

# AZ JUDICIAL CONFERENCE

*Understanding the  
Autistic Defendant:  
Reframing Risk,  
Responsibility and  
Representation*



**UNDERSTANDING THE AUTISTIC DEFENDANT**

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**AUTISM**

# Ten Things Every Defense Lawyer Must Know About Autism



Doug Passon, Dr. Nick Dubin  
& Dr. Laurie Sperry

**W**e strive to provide the best defense for every client. But when it comes to autism spectrum disorder (ASD), we are at risk of falling short of that goal, either because we miss the issue, or fail to understand its relevance. As such, every lawyer must understand what ASD is, and why it matters at every stage of a criminal prosecution.

There is much to learn about ASD, and a lawyer who understands it can achieve seemingly impossible results. The goal of this article is to give you the highlights and additional resources that will allow you to continue educating yourself on ASD. To that end, the following list was created by three individuals with unique perspectives on autism and the criminal process: a nationally recognized autism expert and clinician (Dr. Sperry); an author, teacher, and advocate who has firsthand experience with the criminal system (Dr. Nick Dubin); and, a thirty-year criminal defense lawyer who represents autistic clients nationwide (Doug Passon).

### **1. Autism Matters in Every Case, and at Every Stage of the Proceedings**

The latest statistics from the Centers for Disease Control and Prevention estimate that 1 in every 31 individuals is autistic.<sup>1</sup> That means every lawyer has likely represented several people “on the spectrum.” The truth is that those with ASD are deeply vulnerable; they are vulnerable to becoming victims of crimes, and they can be vulnerable to committing crimes, often unwittingly.

The most common cases involve online offenses, because that is where so many autistic people spend inordinate amounts of time and are most vulnerable. However, we see autism in many other situations, including cases involving white collar offenses, susceptibility to online radicalization,<sup>2</sup> and sometimes even violent crimes. Perhaps most disturbing, some *innocent* clients are charged and convicted because police and prosecutors misinterpret autistic traits as evidence of guilt.<sup>3,4</sup>

When a client has committed an offense, ASD puts the offense conduct in the proper context. It is not necessarily a defense, but it is *always* mitigating. When a client is innocent, ASD often explains innocent conduct, such as statements made during an interrogation, failure to express appropriate emotion when confronted with evidence, lack of eye contact, and so forth. A criminal defense attorney must educate prosecutors, judges, and juries about a client’s autistic traits at every opportunity. It is especially important to integrate ASD into plea negotiations and sentencing presentations, especially when there is a possibility of incarceration. It bears noting that every person on the spectrum is unique, and the disorder manifests itself in different ways. Not every characteristic described below will apply equally to every client. Notwithstanding these differences, we can say with certainty: ASD is going to be a main character in the story of your defense.

### **2. Mind the Gap: The Double Empathy Problem.**

The term “theory of mind” (ToM) was coined in the late ‘70s by psychologists David Premack and Guy Woodruff<sup>5</sup> and is central to understanding ASD. It describes the ability of a human being to imagine what others may be thinking or feeling. This ability helps humans navigate the social world.

Having an intact ToM enables neurotypical people to connect, understand others’ motivations and intentions, and predict their reactions and behaviors. This is not a skill humans are born with, but rather one that develops over years, through the course of the multitude of daily social interactions. But those with ASD struggle with ToM.

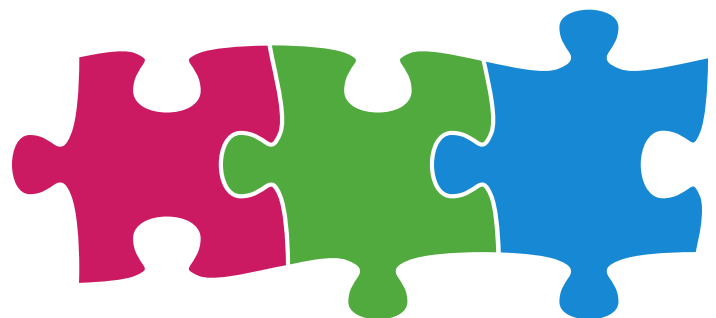
Indeed, renowned autism expert Simon Baron-Cohen says those on the spectrum are often “mind-blind.”<sup>6</sup> In other words, they can lack the ability to take the perspective of others and intuit what they may be thinking or feeling. They do not understand that others have their own thoughts and interests, independent of their own. This is one of many real and significant deficits that render those on the spectrum deeply vulnerable when it comes to navigating the social world and the criminal system. But mind blindness is a two-way street.

When it comes to how most neurotypicals understand autism, they too can be prone to their own form of mindblindness. Autism researcher Damian Milton defined this as the “double empathy problem.”<sup>7</sup> This is often the most significant hurdle a defense lawyer must overcome when representing a client with ASD. Those who don’t know about autism, especially in the criminal system, have a total lack of empathy for how the autistic mind functions. They know how they see the world and can’t imagine any different way. They weaponize terms like “high functioning” or “level one” and point to things many autistic people *can do* (such as hold a job, earn a degree, or drive a car) to argue the issues are so “mild” they play no role in the case.

They call autism the “excuse de jure” and accuse defendants of using ASD to avoid consequences. But the truth is, while a client’s autism may appear mild to an ill-informed outside observer, the autistic deficits they experience are severe and often debilitating.

### **3. How to Recognize When Your Client May be Autistic; Late Diagnosis Should Not Be a Barrier**

Obtaining a diagnosis of ASD in adulthood can be an arduous task for several reasons. As people age, certain core features of ASD may be less obvious. As the field has evolved, so too have diagnostic tools, becoming much more sophisticated and sensitive to the people at either end of the spectrum. Depending on their age, many may come to you without a diagnosis, or with a diagnostic label that was being employed at the time of their diagnosis. For instance, those diagnosed between 1994 and 2013 may carry a diagnosis of Asperger’s Syndrome.



Pervasive Developmental Disorder (PDD) or PDD Not Otherwise Specified (PDD-NOS) was used synonymously with autism by many psychiatrists and psychologists for several years. The PDD-NOS was frequently used to describe adults and children who did not present as what was then considered classically autistic. Sometimes a client may have a veritable alphabet soup of diagnoses including Oppositional Defiant Disorder (ODD), Obsessive Compulsive Disorder (OCD), Social Communication Disorder (SCD), Sensory Processing Disorder (SPD) and/or Attention Deficit Hyperactivity Disorder (ADHD). Pay attention to their medical or psychological histories for diagnoses, that, taken together may be better reflected by the current criteria for Autism Spectrum Disorder (ASD) found in the DSM 5 tr.<sup>8</sup>

There may be other factors that play a role in late diagnoses. The literature clearly states that people of color are diagnosed later or not at all relative to Caucasian.<sup>9 10 11</sup> Lack of access to care in rural and remote areas and those in unserved and underserved communities may also be autistic, though never diagnosed. Where once, a diagnosis of autism was limited to a child who might be found in a corner, rocking and spinning a plate, the DSM5-tr identifies people who have language skills but are no less impaired by the intensity of their interests, the way they are able to access and use language and their significant social challenges. *It is the social impairments that impact the trajectory and every single aspect of their lives.*



I went through the criminal legal system and experienced how the effects of masking and scripting impacted me personally. For me, the strong urge to mask stemmed from a desire to appear intelligent, competent, and, most crucially, not “stupid” in the eyes of my attorney and others within the system. I wanted to project a level of knowledge I didn’t truly possess. Unfortunately, this “performance,” driven by embarrassment over my disability, only worked against me by obscuring my true needs, behaviors, and underlying disabilities that contributed to the commission of the instant offense. Focusing on masking while awaiting trial prevented me from seeing the “big picture.” This was because I mistakenly prioritized appearing neurotypical over my defense strategy.

My personal account of navigating the criminal legal system illustrates a specific risk: feeling compelled to “mask” competence with an attorney to avoid being perceived as unintelligent. This masking can manifest as false “confidence” or “competence,” where autistic individuals under extreme pressure may feign understanding or cooperation—a coping mechanism that ultimately harms their own interests. This observation is consistent with research indicating heightened anxiety and communication challenges for autistic adults during police-suspect interviews, warranting caution against standard investigative practices that risk misinterpreting autistic presentation.<sup>17</sup> False confessions can and do result from the perfect storm already set in motion.

~Dr. Nick Dubin

Attorneys can mitigate these challenges by proactively learning the client’s communication style, developmental history, and how they function when not actively performing neurotypicality. Building rapport and assessing functional maturity can be achieved by exploring the client’s special interests and social history. Additionally, involving “family historians” can provide concrete, behavior-based examples of the client’s adaptive functioning across various settings and over time. A lawyer should constantly be confirming a client’s level of understanding as the process unfolds.

#### 4. Masking and Scripting - The Hidden Disorder

When an autistic client discontinues masking, they may show more noticeable challenges in areas like executive functioning (e.g., working memory, planning/generativity, cognitive flexibility), emotional regulation, and managing repetitive behaviors. These are domains where autism research documents measurable group-level difficulties, even in those with average intellectual ability.<sup>12 13</sup> These unmasked difficulties often align with clinically meaningful support needs to be captured by adaptive-functioning measures<sup>14</sup> which assess real-world social and daily living skills in autistic people.<sup>15 16</sup>

#### 5. Executive Functioning Deficits Give Context to Bad Choices

Executive functioning encompasses cognitive functions such as the ability to resist impulses; consider the impact of one’s behavior on others; shift attention and focus from one task/ thought to another; regulate the size of emotional responses; the ability to start activities; to hold information in one’s working memory; to plan, organize, and prioritize activities; and, to monitor one’s own progress on an activity/task.<sup>18</sup> The Behavior Rating Inventory of Executive Functioning -2 Adult version<sup>19</sup> is an excellent tool to assess the impact of executive functioning deficits on a person’s decision-making and actions. This assessment includes a self-report as well as an informant report which can be administered to your client’s parents, caregiver, or spouse.

While many of the clinical scales on the BRIEF 2A may help provide context to your client’s challenges and decision-making, there are a few clinical scales worth particular examination. The Inhibit scale measures how well a person can resist impulses and think through the “What Ifs” or consequences of their actions *before* they act. The Emotional Control scale measures how well a person can regulate their emotional responses. In other words, does the size of their response match the size of the problem? The Shift scale measures a person’s ability to change their thought channel from one person, idea, activity to another. The Self Monitor scale measures a person’s ability to notice how their behavior is affecting others or how others might view their actions. While many of the clinical scales are helpful in providing context, the aforementioned scales are often at play in decision-making that may result in contact with the criminal justice system.

The severe executive functioning deficits commonly associated with ASD helps a lawyer put a client’s conduct in the proper light. Rather than a cold, calculated criminal, we find a person who engaged in crimes with little understanding of the implications and consequences associated with their conduct or

an impaired ability to shift focus away from a bad idea and think through a better solution to a problem.

