the incidence and impact of crime by probationers.

Mission accomplished by:

- assisting the courts in decision making through the probation report and in the enforcement of court orders;
- providing services and programs that afford opportunities for offenders to become more law-abiding;
- providing and cooperating in programs and activities for the prevention of crime and delinquency;
- furthering the administration of fair and individualized justice.

Is Community Corrections meeting the challenges of Autism?

➤ **No**

Cognitive Dissonance

- People with autism are unique. They are intelligent, they do have emotions, they do want interaction but may not present that way
- Community Corrections has not seen anything like this
- Awareness, training and programming will have to evolve

Community Corrections Response so far...

- Social Skills
- Support Groups
- Standard Mental Health interventions
- "Mental Health Courts"

➤ But... "these people are just different."

How Different?

- "Avoid injurious and vicious habits"
- Edwin – 23 – Aspergers
- Collects everything – Uno cards, Legos, comic books, Eric Carle children's books, ping pong balls, thousands of multi-colored plastic cups and 2071 images of child pornography on his PC

Sex Offender?

- Edwin understands sex and would like to have some but is socially isolated and doesn't know how to date
- There is no record of hands on sexual offending
- We were able to process Edwin through the Mental Health Court – not the Sex Offense Court

How Different?

- Francis – 18 – PDD-NOS
- Francis loves fire fighting, fire trucks, fire fighters
- Calls in a false report of a fire at his neighbor's house
- Case pending

How Different?

- Roger – 19 – Autism
- Parents went out to a movie and Roger's grandparents stayed with him
- Roger assaulted his grandparents, biting, kicking and punching them
- Police are called, Roger wont answer questions (he can't), resists arrest, bites a police officer (not cool) and destroys back seat of police car

Roger

- Ends up on Probation for assault and resisting arrest
- Not a candidate for anger management or domestic violence batterers curriculum
- Reports regularly and is "compliant"
- POs wonder what the point of this is
- Is this really the best that we could do?

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