## 6. Autism is a Condition of Profound Isolation

Autism is frequently discussed in terms of social alienation and loneliness, with qualitative and autobiographical accounts often using “alien” metaphors to describe the experience of living in a social world that feels like a different culture.<sup>20 21</sup> Empirical and clinical-literature reviews likewise document elevated loneliness and social isolation concerns among autistic adults.<sup>22</sup>

Think of your client as functioning as a lifelong anthropologist on an alien planet, never quite understanding how the foreign civilization they are living in operates socially.<sup>23</sup> Your client has a social disability, leading to a perception of the world that can result in misunderstandings. Yet when misunderstandings are judged harmful, autistic defendants are still frequently assessed through neurotypical lenses. Research and practice-oriented guidance for justice professionals emphasize that autism-related affect, communication style, and stress responses can be misread as deception, defiance, or lack of remorse, and that accommodations and informed interviewing practices are critical.<sup>24 25</sup> As the attorney of record, your role is twofold: educate the prosecutor and the court on the nature of your client’s disadvantage and show how tailored structure and support can reduce risk and promote compliance.<sup>26 27</sup>



Like many autistic people, my deepest desire as a child was to fit in. However, making friends proved extremely difficult. This was due to my inherent rigidity, a set of idiosyncratic special interests that my peers did not share, confusion over my sexual orientation (I am now a member of the LGBTQ community), and extreme sensory issues. Consequently, my isolation during childhood was profound and involuntary. This isolation, combined with my failure to meet many key social milestones, contributed to my involvement in the criminal legal system.

~Dr. Nick Dubin

## 7. Restricted and Repetitive Behaviors and Interests; Rigid Thinking and “Rule Following”

Restricted and repetitive behaviors are core characteristics of Autism Spectrum Disorder. These may include repetitive movements (hand flapping, body rocking) and repetitive speech (i.e. repeating words or phrases immediately or repeating phrases heard in videos). Restricted and repetitive behaviors may come in the form of resistance to change, including rigid rituals or routines. Some people have interests that are highly unusual in their focus (pad locks, duct tape) and/or the pursuit of their interests becomes so intense as to interfere with their lives and the lives of those around them.

When considering the actions and decision-making of your clients, it would be helpful to consider what role, if any, their deep interests play. For instance, perhaps their deep interest is duct tape, its uses, its tensile strength, its composition. So,

they begin exploring that topic on the Internet, only to stumble across an entire subgenre of Child Sexual Abuse Materials (CSAM) involving duct tape. Perhaps, their deep interest has a shelf life. They may have been very interested in WWII airplanes as a young child and once they satisfied their need to know and exhausted the well of knowledge, they turned to WWII artillery, which resulted in Internet push algorithms sending them content about Nazism and genocide. Suddenly, they find themselves at the attention of law enforcement. In the case of stalking charges, the person may become their deep interest. Combined with deficits in self-monitoring and perspective taking, they may not be aware of the impact their behavior has on others.

Those on the spectrum often exhibit rigid thinking and rigid rule following. This often helps them navigate what is for them, the chaos, and confusion of the neurotypical world. It’s hard to reconcile how and why a person with ASD might then break the rules. More often than not, they do so because they simply do not understand the rules, particularly the rules of social engagement. That said, when the rules are clearly defined, they typically remain unbroken. Rigid rule-following may be something your client insists on, not only for themselves but for others. When others “break the rules” they may feel compelled to point that out or impose a consequence on the rule breaker, which paradoxically carries its own consequences.

Along the same lines, those with ASD can be rigid in their thoughts and opinions about certain things. It may be relevant to offense conduct, and it may also cause conflict in preparing a defense, negotiating a plea, and making other important decisions in a case. When the attorney-client relationship is strained due to what is likely the result of autistic traits, counsel should seek the guidance of an expert on how to navigate conflict and set the relationship back on track.

## 8. The Need for QUALIFIED Experts

Lawyers are busy, and we’ve spent a long time cultivating a battery of top-notch experts. We know the court and the prosecution knows them, and they are our first call when we have a client with any suspected mental health issues. But, as good as they may be, they are likely the *wrong* experts for a case involving autism. Many (if not most) forensic experts have a surface-level understanding of what ASD is; the many ways it can impact a client; and most importantly, that it is almost certain to be relevant to the offense conduct, competence, or even innocence. This is one reason why so many of our clients come to us without a diagnosis in the first place—an otherwise qualified expert completely missed the issue, and/or misdiagnosed it.

Another problem with generalist forensic experts is that they usually do not conduct diagnostic tests that are essential to fully understanding the client’s level of executive or adaptive functioning. The typical tests overlooked by unqualified experts are the ADOS-2, ADI-R, brief 2A, and Vineland.<sup>28</sup> These are tools that help pull back the curtain and reveal the full truth of a client’s deficits.

For example, in a recent case, a client was charged with setting fire to a Tesla. This client had a stellar IQ, graduated with a degree in electrical engineering, and solved complicated math proofs in his free time. Imagine trying to explain to a decision

maker that this person didn't have a full understanding of the consequences of his actions, or the ability to talk himself out of this terrible idea once he decided to do it. But the testing supported those exact mitigators. The Vineland test showed that despite his high level of intellect, his emotional and adaptive functioning was on par with that of an eleven-year-old child. A decision maker can relate to the truth that even the smartest 11-year-old can do some really dumb things. When all this information was presented to the judge, she declined to follow the government's harsh sentencing recommendation and imposed the minimum.

## 9. The Need for Autism Specific Treatment to Reduce Recidivism

Those on the spectrum will almost never recidivate, provided they receive the proper treatment. But, again, like the "anthropologist on Mars," those on the spectrum are essentially living in a world that wasn't built for the way their brains function. Unfortunately, most treatment programs suffer the same problem because they are designed to treat neurotypical individuals. While people *without* autism may intuit unwritten rules, autistic people benefit from being taught explicitly where social, sexual, and legal boundaries exist. When they are not explicitly taught these rules, they may be forced to learn through trial and error. If it has been said once by a defendant with autism, it's been said a thousand times "I learned the rules by breaking them."

Adding insult to injury, when people with autism do cross social and legal boundaries, they are typically placed in the general population of a prison and treated using the same offender treatment programs that do not take their disability and learning characteristics into account.

The research is very clear that autism specific treatment results in the best outcomes and lowest rates of recidivism.<sup>29</sup> Given the social, communication, executive functioning and even sensory challenges of clients with autism, participating successfully would be nearly impossible. As a result, many are expelled from these groups because they cannot interact with the group in a typical manner, they may not be able to keep pace with the information that is presented verbally and have often been told they lack perspective-taking. Challenges with perspective-taking or Theory of Mind deficits are a core component of ASD. In other words, it would be akin to requiring a person in a wheelchair to make it up the stairs like everyone else and if they couldn't, they would be failed out of the program.

Again, here's the good news: when autism specific treatment is available and provided in a supportive environment which takes into account the learning characteristics, communication styles and social and behavioral challenges of people with autism, the rates of recidivism are substantially reduced.<sup>30</sup> This serves the dual purpose of improving the skill set of the individual while reducing recidivism and keeping society safer. It is imperative that decision-makers understand amenability to treatment, lest they believe that their disorder renders them dangerous and likely to reoffend. In fact, anecdotal evidence shows that recidivism rates among autistic defendants is nearly zero.

## 10. Changes are Happening, Slowly but Surely

The true breakthrough for change has come in Virginia, which was, in large part, made possible by the relentless advocacy of the nonprofit organization Decriminalize Developmental Disabilities.<sup>31</sup> The Virginia Model<sup>32</sup> provides a defined legislative solution for deferred disposition for persons with autism or intellectual disabilities. The law applies "[i]n any criminal case" with key exclusions (including capital murder, "acts of violence" as defined elsewhere in the Code, and crimes that already have their own deferred disposition statutes).

The Virginia concept is potentially being adopted in other jurisdictions. In South Carolina, pending House Bill 3749 (2025–2026) would establish an "Autism Spectrum Disorders and Intellectual Disabilities Pretrial Intervention Program."<sup>33</sup> The bill excludes "violent crime" (as defined by South Carolina statute), requires a qualifying diagnosis, requires a clear and convincing disability–offense nexus ("caused by or had a direct and substantial relationship"), and authorizes deferral into pretrial intervention with procedures for successful completion and violations governed by the state's pretrial intervention framework.

In Maryland, pending House Bill 940 (2025) would create a distinct mandatory "probation before judgment (PBJ)" pathway for defendants with ASD or intellectual disability when statutory criteria are met: following a guilty plea, nolo contendere plea, or finding of guilt, the court "shall" stay entry of judgment, defer further proceedings, and impose PBJ if it finds by clear and convincing evidence that the criminal conduct was a manifestation of the disorder or disability and that PBJ serves both the defendant's best interests and public safety/justice.<sup>34</sup>

Juvenile specialty-court models are also instructive. In Nevada, specialty dockets in Clark County such as the DAAY Court (Detention Alternative for Autistic Youth) and NEAT Court (Neurobehavioral court programming) have been publicly described as treatment- and supports-focused pathways for youth, with very low recidivism reported in local coverage (e.g., approximately 11% in one report) and dismissal outcomes tied to successful completion. Nevada has also codified and expanded autism-related juvenile court programming through statewide legislation.<sup>35</sup>

Other states show different (but still explicit) approaches. West Virginia law directs development of a statewide strategic plan using the Sequential Intercept Model to divert adults and juveniles—including those with developmental and cognitive disabilities—away from the criminal justice system and into treatment, emphasizing continuity of care and interagency coordination.<sup>36</sup> Indiana's statutory framework for forensic diversion includes explicit consideration of participants with developmental disabilities (including ASD) through its diversion architecture and conditions.<sup>37</sup> And Florida's Chapter 916 provides a specific statutory framework for defendants found incompetent to proceed due to intellectual disability or autism, including options such as designated forensic facilities and conditional release grounded in community-based training plans.<sup>38</sup>

These advancements in the law not only give us hope for widespread change, but also they can and should be used to

validate the significance of ASD in criminal prosecutions. In other words, pointing to changes in the legal landscape can be used to break through the wall of indifference in jurisdictions where decision-makers are still debilitated by the double-empathy problem.

## Conclusion

Prosecutors, judges, legislatures, and commissions are beginning to understand ASD and why it matters. Lawyers who understand the issue and develop it thoroughly can achieve seemingly miraculous outcomes. But there is more work to be done to achieve system-wide reforms that aim to improve fairness, reduce unnecessary incarceration, and maintain public safety through disability-responsive legal pathways.

While the legislative progress in states like Virginia offers hope, the burden remains on defense counsel to bridge the gap between a rigid system and a neurodivergent client. We are moving past the era where autism is invisible or ignored in the criminal legal system. It is now our obligation to see what others miss, to contextualize what others judge, and to ensure that a disability is never mistaken for criminality. 🤖

## NOTES:

<sup>1</sup> CENTERS FOR DISEASE CONTROL AND PREVENTION, Data & statistics on autism spectrum disorder (Mar. 2023), <https://www.cdc.gov/ncbddd/autism/data.html>.

<sup>2</sup> S. Wijekoon et al., *Neurodivergence and the Rabbit Hole of Extremism: Uncovering Lived Experience*, AUTISM IN ADULTHOOD 1-8 (2024).

<sup>3</sup> S. L. Mabe, *Neurodiversity in the Courtroom: Expanding Jury Service Accessibility Beyond Physical Disability*, 49 SEATTLE UNIV. L. REV. 293-315 (2025).

<sup>4</sup> Innocence Project, <https://innocenceproject.org/cases/robert-roberson/>.

<sup>5</sup> D. Premack et al., *Does the Chimpanzee Have a Theory of Mind?* BEHAVIORAL AND BRAIN SCIENCES, 1(4), 515-526 (1978).

<sup>6</sup> M. V. Lombardo et al., *The Role of the Self in Mind-Blindness in Autism*, 20 CONSCIOUSNESS AND COGNITION 130-140 (2011).

<sup>7</sup> D.E. Milton, *On the Ontological Status of Autism: The 'Double Empathy Problem.'* 27 DISABILITY & SOCIETY 883-887 (2012).

<sup>8</sup> AMERICAN PSYCHIATRIC ASSN, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS (5th ed., text rev.2022), <https://doi.org/10.1176/appi.books.9780890425787>.

<sup>9</sup> N.D. Emerson et al., *Predictors of Age of Diagnosis for Children with Autism Spectrum Disorder: The Role of a Consistent Source of Medical Care, Race, and Condition Severity*, 46 J. OF AUTISM AND DEV. DISORDERS 127-138 (2016).

<sup>10</sup> K. Burkett et al., *African American Families on Autism Diagnosis and Treatment: The Influence of Culture* 45 J. OF AUTISM AND DEV. DISORDERS 3244-3254 (2015), <https://doi.org/10.1007/s10803-015-2482-x>.

<sup>11</sup> R.M. Gourdine et al., *Autism and the African American Community*. 26 SOCIAL WORK IN PUBLIC HEALTH 454-470 (2011), <https://doi.org/10.1080/19371918.2011.579499>.

<sup>12</sup> E.A. Demetriou et al., *Autism Spectrum Disorders: A Meta-Analysis of Executive Function*, 23 MOLECULAR PSYCHIATRY 1198-1204 (2018), <https://doi.org/10.1038/mp.2017.75>.

<sup>13</sup> S. Panera et al., *Executive Functions and Adaptive Behaviour in Autism Spectrum Disorders with and without Intellectual Disability*, PSYCHIATRY J. (Jan. 14, 2014), <https://doi.org/10.1155/2014/941809>.

<sup>14</sup> A.S. Carter et al., *The Vineland Adaptive Behavior Scales: Supplementary Norms for Individuals with Autism*, 28 J. of Autism and Dev. Disorders 287-302 (1998).

<sup>15</sup> S. M. Kanne et al., *The Role of Adaptive Behavior in Autism Spectrum Disorders: Implications for Functional Outcome*, 41 J. OF AUTISM AND DEV. DISORDERS 1007-1018 (2011).

<sup>16</sup> S. PANERA ET AL., *supra* note 13.

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## About the Authors



**Nick Dubin** was diagnosed with Asperger's Syndrome (now ASD level 1) in 2004. He holds a Bachelor's Degree in Communications from Oakland University, a Master's Degree in Learning Disabilities from the University of Detroit Mercy, and a Specialist Degree in Psychology and Psy.D. from the Michigan School of Professional Psychology. Nick had a profound speech delay—he was nonverbal until age 4—and experienced poor fine motor skills, jumped up and down, flapped his arms, was in special

education from K-12, and had significant developmental delays that affected him throughout his childhood and teenage years. Despite this, he has authored many books on autism spectrum disorders including his most current one entitled *Autism Spectrum Disorders, Developmental Disabilities and the Criminal Justice System*. In 2009, he co-wrote a peer-reviewed article with Professor Janet Graetz on how spirituality manifests in autistic people, which was published in the journal *Religion, Disability & Health*. He has co-authored two academic book chapters with defense attorney Elizabeth Kelley, which published by Carolina Academic Press and Springer Publishing Company. He has spoken to the American Bar Association, the National Public Defender conference in Milwaukee and the Federal Defenders for the Western District of New York and the District of Kansas. Nick has personal involvement in the criminal justice system and intimately understands how the process works. Nick serves as board secretary for Decriminalize Developmental Disabilities (DThree). He advocates strongly for D3's mission and philosophy of prevention, intervention, and diversion.

**Doug Passon** is a practicing criminal defense lawyer with 30 years' experience in state and federal court. He has a national practice focused on holistic, narrative-based sentencing advocacy and autism-informed defense. ([www.dougpassonlaw.com](http://www.dougpassonlaw.com)).



Passon is also an accomplished documentary filmmaker, having directed, filmed and edited award-winning short and feature-length documentaries that have played throughout North America and beyond. He has long

been recognized as the pioneer in using short documentary films for mitigation in criminal and capital cases. Passon incorporates this form of visual advocacy into plea bargaining, sentencing and post-conviction relief. The goal is to use "legal documentaries" to humanize his clients and put their conduct in the proper context.

Passon produces and hosts a weekly podcast called Set for Sentencing ([www.setforsentencing.com](http://www.setforsentencing.com)), the goal of which is to bring more awareness, fairness and hope to the sentencing process.

**Dr. Laurie Sperry** is a Licensed, Board-Certified Behavior Analyst-Doctoral and the Founder of Autism Services And Programs and Autism Forensics, in Wheat Ridge, Colorado. She has worked as a developer of the Neurodiverse Student Support Program at Stanford University, School of Medicine, Department of Psychiatry. Prior to joining Stanford, she was an Assistant Clinical Faculty at Yale University, Department of Psychiatry where she was a founding member of the Autism Forensics Group.



In 2006 she was added to the Fulbright Scholarship's Senior Specialist Roster for Autism. She moved to Australia in 2010. Her research focuses on people with ASD who come in contact with the criminal justice system to ensure their humane and just treatment. She has provided training to secure forensic psychiatric facilities across the globe and has published numerous articles and book chapters. Dr. Sperry has collaborated with the Behavior Analysis Unit of the FBI on cases involving people with autism and has worked with numerous law enforcement agencies to educate and support officers and other first responders.

# Recognizing an Autistic Client

- 1) A diagnosis! Many will not have the diagnosis. But some will come to you already having been diagnosed.
- 2) Have them take a free screening test! The Autism Spectrum Quotient test is a free self-administered 50-question questionnaire used to measure autistic traits in adolescents and adults aged 16+. The questionnaire is suitable for people with an IQ over 80:  
<https://www.clinical-partners.co.uk/for-adults/autism-and-aspergers/adult-autism-test>
- 3) Ask them whether they had a “504 plan” an IEP or any special education services in school.
- 4) The charges (online offenses, online sex offenses, radicalization/rabbit hole offenses, but can run the gamut of fraud and assault). Online offense is a very big indicator.
- 5) Areas of high interest that is unusual in its focus or intensity, such as trains, WW2 history, video games, a particular TV show, etc. Oftentimes the areas of high interest are not age appropriate.
- 6) Immaturity. Naïveté, gullible. Spends much of their time online.
- 7) Has few meaningful friendships/relationships.
- 8) Is not independently functioning (employment, driving, living situation (living with parents or relatives) the case, etc); general lack of executive functioning.
- 9) Significant sensory issues, such as aversions to some smells, loud noises, sometimes light or darkness, or textures.

- 10) Sometimes dress in a “uniform.” For example, they might only wear loose fitting sweat pants or shorts, avoid certain fabrics, or wear a particular kind of shoe (sneakers or Crocs, for example), or wear the same thing over and over again.
- 11) Limited diet. May only eat a few things.
- 12) Repeating the same phrase, other odd speech patterns, movie talk including borrowed scripts from movies.
- 13) Hand movements (flapping) can be very subtle (rocking).
- 14) Rigid thought patterns/inflexible. For example, the inability or disruption in routine causes enormous stress, or inflexible thinking on one particular aspect of the case.
- 15) Excessive candor: Appearing “too honest” or volunteering too much (often very unhelpful) information.
- 16) When in an office or restaurant do they watch something else (fans, something on your desk or anything and don’t seem to pay particular attention to the subject).
- 17) Lack of social graces (may not ask about you, give appropriate greetings, give you a firm handshake, make eye contact).
- 18) Flat affect.
- 19) They have had other diagnosis as younger people, such as ADD, ADHD, ODD, or OCD. Often there are a constellation of symptoms that orbit around ASD, but the central diagnosis of ASD is missed or purposely avoided due to stigma, resources, etc.
- 20) Lack of true understanding of issues in the case – can they explain back to you in their own words what the charges are?

Below is a template to follow when writing your parent narrative. The headings can be copy and pasted. First, it is important to read the instructions (separate file). **Please make sure to write the narrative in third person.** The brackets give an overview of what should be covered in each section. *The brackets are there only to guide you*—but they should not be taken too literally or limit what you include. The bullet points are behaviors that should be highlighted in each section. Again, this is merely a guide. Although you should try to follow it, **please do not answer the bulleted questions directly**, but just use as guide for content. Add any information you think is helpful in illustrating your son’s behavior.

## Developmental History

### Introduction

[Give a brief overview of your child. Include perhaps three words that describe him best.]

### Family

[Describe your immediate family; mention any family histories of mental illness, intellectual disability or developmental disabilities.]

### Brief medical history

[Mention any medical or psychological diagnoses over your son’s life in the chronological order in which it was made, giving the date and name of the clinician or organization where the diagnosis was given.]

### Birth

[Describe your child’s birth in detail.]

- Were there birth complications? (i.e., premature, oxygen deprivation, baby born discolored or not breathing, etc.)

### Early Childhood

[In this section, highlight your child’s development.]

- When did he learn to talk and walk?
- When did he finish potty training?
- Did he have trouble making eye contact?
- Was he sensitive to certain textures in foods, clothing, or toys?
- Did he scream if held by strangers?

- Was he easily startled by loud noises or bright lights? Did seeing or hearing these cause “melt-downs” that were hard to control?
- With toys, did he fixate on certain toys and carry them around like security objects? (Think Linus’ blanket from *Peanuts*).
- When he played with others, did he participate in their make-believe? Did he play well with others? Did he understand sharing?
- Was he prone to ear, nose, or throat infections? How did he show pain?
- Did pediatricians speculate that he might have a developmental disorder?

## Grade School

[In this section, run through your child’s development at each grade. The section should look like this:

“In first grade...”

“In second grade...”]

- Did your son play sports? Was he physically awkward or un-coordinated?
- Was your son insistent on following routines or rituals? Did he get upset if those routines or rituals were not followed?
- Was he anxious in social situations?
- How did he do in school? Did teachers have difficulty understanding him? Did he have any speech deficits?
- Did your son have an IEP in school?
- How did your son do with figurative language? Did he struggle to understand figures of speech or slang? Was he very literal in his language?
- How did your son learn and follow rules? Did he have trouble understanding rules?
- Did your son struggle to follow instructions or perform multi-step tasks? (i.e., did you have to tell him how to take a shower every day, step-by-step, or constantly remind him to do things that he should have learned how to do on his own?)
- How did your son socialize with others? Was he bullied in school? Did he have trouble making or keeping friends? How did he get along with his siblings, if there were any?
- If your son was not diagnosed with ASD in this period, did a doctor or counselor ever suggest it? Was your son diagnosed with any other disorders in this period? (i.e., OCD, ADHD, Tourette’s Syndrome, etc.)
- Did your son play make-believe games by himself? How did he do when playing with others?
- Did your son ever develop any specific and obsessive interests? (i.e., extensively collecting things, memorizing facts about a particular subject, etc.) Did he have difficulty finding interests outside of his own?
- Describe any other ways in which your son relied on you, perhaps more than most children this age relied on their parents. Describe any unusual rituals or behaviors that you had to develop to accommodate him.

- Please also describe any attempted therapies or treatments for any developmental or behavioral issues.
- Did your child have a unique sense of humor? Did they find humor where a neurotypical person wouldn't (or vice versa)?

## **Middle School**

[Describe your child's life during 5-6 grade.]

- Focus on any of the applicable bullet points from the previous section.

## **Junior High Years**

[Describe your child's life in 7-8 grade.]

- How did your son do in school? Was he good in some subjects but bad at others?
- Was he bullied or lonely? Did he struggle to make friends?
- Again, was your son very literal in his understanding of language and rules? Was he very rigid in his thinking and understanding? Did he get anxious or upset if anyone broke or bent rules? Was he blunt or seemingly rude in his language? Did he develop any black/white ways of thinking? (i.e., all religious people are stupid, without exception, etc. etc.)
- How did your son experience puberty? Were sex and romance explained to him?
- When did your son start using a computer? When did he start using a phone? Was his internet use monitored?
- Did you ever catch your son viewing any kind of pornography? Was there ever any discussion about it?
- Did your son have a girlfriend or try dating? Did he go to high school dances or social functions? Did he participate in any social groups or clubs?
- Was your son able to learn how to drive a car? If so, how long did it take him, and did he have accidents?
- Did your son successfully graduate high school?
- Was he able to maintain any jobs in this period? How was his work performance? Was he ever fired or reprimanded for being rude or failing to understand workplace rules?
- Did your child develop a sense of humor? Did they struggle to understand what is considered funny? Was their sense of humor atypical, or used at inappropriate times?

## **High School**

[Describe your child's life in high school.]

- Focus on the applicable bullet points from the previous section.

## **College**

[Describe your child's life in college if applicable.]

- Did your son attend college?
- Note any behaviors from the previous sections that are applicable here.

## **Transitioning to Adulthood**

[Describe your child's development as an adult. Focus on landmarks that one would associate with becoming an adult. Did they learn to drive? Did they have a girlfriend? Did they try to move out?]

- Did your son attempt to live on his own?
- If so, how did your son manage on his own? Did he frequently call asking for advice or directions about doing simple things, like his own laundry or grocery shopping? To what extent, if any, did your son remain reliant on you in this period?
- Note any applicable behaviors from the previous sections that may have made this transition difficult.

## **Employment Getting a Job**

[Describe your child's employment history.]

- Did your son struggle to find or keep employment or go to school?
- Again, note any applicable behaviors from the previous sections that may have made this difficult.

## **History of contact with police**

[Include a description and explanation of any previous contact your child has had with the police.]

## **Arrest**

[Describe the arrest in detail. Explain how it occurred. Did your child understand what was happening? Did they understand they did something wrong?]

## **Post-Arrest**

[Include defendant's response to the arrest and an expression about level of understanding of what was wrong with his behavior.]

***Overall Points:***

- Provide as much detail as you can. We would prefer that you send too much info than not enough. We'll take care of editing it down.
- The bullet points are just examples of what can be covered. Provide any information that you think illustrates your son's unique behavior.
- Don't be conclusory. Don't simply say your child had a certain developmental delay, or that they have a certain behavioral issue. State it and then use a story which exemplifies or shows that issue or behavior. Show don't tell.
- Two or three pictures can be useful. They help humanize the narrative and make it more persuasive overall.

## The “Parent Narrative” – A Developmental History

Rev, June 6, 2020

### A. Introduction

The “parent narrative” of the developmental history of their son is the most important thing parents can contribute in the defense of a young man with autism who is charged with any offense. The most important thing. It will demonstrate how his neurological differences appeared in all stages of his development. It will tell of his struggles to understand the social world and his attempts to be a part of it. It will tell of the parents’ struggle to help him in this and protect him from discrimination and victimization in the social world. Psychologists and therapists will use this as a partial roadmap for guiding clinical assessment and treatment. Past difficulties in appreciating social norms and understanding social situations will help put the behavior at issue in proper context and provide support for correct diagnosis and a fair assessment of his actual blameworthiness. We attorneys rely extensively on information provided in the narrative, both as a means of getting to know the client, but also as a way of demonstrating his life-long struggle with ASD to prosecutors and judges. The parent narrative will give the defense attorney and prosecutor and judge the opportunity to see this young man through the eyes of his parents.

The purpose of this memorandum is to assist parents in preparing their narrative of their son’s developmental history. Some parents will be familiar with the symptoms of autism, some will not. But parents are generally not in this situation without having seriously underestimated the severity of their son’s lack of social understanding when it comes to sexuality and social/sexual “rules” that we think “everyone knows.” So in all cases writing the parent narrative, to some degree, is a process of reconsidering your son’s behaviors and trains from infancy on.

While it is usually urgent to get the narrative finished – or at least roughly done, as in

the case of helping a lawyer prepare for a release hearing – the final product has to be structured and thorough. If you are having a psychological evaluation done, then the narrative should be completed before that to help the clinician – even if the clinician has not asked for it.

Properly done it will be more than thirty typewritten page. There is a lot to do, *all at once*. So, you need to enlist the help of any available family members to assist - there are records to obtain and organize, there are memories of different people to collect, and parents may need help focusing their attention and memory and in actually writing the narrative.

### ***1. What to do with the Parent Narrative?***

If you are retaining, or planning on retaining, Harrington & Mahoney, then of course the parent narrative should be sent to us as well as to any local counsel you have also retained.

If you are having a psychological evaluation done, then the narrative should be provided to that clinician well before any interview of your son.

If you are a parent that is receiving this after contacting Harrington & Mahoney for guidance, receiving this memorandum and attached materials does not obligate you to actually retain us as attorneys. You should provide it to whomever is the defense counsel . We do point out that this task of preparing a developmental history is not a routine process that other lawyers are familiar with. You may have an attorney who has not even expressed an interest having something like this from the family. or who may not even agree to talk to the parents, since they are not technically the “client.” Even for such attorneys, a completed parent narrative will help the attorney get a better grasp of who your son is and a better understanding of why (typically) the parents seem so much more interested in the actual defense of the case than their son, and what an important source of information they are. Sometimes attorneys reading the developmental history discovery how essential it is for them to learn more about this condition, and consult with the parents.

We are willing to help attorneys to understand the role of your son’s condition, and frequently just consult in these cases, if the local attorney is willing to work with us.

## ***2. Keep us informed***

In any event, even if we are not further involve formally in your son's case, we do ask that all parents keep us informed of what is happening, and remember that we can always be consulted in the future if there are questions. But do not wait until Harrington & Mahoney is the only organization in the country attempting to keep track of criminal cases involving those with ASD. The data we collect is essential for a number of reasons that benefit past, current and future defendants with ASD. It helps us in demonstrating the very, very low rate of reoffense among those with ASD, and the positive results in these cases, and the experience of those with ASD in prison and under supervision, etc. This can help us advocating for current defendants, getting support from autism organizations, advocating for policy and legislative changes, and improve the effectiveness of defense lawyers.

## ***3. A note about the role of parents***

The parent narrative is only beginning of parent involvement in the defense. Parents can never just assume that the defense can be left up to the lawyers. We feel that parents need to be on the defense team and fully informed of every development. Your son must make it clear to the attorneys that this is what he wants and that he directs the attorneys to treat he parents like him, like guardians, because of his need to be able to get their advice throughout the case.

## **B. Preparing to do the parent narrative**

Information gathering and getting help are important steps toward preparing the parent narrative.

### ***1. Getting records***

Gather all of the school records, psychological reports, medical records, test reports, behavioral assessments, school report cards, etc., that you may have. We are particularly reports or documents reflecting your child's behavioral, learning, social, physical and medical differences, delays or difficulties, and any diagnoses or treatments that were used.

Put these records in chronological order. It may help to have a folder for each year

into which to put documents.

Next, go directly to the doctors or clinics, or agencies or programs or schools your son has had contact with and see what other records they have and obtain them. Each may have a different form of a “release” or “waiver” to be signed by your son or a parent to authorize the release of the records, so contact each agency in advance and get their form and complete it.

While lawyers can also try to obtain records, it is far more efficient and economical for you to do this rather than wait for us or your local attorney to request these records. Any of the “legwork” you can do yourself will spare you the cost of having us do it and it will happen quicker. If a particular agency is giving you a problem consult with your local lawyer or us.

Then organize these documents chronologically place them in proper order in the collection of folders and documents you have already started.

Next, carefully scan, or have scanned, each document at high resolution – usually 600dpi – into separate PDF documents. By “carefully” we mean to remove staples so individual pages can be fully scanned, pages flat, pages straight as possible, and in color if the originals have color. Name individual files beginning with its date (yyyy-mm-dd) followed by the *type* of document – “Report” “Evaluation” “Test results” “IEP” “Report Card” etc., followed by the organization (e.g. “Landmark” “Montessori” “CARD Services” and the author if any. If you do not have the ability to do this, or to do it quickly, contact us for instructions as to how to get the documents to us.

### **C. Photos, writings, memorabilia**

Next, go through family photographs and family videos, schoolwork, child artwork, holiday cards, or any other materials which you feel illustrate your child’s differences or disabilities. Some of the most important photographs might be those which would not be included in the family album, but that would show the child playing apart from the others, his attention directed away from what everyone else is looking at, awkward moments, or childishness, tantrums or “meltdowns” or sensory reactions, rituals or routines. You may be surprised how some image, or video, in retrospect captures something hard to express about

your child's social learning difficulties.

**Do not** be afraid to include anything which might “embarrass” your child. They have been charged with a serious crime—whether or not they are embarrassed is irrelevant. The goal is to help them. So even “silly” photos can be useful. Still, formal family photographs from over the years are also helpful.

Take good photographs of your child's room *as it is*, his closets, wardrobe, or other storage areas with careful attention to collections, organization of things, items of special interest, or “sameness” in clothing or some other way. If there are any “accommodations” that have been made in the room or house, to deal with sensory sensitivities, such as sun blocking curtains, or objects of sensory seeking, like plush toys or pillows or bedding, etc, take pictures of that also.

For all pictures please provide a description of the photo, and the approximate date it was taken. Similarly provide a description of each other thing you collect.

## **D. Specific writing guidelines for the developmental history**

When writing the narrative, follow these rules.

### **1. *Speak in the third person***

Because parts of the parent narrative, perhaps most of it, will be included in a memorandum to the prosecutor, and perhaps later to the judge, you must write it in the third person. Refer to yourselves as “his parents,” or “his mother,” or “his father” and others as “his aunt,” or “his older brother,” etc. Don't say “I,” “we,” “us,” or “our.”

### **2. *It's OK to talk about the parents and others***

Although mostly this is about your child's behavior and traits and difficulties, it is still very appropriate to talk about the observations, feelings, actions and reactions of others in response to things recognized as not normal in children. “His aunt commented that he did not look at her.” “His parents were terrified and worried for his safety when he would run toward the street.” “Teachers commented that he never laughed when others laughed.” Other children avoided him.” “His parents knew there was something wrong, but were told he

would catch up socially as he got older because he was smart.”

**3. *Do not try to appear as a psychologist, even if you are one***

Do not describe or explain ASD or any other conditions, except perhaps to state what various behaviors or traits were thought to be symptoms of his disability. This is not necessarily the case with medical conditions, especially unusual ones. All psychological and developmental conditions will be addressed in detail by the attorneys and the doctors involved in your child’s case.

**4. *If you need to use technical terms, place names, or abbreviations, explain your understanding of those terms.***

Parents of children with ASD often get used to using “vocabulary” words or phrases associated with the disorder (e.g. “stimming,” “scripting” “obsessive” “perseverative”). Try as much as possible to describe the behavior and let the clinicians put a label on it. If you have to use a term, say “meltdown,” still try to give the details of this behavior, and explain what the “technical term” means, as though you were talking to someone who does not know anyone with ASD. There is every reason to be an “expert” on your child, but many reasons not to try to appear to be an “expert” on autism, even if you are. Your expertise in that area should be focused on identifying symptomatic behavior and traits at all stages of development and getting them into the parent narrative.

When talking about places, people, or abbreviations, do not assume the reader knows what you are talking about. Some prosecutors and judges—especially if this is a federal case—may not know anything about your local area, or the areas where your child grew up, especially if that was in a different state or town. So, for example, instead of saying your son “attended SMS” until grade 10, say that he “attended Saint Mary’s School (‘SMS’) in \_\_\_\_.” You can then later refer to SMS. Instead of saying “he was born in Macon and his family moved to Fort George” say he was born “in Macon, Georgia, and his family moved to Fort George, Mississippi”; instead of saying “he went to Jim’s house,” explain that “he went to the house of his mother’s cousin, Jim.”

## 5. *Tell stories*

This is your son's story. It is going to be the key to having others know him. There will necessarily be listing of events and behaviors and traits, try as much as possible to give detailed descriptions and observations rather than just summary conclusions. For example, don't just say that your son "had trouble talking," explain the exact behavior – he would only talk certain persons, or used unintelligible words, or had trouble forming certain word sounds, or that he could not make small talk, and so on. Give examples, or the impression of others about it. Rather than "he didn't pay attention when spoken to," or "he avoided eye-contact," describe the behavior in detail. "Avoided," for example suggests a deliberate action, where how we make eye contact and what we look at is largely involuntary. Rather than conclusions ("he was bullied throughout middle school" or "he spent most of his time on his computer" or "he tried to fit in with his peers") we need details of as many events as can be recalled that illustrate this so the reader can see what is being described ("other kids would pull down his pants and call him 'retard'", "he avoided people and spent all of his free time playing games on the computer," "he once stayed for an entire weekend in his room playing *World of Warcraft*, without bathing," etc.). Tell the **whole story** about an event that illustrates the particular features of your son's ASD. The stories and examples will speak for themselves. Try to help the reader envision what it must have been like to live with your son, and how his mind works.

If all you have is a fact and not a story, then it's OK to leave it in. But if it is something that happens frequently, make sure it is clear *how* frequently it happens, and in what way (e.g. "as a toddler he would often make humming noises, especially when he was stressed" "as a teen, he would still hum to himself if he got nervous" etc.).

If there is an episode which really demonstrates some aspect of your son's condition, try to expect what a reader who doesn't know anything about your son might ask: How did this start? How long did it last? How did other people react to it and how did your son account for the behavior?

It is also important to tell of your struggles as parents or others to help your son in childhood and beyond; efforts to get help; confusion about the correct diagnosis, or the

availability of therapies; sacrifices made. The extent of your efforts to give your child with ASD a normal life is a good objective measure of the severity of the deficits.

## **6. *No time to brag or blame***

Parents of children with autism want to look for the positives. And it is distressing for those with ASD to reference their difficulties. Unfortunately, what is necessary in these cases is for prosecutors and judges to understand the severity of the autism deficits that your son has experienced. This is necessary for us to explain how this condition may have made him vulnerable to engaging in behavior without knowing how wrong it was, or vulnerable to being put up to inappropriate activities by others, or how difficult it would have been him to rationally assess, and change, his course of action. There may be issues of legal competency to proceed that are demonstrated by developmental history.

Therefore, the parent narrative is not a place to emphasize your child's capabilities and accomplishments over his difficulties. It is necessary to be objective and not hold back details of his condition and behaviors for fear of his embarrassment or that his odd or obsessive behavior might be misinterpreted. Autism is a syndrome of behavioral effects of a particular kind of neurological problem. There is little that you will have observed in your son's traits and behaviors, and little in his current problems, that is not accounted for by his autism. All of his history helps explain that, despite his intelligence, his autism is a severe condition no matter how "normal" he may appear at times.

Of course there may be additional factors in the environment in which your son grew up, or dynamics in the family, which are also important to consider and they should also be noted in detail without fear that this will be embarrassing or misinterpreted. We need the whole picture. Remember that the parent narrative is one way we learn all about your son. It remains a confidential document for our review. It does not get circulated to anyone else without your full understanding and consent.

## **7. *Details!***

Prepare the narrative with as much detail as possible. This will avoid presenting just conclusions about your son's behaviors and traits, and allow the reader – the psychologist or

therapist, or eventually perhaps the prosecutor or judge – *themselves* to reach an accurate conclusion on their own about the elite and severity of his condition.

To achieve the detail and thoroughness needed, both parents need to work on it and they should enlist the help of siblings and extended family members in writing it. Get everyone with knowledge to add details to the story. Even if they do not have detailed memories of your son's childhood, they may be able to help in typing and organization of the materials, and insuring that the guidelines in this guide are followed. Very importantly they may help in prompting your memory for stories illustrating about pertinent events or traits, and rethinking the meaning of behaviors you did not at the time think related to autism.

Further on we provide many suggestions about the kind of things that we often find in cases of young men with autism, as a way to prompt memories.

## ***8. Tell stories about symptomatic behaviors***

Often we remember most what we learn in stories. Illustrative stories about atypical behaviors or incidents can be more edifying and persuasive to prosecutors than a list of facts and conclusions. As you consider the features of autism that you are aware of and which are described below, try to remember events that clearly illustrated those features in your son. The grandparent who first commented that “he won't look at me” when he was an infant, to “look, he's more interested in the gift box than the toy,” to odd manners of “play” by himself or in the company of others, and so on. The point of this is not to just list things that happened in your child's life, but to tell stories that showed how his mind worked atypically, his social naivete, his immaturity, his confusion at social rules, his unreasonably strict following of rules, black and white thinking, his gullibility and victimization.

Many times, family members will have stories about odd and inappropriate behavior, anecdotes about saying things in public or private which in your typical person would not say. For example, in one case, parents told me that every time there was a fire-drill in school, their son would drop to the floor and start rolling, instead of going outside, because he was told to “stop, drop, and roll” if there was a fire, and couldn't reconcile the two concepts. There will be stories about the frustration of your son as a child growing up and not fitting in.

Very important in the developmental history is to track all indications of how “rule bound”

the individual is. This includes dependency on rules and insistence on rules being followed and complaining about rules not being followed. For example, complaining that the family member drove in the “exit” entry into a parking lot rather than the “enter” entry, or being anxious about arriving *exactly* at 8 o’clock for a party, even if it is OK to show up much later.

Very often there are sensual processing problems, such as acute sensitivity or attraction to certain sounds, smells, kinds of touch, or light. Sometimes there will be very high or very low sense of pain. Often the child has clung to security objects, like blankets or stuffed animals or a certain chair long beyond the period of time in which typical children cling to these things.

Attention should be given to the history – or lack of history–of expressions or interest in sex and sexuality, confusion about this, aspiration about having a girlfriend, specific instances of efforts at acting on this. On the other hand, parents might have had no idea of the sexual interests of the client, and have assumed that with his social delays, he was not interested in sex, or was “asexual.” Still other times, parents will have tried to coach their son on how to approach a romantic interest. There is no formula on what to expect here, but the story will always make sense in light of the diagnosis.

The narrative should come up to the time of the arrest or police intervention and include any statements by your son about his understanding or not of the wrongfulness of the conduct at issue. While it is interesting to know whether the person understood illegality, ***the issue is whether they understood that the behavior was considered very wrong by others***, not necessarily whether it was also “illegal.” These are two different questions. The important thing is whether he understood that the behavior was condemned in some significant moral sense, not that it was “illegal” which may include speeding, or drinking while underage, or smoking marijuana. Be sure to canvas siblings (if any) on this issue or what he may have said at the time of or after any arrest.

## ***9. Chronological, then topical***

It is important that this document be structured in a chronological manner. You are introducing a stranger to your child and as such, they will need to be shown, through anecdotes and examples, what his life has been like and the differences in the way his mind works. However, within this chronological framework, and within each developmental period, you will need to identify behaviors or experiences which show the nature and degree of deficits which relate to ASD

or any other condition which your son has. This will enable us to present, at each stage of development, the range of behaviors that illustrate his condition and its effects. This will support the conclusions of psychological experts and help us educate prosecutors.

## ***10. Use of Headings***

The document itself should also contain useful headings to organize the sections. To do this, please use the built-in headings feature in your software. In Microsoft Word, use **Heading 1** and **Heading 2** from the styles menu on the Home tab. [If you happen to have WordPerfect, please use it and its built in heading styles of the same name]. Using real headings allows you to move whole sections in the navigation pane [Select View, Navigation Pane, from the top menu] by clicking and dragging them in the navigation panel itself. Of course it also allows you to navigate through the document. [NOTE: If you do not understand this, DO NOT just blow by it. Call our office and someone will walk you through this. You do not want to pay your attorney to spend time unnecessarily reworking something you can easily learn to do yourself.]

### **E. The Narrative outline - brief overview**

**To get you started we also provide you with a Microsoft Word document that can be used to start, with a generic set of headings** and some guidance comments.

The developmental history begins with describing the family and any pertinent family history. It then goes through the recognized stages of development, from birth and infancy, early childhood, preschool, elementary, school, high school and college-age periods, and then adult living, including employment. Do not forget summertime events and activities. Finally it will address the actual police investigation and arrest (if there has been an arrest) and your son's reaction to it.

## **F. What needs to be developed *in each developmental stage***

In *each developmental stage* it is essential to demonstrate the behaviors related to your son's autism condition. This section will review overall characteristics frequently seen in autism. The next section will focus on things that might be observed at each developmental stage.

Be sure to read the "Autism Spectrum Disorder" document containing the diagnostic criteria for Autism Spectrum Disorder contained in the Diagnostic and Statistical Manual of Mental disorders ("DSM-5) that comes with this memo. Be sure to read the whole document. The narrative part which composes most of it helps explain what the various diagnostic terms really mean.

In addition to the DSM, here is a list of suggestions of things to consider in each developmental stage to the extent that it applies to your son in that stage. We hope that this material will help you identify the behaviors that are important to illustrate in your narrative.

### ***1. Language and Communication***

- Delayed speech, secret language, difficulty with or confusing use of pronouns
- Atypical speech features
  - intonation and inflection have a nasal or otherwise unusual tone and cadence
  - formal, rote, or scripted quality of speech
  - fluency and flow become disrupted when child responds to questions
  - speech is most fluent and vocabulary most developed when child is in charge of the topic
- Has one or more preferred topics of conversation; prefers facts and information
- Misses conversational cues for reciprocal conversation
- Corrects others frequently
- Literal and rule-bound
- Relies on repetitive phrases to start sentences ("Well, actually ... ")

- Excessive candor - says what he thinks regardless of impact

## ***2. Sensory use and interests***

- Special interests? (Collecting, unproductive intense interest in narrow subjects)
- Insistent on certain arrangements and locations of objects
- Physical awkwardness? (Could he play physical games with others? Was he able to catch and throw, or ride a bicycle? [at what age?] Able to drive? Have driver's license?)
- Repetitive motions or "stimming."
- Rule-bound and controlling in play with others; will continue to play game alone according to rules rather than accommodate peers
- Handwriting often is difficult and frustrating
- Sensory sensitivities include:
  - clothing
  - food tastes and textures
  - Sensitive to sounds, light, smells, spinning objects and visual details
  - "security objects" - blankets, pillows, stuffed animals
  - Unusual and subtle body movements and mannerisms, including picking at lips and face, body tensing, pacing, and hand posturing, pulling out hair, biting self.
- Computer Use and Online Interests? Gaming, "Furries" and other "fan" groups, animated characters, comics
- Sexual interests?

### ***3. Social relationships and emotional responses***

- Not making or sustaining expected eye contact. Or staring at a listener when prompted to look, or when talking about a preferred topic.
- Looks away when spoken to
- May have superficial social skills but misses subtle context cues.
- Usually has a desire for social relationships; seeks out adults and younger children\
- Anxious in social situations
- Has difficulty self-regulating when anxious or distressed; "meltdowns," excessive responses to environmental stimuli, stress, being touched or changes in routine.
- Social isolation, inability to make friends.
- Inability to “read” others in social situations or understand how others think.
- Failure to understand social norms and accepted behavior
- Rigid thinking and need for routine, upset with changes..
- Rigid and excessive adherence to “rules” he IS aware of, though often not understanding the purpose or spirit of the “rule.”
- Lack of awareness of social norms or taboos; engaging in embarrassing or inappropriate behavior with out understanding how others view this behavior.
- Inappropriate affect, such as smirking or laughter in serious situations?
- Signs of seeming lack of noticing others’ feelings?
- Inappropriate response on learning of others’ feelings? Occasions of showing concern for others and their feelings?
- Lack of “imagination” in play. (For example, lining up cars and action figures, or repetitively rearranging them. No make believe play with other children)
- Victimization, Bullying
- Naivete, gullibility?

- Computer Use and Online Interests?
- Sexual interests?

This is just a list of suggestions. It is important for parents to remember that even what is “obvious” to them about their son still needs to be explained, so please tell stories about these features to inform the reader.

## **G. Writing the narrative**

To repeat, the narrative is written *in chronological order* by stages of development. But withing each stage attempt to cover all the main topics for which suggestions were made in the previous section. If you describe a certain episode that happened around a certain time period, tell us how old your son was (guess, if necessary). Some behaviors will change over time, some will not. Remember it is written in the “third person.”See above at p.?

For each stage of your son’s life development, here is the kind of information we need:

### **Birth and infancy (ages 0-5)**

- Were there birth complications? (i.e. premature, oxygen deprivation, baby born discolored or not breathing, etc.)
- When did he learn to talk and walk?
- When did he finish potty training?
- Did he have trouble making eye contact?
- Was he sensitive to certain textures in foods, clothing, or toys?
- Did he scream if held by strangers?
- Was he easily startled by loud noises or bright lights? Did seeing or hearing these cause “melt-downs” that were hard to control?
- With toys, did he fixate on certain toys and carry them around like security objects? (Think Linus’ blanket from *Peanuts*).
- When he played with others, did he participate in their make-believe? Did he play well with others? Did he understand sharing?

- Was he prone to ear, nose, or throat infections? How did he show pain?
- Did pediatricians speculate that he might have a developmental disorder?

### **Early childhood (ages 5-10)**

- Did your son play sports? Was he physically awkward or un-coordinated?
- Was your son insistent on following routines or rituals? Did he get upset if those routines or rituals were not followed?
- Was he anxious in social situations?
- How did he do in school? Did teachers have difficulty understanding him? Did he have any speech deficits?
- Did your son have an IEP in school?
- How did your son do with figurative language? Did he struggle to understand figures of speech or slang? Was he very literal in his language?
- How did your son learn and follow rules? Did he have trouble understanding rules?
- Did your son struggle to follow instructions or perform multi-step tasks? (I.e. did you have to tell him how to take a shower every day, step-by-step, or constantly remind him to do things that he should have learned how to do on his own?)
- How did your son socialize with others? Was he bullied in school? Did he have trouble making or keeping friends? How did he get along with his siblings, if there were any?
- If your son was not diagnosed with ASD in this period, did a doctor or counselor ever suggest it? Was your son diagnosed with any other disorders in this period? (I.e. OCD, ADHD, Tourette's Syndrome, etc.)
- Did your son play make-believe games by himself? How did he do when playing with others?
- Did your son ever develop any specific and obsessive interests? (I.e. extensively collecting things, memorizing facts about a particular subject, etc.) Did he have difficulty finding interests outside of his own?
- Describe any other ways in which your son relied on you, perhaps more than most children

this age relied on their parents. Describe any unusual rituals or behaviors that you had to develop to accommodate him.

- Please also describe any attempted therapies or treatments for any developmental or behavioral issues.

### **Adolescence (ages 10-18)**

- How did your son do in school? Was he good in some subjects but bad at others?
- Was he bullied or lonely? Did he struggle to make friends?
- Again, was your son very literal in his understanding of language and rules? Was he very rigid in his thinking and understanding? Did he get anxious or upset if anyone broke or bent rules? Was he blunt or seemingly rude in his language? Did he develop any black/white ways of thinking? (i.e. all religious people are stupid, without exception, etc. etc.)
- How did your son experience puberty? Were sex and romance explained to him?
- When did your son start using a computer? When did he start using a phone? Was his internet use monitored?
- Did you ever catch your son viewing any kind of pornography? Was there ever any discussion about it?
- Did your son have a girlfriend or try dating? Did he go to high school dances or social functions? Did he participate in any social groups or clubs?
- Was your son able to learn how to drive a car? If so, how long did it take him, and did he have accidents?
- Did your son successfully graduate high school?
- Was he able to maintain any jobs in this period? How was his work performance? Was he ever fired or reprimanded for being rude or failing to understand workplace rules?

### **Early adulthood (ages 18-25 and beyond)**

- Did your son attend college?
- Did your son attempt to live on his own?
- If so, how did your son manage on his own? Did he frequently call asking for advice or directions about doing simple things, like his own laundry or grocery shopping? To what extent, if any, did your son remain reliant on you in this period?
- Did your son struggle to find or keep employment or go to school?

These are just the basic examples. Please try to include anything else that you think illustrates your son's unique behavior. Don't worry about giving "too much" detail. We will decide what is important and can edit out the rest.

## **Conclusion**

If you get stuck, do not panic, just call us. Expect that the narrative will be reworked quite a bit. It may be very hard t times, but it is an essential part of our efforts.

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Revised by MJM, June 2020

# SELECTED READING AND RESOURCE LIST

## Selected Reading:

*Autism Spectrum Disorder in the Criminal Justice System: A guide to Understanding Suspects, Defendants and Offenders with Autism*, Dr. Clare S. Allely (2022)

*Caught in the Web of the Criminal Justice System: Autism, Developmental Disabilities and Sex Offenses*, Ed. Dubin & Horowitz (2017)

*Asperger's Syndrome and Jail: A Survival Guide*, Will Attwood (2019)

*Asperger's Syndrome and the Criminal Law: The Special Case of Child Pornography*, Mark Mahoney (2009)

Perske's List: *False Confessions from 75 People with Intellectual Disabilities* (Shared with Professors)

Practice guide for evaluating individuals with autism charged with criminal offending, Mark Mahoney (2023)

*Vulnerability to Ideologically-Motivated Violence Among Individuals with Autism Spectrum Disorder*, *Frontiers in Psychiatry*, Woodbury, Lofttin, Westphal & Volkmar (March 2022)

*Autism Behind Bars*, Peter Hess, *Autism Research News* (Nov. 2020)  
<https://www.spectrumnews.org/features/deep-dive/autism-behind-bars/>

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## Organizations:

*Decriminalizing Developmental Disabilities* (D3), (<https://dthree.org/>): D3 is a non-profit agency consisting of government employees, university researchers and professors, psychologists, law enforcement officers, attorneys, and authors who stand for criminal justice reform with regard to the vulnerable population of individuals with intellectual and developmental disabilities.

## Autism Legislation:

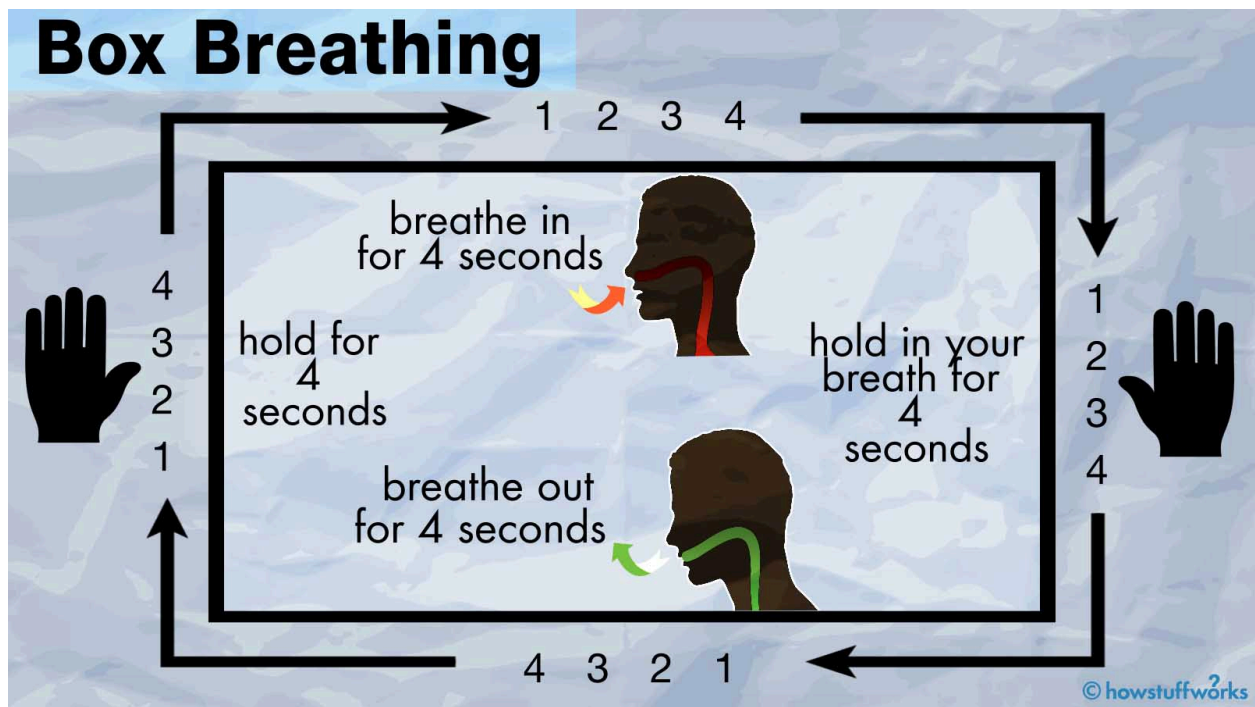
*Code of Virginia*: § 19.2-303.6. Deferred disposition in autism criminal cases

*Florida Statutes*: Chapter 916 Section 3012 (autism & competency)

Chapter 943 Section 0439 (autism & interrogation)

## This will help me Prepare for the Meeting:

- Maintain my routines-
- Plan to do something nice for myself and X afterwards
- Have something with me to hold in my hand to comfort me.
- Box Breathing before the hearing starts and during the hearing. This will slow my heart and brain down.



## What should I expect at the plea and arraignment hearing in New York?

### Who will be there:

- My attorney- Mr. Y
- Me: The Defendant in the case
- The prosecutors whom I have met before.
- Possibly the Female FBI agent who came to my home
- The Judge
- The Bailiff
- The Court Recorder

### **How will they act?**

Everyone will act very professionally. No one will yell at me. No one will raise their voice. If they do, the judge will tell them to stop.

### **What will happen?**

- I will be told what the charges are against me.
- I will be told that I have rights, including the right to my attorney and the right to a trial.
- Then it will be my turn to speak. I will be asked to enter a plea Guilty or Not Guilty.

### **Plea bargain**

- A written agreement will be shared with Mr. Y. Mr. Y and I may negotiate with the prosecutor to settle the case without going to trial. If I enter a guilty plea, that may be part of the plea bargain.

### **What happens next**

- If I plead guilty, the judge will determine the consequences
- If I plead not guilty, the judge will schedule a hearing or trial

### **My attorney**

- Mr. Y is there to protect my rights.
- He will advise me if I should say something on my own behalf or if I should remain silent.

The entire meeting may take a very short amount of time. My family, my attorney and my team will continue to provide support.

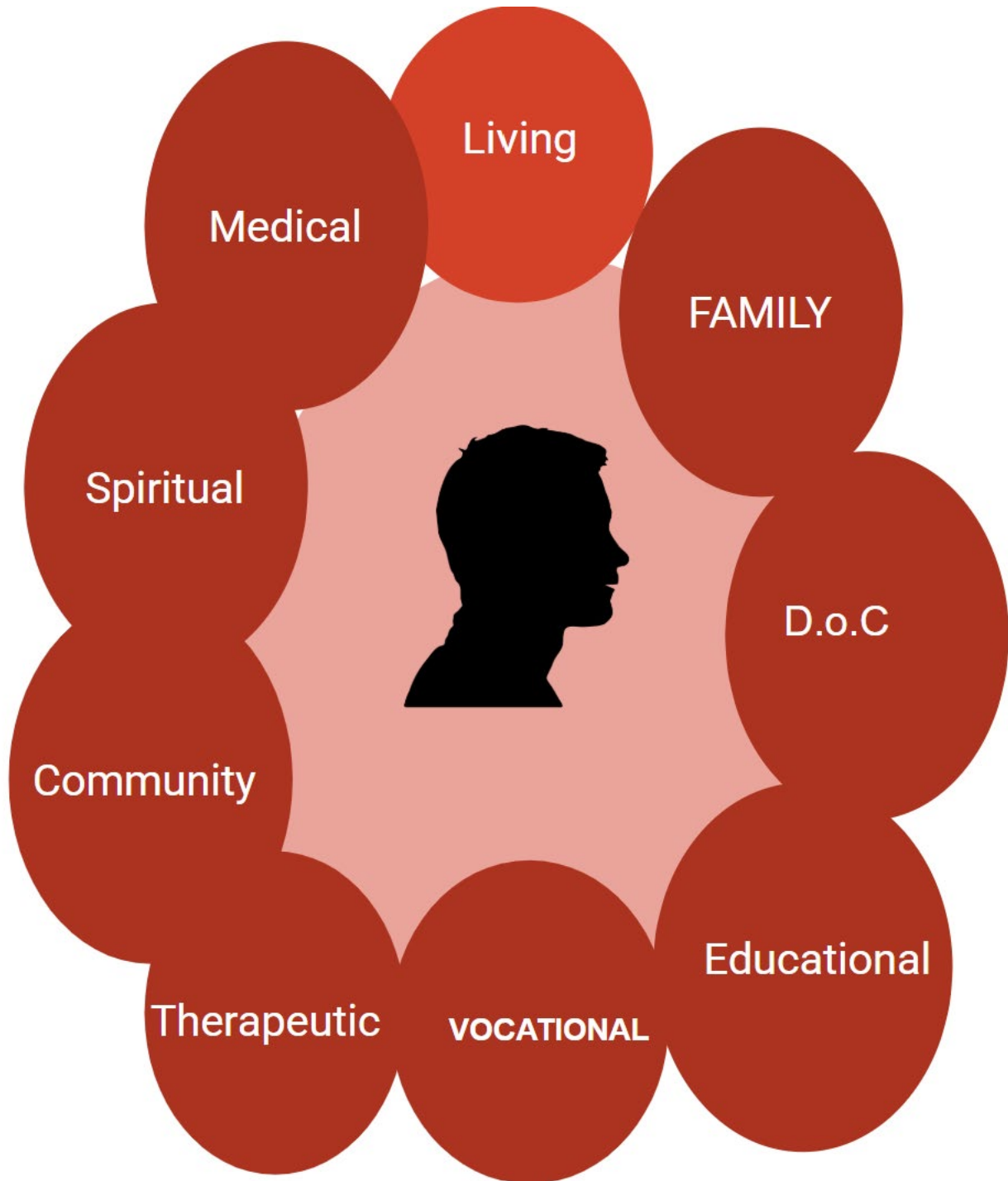
## Sample Diversion Plan for Defendant with ASD

**Background:** X is a small young man who carries a diagnosis of ASD, Tourettes, Ulcerative Colitis, Clinical Depression and has a profound stutter rendering him primarily non-verbal. His parents did not pursue autism treatment for him nor did they pursue Speech Language Services.

X was radicalized online and through staff at an alt right school he attended starting at age 13. School administration directed him to read the works of John Taylor Marshall (an ardent anti-abortionist). X went down the proverbial rabbit hole which included perusing anti Semitic, pro Nazi, Misogynist, Racist and Homophobic websites. He aligned with a group called The Militant Catholics and was vulnerable to becoming their footsoldier. At 18 he threw a Molotov Cocktail at a women's health clinic which he believed provided abortions. When the FBI raided his house they found an AR-15 he had built with two 100 round magazines under his bed. He was arrested and placed in a Federal Detention center after pleading guilty to Intentional Damage to a Facility that Provides Reproductive Health Services and Possession of an Unregistered Destructive Device under the National Firearms Act. Recognizing his autism, physical and mental health challenges as well as his profound dysfluency which had placed him in a position to be exploited in prison, the court was willing to consider alternatives to incarceration. "With X facing the potential of more than a decade in prison, prosecutors, defense attorneys and Judge XYZ at Wednesday's hearing agreed that his future would be better served by a yearslong, court-imposed treatment plan that would see him confined to a local treatment center for a year and afforded additional freedom as he progresses."

The following Treatment plan was developed by Dr. Sperry in conjunction with the FBI, the Federal Defenders Office, U.S. District Attorney's office of Z state, X, his parents, the Department of Corrections and the presiding judge.

## Treatment Plan and Phased Approach for X



**Length of Proposed Treatment Plan:** It is estimated that X will be at the Residential Re-entry Center for a period of approximately six months but may be extended to 12-18 months or even three years while he works through the following phases.

### **Phase I-**

**LIVING:** X is released to the secure residential re-entry center following sentencing March of 2022.

**MEDICAL:** X will have access to a comprehensive medical exam to determine his physical and mental health support needs. This should include evaluation of Tourettes and any medication recommendations by the physician. Medication adherence will be critical in addressing any underlying physical/ mental health conditions. (Parents will need to access a psychiatrist, PCM for his ulcerative colitis )

### **THERAPEUTIC:**

X will attend 1:1 Applied Behavior Analysis therapy with Dr. Sperry 2 times a week for 1 hour at a time (for a total of 2 hours of 1:1 therapy a week) and work on the following goals during Phase I of this plan. X will be required to have 100% attendance in these sessions. Additional assessments will include an assessment of X's Executive Functioning and a Reinforcement assessment to determine items/activities for which he is willing to work.

### **Communication:**

1. X will accurately describe situations in which he experiences a given emotion (sad, angry, frustrated, happy, calm). **Mastery Criteria:** 4 out of 5 opportunities across 10 probe sessions.
2. X will accurately name alternative, appropriate ways to express his emotions to replace acting out/destructive behaviors. **Mastery Criteria:** 100% accuracy across 10 probe sessions.
3. X will express his anger/negative feelings appropriately using written or spoken words to state his feelings. **Mastery Criteria:** 4 out of 5 opportunities across 10 probe sessions.
4. X will listen to the opinion of others (parents, therapists, housemates, head of house) without arguing, or using insulting language ("that's stupid") or interrupting. **Mastery Criteria:** 4 out of 5 opportunities across 10 probe sessions.

**Behavioral: Baseline: X, at times, thinks about violent thoughts and how he could punish the young woman who rejected him. (i.e. How could I engage in revenge? Prior to incarceration, X would go to the barn at school and ruminate about violent, negative thoughts. I could kill myself in a way for that girl to find me. Antecedents: Rejection, humiliation, square dance rejection by AB. )**

1. X will correctly identify signs of physiological arousal/upset in himself : **Mastery Criteria:** With 90% accuracy across 10 probe sessions.
2. X will practice appropriate methods to reduce anxiety, stress and anger in role play situations. **Mastery Criteria:** With 90% accuracy across 10 probe sessions.

3. X will state a complaint appropriately (tone of voice/written, words, context, to whom).  
**Mastery Criteria:** With 100% accuracy across 10 probe sessions.

### **Executive Functioning:**

1. X will demonstrate an understanding of the difference between fact, rational belief and irrational belief. **Mastery Criteria:** With 90% accuracy across 10 probe sessions.
2. X will dress and groom appropriately. **Mastery Criteria:** According to Halfway house standards and future volunteer or competitive employment standards within the first week of arriving at Halfway House.
3. X will complete the following assessment during his first week of arriving at the Halfway House: BRIEF- Behavior Rating Inventory of Executive Functioning to ascertain his executive functioning skills and self-regulation related to his ability to inhibit, Self-Monitor, Plan/Organize, Shift, Initiate, Task Monitor, Emotional Control, Working Memory, and Organize Materials. This information will be used to develop additional goals for Phases II and III of this plan.
4. X will complete the Career Pathway Test during his first week at the Halfway house to determine his career interests.
5. Given a list of contrived and real scenarios, X will accurately identify irrational thoughts/cognitive distortions **Mastery Criteria:** in 4 out of 5 opportunities across 10 probe sessions.

### **Socialization: 1:1 goals**

1. X will be able to accurately identify his current zone of regulation, the emotion he's feeling and what precipitated that feeling **Mastery Criteria:** in 4 out of 5 opportunities across 10 probe sessions.
2. When in a frustrating situation X will describe his own emotional reactions to his own problems based on his perceived size of the problem and size of his response **Mastery Criteria:** in 4 out of 5 opportunities across 10 probe sessions
3. Given a picture scene, comic strip or story, X will verbally express a plausible perspective/emotion **Mastery Criteria** of at least two *different* characters involved for 4 out of the 5 scenarios presented, maintaining this criteria over 5 separate therapy sessions.

### **Socialization: Group Goals:**

1. X will attend the social group for Young Adults who are Neurodiverse via telehealth. This group meets every other Monday from 5:30-6:30 MT. **Mastery Criteria:** X will be required to have 100% attendance in these sessions and adhere to the online code of conduct which will be shared with him during 1:1.

2. X will act respectfully towards individuals in the group with different qualities and characteristics (orientation, religious affiliation, beliefs) absent derogatory comment, correction, criticism **Mastery Criteria:** in 5 out of 5 opportunities across 5 probe sessions.
3. Given a conversation with one other peer, X will maintain a topic of conversation of t X's choosing **Mastery Criteria:** for at least 3 conversational turns in 4 out of 5 opportunities across 5 probe sessions.

#### **FAMILY:**

1. X will participate in a minimum of one weekly phone call or letter to his family. He will choose from a menu of conversation starters to inquire about his family. He will respond to family news with appropriate comments (ex. That's interesting, that sounds like fun or other positive comment, absent negative comments ex. "That's stupid"). **Mastery Criteria:** Minimum of one communication a week for the duration of Phase I that is positive in nature per parent report.
2. Parents will use "I statements" with X to provide their perspective on his negative statements. For example, the parents share that his sister's pet dies and she is sad. X states "That's stupid, you shouldn't love animals". His parents might say "I think that would hurt your sister's feelings. (impact of his behavior on others) The pet was important to her. (perspective taking) You could keep your comment to yourself or say "She must be upset." (appropriate alternative).
3. **Cognitive distortions-** X's family will reflect on previous signs of untreated mental and behavioral health problems, recognizing the warning signs that X is dysregulated and what to do to intervene. Baseline: Previously, the family didn't pursue treatment for X, despite having violent tantrums in the home. At a young age, X was given complete autonomy around his medical treatment and rejection of medication. He was allowed to smoke in the home and pursue his interest in weapons. According to grandparent report the family "walked on egg shells" so as not to upset X in a way that resulted in a tantrum. This resulted in the family frequently acquiescing to his wants or removing social/behavioral demands from X.

**SPIRITUAL:** X has access to televised Catholic Mass or supervised viewing of Catholic Mass on the Internet.

## Reinforcement Menu for Phase I:

Using a visual schedule, X will have free time built into his daily schedule. X identified some reinforcers during his Person Centered Plan. This list will be added to following the Reinforcement Assessment during Phase I. During his free time X can choose from the following menu:

1. Books about how to fix things
2. Books on how to build things
3. History/ Nature books:

- *A Walk in the Woods: Rediscovering America on the Appalachian Trail* by Bill Bryson

This is a comical true tale of Bryson's misadventures as he hikes the Appalachian Trail.

- *One Good Turn* by Witold Rybcznski

This nonfiction book is aimed at the technologically minded but also at anyone who has an interest in the historical development of civilization. Around the turn of the millennium, the author was asked to find and write about the most useful tool of the previous 1,000 years.

- *The Story of Tools: A celebration of the beauty and craftsmanship behind the tools of handmade trades* by Hole and Corner

Divided into three beautifully photographed chapters--Wood and Stone; Earth, Metal, and Glass; and Material, Cloth, and Decoration--this book tells the story of its 25 featured tools through the eyes of those whose craft and livelihood depend on them. It seeks to explore our relationship with these most fundamental of objects. Many are rightfully considered as design icons, while others reveal the improvisational skills of their owners, tweaked and adjusted to suit specific jobs through trial-and-error. Celebrating culture, skill, time, and dedication, this is the perfect read for anyone with a penchant for tools, crafts, and beautiful design

4. Listen to songs in Latin:

- Johann Sebastian Bach – Mass in B Minor, four Missae, Magnificat, cantata BWV 191
- Wolfgang Amadeus Mozart – *Ave Verum Corpus*, Requiem
- Carl Orff – *Carmina Burana, Meum est propositum in taberna mori*
- Giovanni Pierluigi da Palestrina – *Missa Papae Marcelli*
- Antonio Vivaldi – *Nulla in mundo pax sincera*

5. Watch home improvement TV shows

- Home Town
- Fixer Upper

- Property Brothers
- Love it or List it
- This Old House

6. Listen to Podcasts:

- How Stuff Works
- Brainstuff
- Part-Time Genius
- Smarter Everyday
- Backwards Bicycle

7. Exercise Videos- Yoga, strength training, cardio.

## PHASE II

### THERAPEUTIC:

X will attend 1:1 Applied Behavior Analysis therapy with Dr. Sperry 2 times a week for 1 hour at a time (for a total of 2 hours of 1:1 therapy a week) and work on the following goals during Phase II of this plan. X will be required to have 100% attendance in these sessions. Additional assessments will include an assessment of X's Community Living Skills

Skills NOT mastered in the previous Phase I will be carried over into Phase II.

### Communication:

1. Given a hypothetical social situation presented that depicts someone potentially being taken advantage of, X will accurately discriminate if the situation is helpful/fair or hurtful/unfair to the individual **Mastery Criteria:** for 80% of situations presented over 5 probe sessions.
2. Given hypothetical situations presented to X that are clearly unfair/hurtful to the fictitious character involved, X will describe why the action is unfair and the likely negative outcome the character may experience **Mastery Criteria:** for 80% of all scenarios measured over 5 probe sessions.
3. Given a situation where X is processing a situation where he has been reported as being disrespectful by an adult/peer/sibling, X will calmly talk about the situation with a therapist/trusted adult and be able to describe his perspective/intention as well as the likely impression he leaves with the other person **Mastery Criteria:** for 80% of all documented instances overall in a trimester period.

### Behavioral:

**Phase II behavioral goals will focus on Functionally Equivalent Replacement Behaviors.** A functionally equivalent replacement behavior (FERB) is a behavior that will be taught and reinforced. This NEW behavior allows X to get the same outcome as the problem behavior. This NEW behavior serves the same purpose (function) as the problem behavior but is more socially acceptable, tolerable and does not cross legal or social boundaries. Using the Five is Against the Law Curriculum X will **Mastery Criteria:** complete the following objectives with 80% accuracy over 10 probe sessions.

- **Correctly Identify and define the Five Levels of social behavior-**
  1. Informal/Casual Behavior
  2. Reasonable behavior
  3. Odd Behavior
  4. Scary Behavior
  5. Threatening/Illegal behavior
- **Identify and explain when and WHY a 3 (odd behavior) becomes a 4 or a 5**
- **Accurately state (write) his perspective on different behaviors on the 1-5 scale and PREDICT the therapist's perspective on those same behaviors.**

#### **Executive Functioning:**

1. Given real and hypothetical situations, X will increase his cognitive flexibility by working through a cognitive model to accurately identify how he interprets a situation determines how he thinks about it, how he feels about it and how he will react to it. **Mastery Criteria:** X will accurately complete exercises with 80% accuracy across 5 data probe sessions.
2. Given real and hypothetical situations, X will increase his cognitive flexibility by working through a cognitive model that examines how assumptions about his environment and the people in it influence his automatic thoughts. **Mastery Criteria:** X will accurately distinguish between safe assumptions versus irrational beliefs in 4 out of 5 opportunities across 10 data probe sessions.

#### **Socialization: 1:1 goals**

1. Given a topic of conversation, X will list at least 4 initial or follow-up questions he could ask related to the topic **Mastery Criteria:** 4 out of 5 conversation topics presented over 10 data probe sessions.
2. Given a hypothetical social scenario picture or role play, X will accurately describe the meanings behind various non-verbal communication signs (facial expressions, body language, tone of voice) **Mastery Criteria:** 80% of situations presented on average over 5 probes.

#### **Socialization: Group Goals:**

1. Given a situation where X has the opportunity to initiate with peers in the Young Adult Social group setting he will initiate with peers by gaining their attention by stating or typing their name, asking (typing) a question or making a comment about a relevant topic, **Mastery Criteria:** 80% of the time on average across 5 data probe sessions.

2. Given a conversation with one other peer, X will maintain a topic of conversation of the peer's choosing **Mastery Criteria:** for at least 3 conversational turns in 4/5 measured conversations over 5 data probe sessions.

### **FAMILY:**

1. Given a conversation with a family member X will maintain a topic of conversation of the his family member's choosing **Mastery Criteria:** for at least 3 conversational turns in 4/5 measured conversations over 5 data probe sessions.
2. X will accept 1 zoom call or face to face visit with his family as allowed by DOC per month. During this visit he will share news about his day and a topic of interest that he is pursuing from his reinforcement list.

**Spiritual:** X will begin attending church in person, supervised.

### **Reinforcement Menu for Phase II:**

Using a visual schedule, X will have free time built into his daily schedule. In addition to the Reinforcement choices from Phase I, X will have access to approved items from his reinforcement assessment. Using a reinforcement menu, X earns or he doesn't earn. The onus is on him.

X may work for:

1. Supervised Trips to the Library to check out: Books about how to fix things; Books on how to build things; History/ Nature books. All books must be approved by probation.
2. Learning a new language: Learning Latin via Duolingo on computer- supervised
3. Exercise in the neighborhood- supervised walks
4. Reading the Good News Network- Good News Network.org for a selection of positive examples of good news and human kindness.
5. A volunteer job with Habitat for Humanity- committing to specified number of hours per week to give back to the community and learn additional carpentry skills
6. Edx classes online that are pre approved. Potential selections:
  - Language Revival: Securing the Future of Endangered Languages

<https://www.edx.org/course/language-revival-securing-the-future-of-endangered>

- Global History Lab: Learn the span of world history from 1300 to the present

<https://www.edx.org/course/global-history-lab?index=product&queryID=862c304791ad4788a5950f1e87729f14&position=1>

## PHASE III

### THERAPEUTIC:

X will attend 1:1 Applied Behavior Analysis therapy with Dr. Sperry 2 times a week for 1 hour at a time (for a total of 2 hours of 1:1 therapy a week) and work on the following goals during Phase III of this plan. X will be required to have 100% attendance in these sessions. Additional assessments will include an assessment of X's Community Living Skills

Skills NOT mastered in the previous Phase II will be carried over into Phase III.

### Communication:

1. Given an experience that was reported or observed as stressful for X , he will be able to describe the cause or belief system that caused his stress **Mastery Criteria:** in 4 out of 5 stressful instances.
2. Demonstrate an understanding of what neurodiversity is and be able to communicate work and living accommodations in writing and/or verbally that he will need to be successful at his place of employment.

### Behavioral:

**Phase III behavioral goals will focus on Functionally Equivalent Replacement Behaviors.** A functionally equivalent replacement behavior (FERB) is a behavior that will be taught and reinforced. This NEW behavior allows X to get the same outcome as the problem behavior. This NEW behavior serves the same purpose (function) as the problem behavior but is more socially acceptable, tolerable and does not cross legal or social boundaries. Using the Five is Against the Law Curriculum X will **Mastery Criteria:** complete the following objects with 80% accuracy over 10 probe sessions.

- Repairing Mistakes- X will accurately identify when his behavior has crossed a social boundary, why it has crossed a boundary and provide one to two solutions for repairing the mistake.
- Distinguish between rude behaviors that cross social boundaries versus behaviors that cross a legal boundary
- Establish his own 5 point scale of behaviors to categorize his behaviors as within social boundaries (1-2) odd (3) scary behavior (4) and threatening/illegal behavior (5).
- X will describe the Anxiety Curve and self management strategies he can use to interrupt a behavioral escalation.

- X will develop a decision making flowchart examining consequences for actions he takes.

X will manage conflicts and develop alternatives to conflict by working on the following objects

**Mastery Criteria:** 80% accuracy in real and contrived situations across 10 probe sessions

- Distinguish which behaviors and language are acceptable and unacceptable.
- Identify situations that may lead to conflict.
- Constructively handle situations that may lead to conflict.
- Ask for assistance to resolve a conflict after an independent attempt.
- Appropriately state angry feelings to the person involved.
- Control his verbal outbursts in conflict situations.

### **Executive Functioning:**

1. X will increase his executive functioning skills and decision making **Mastery Criteria:** Accurately completing the following objectives in 4 out of 5 real or contrived situations across 10 data probes.
  - Collect necessary information to make decisions.
  - Identify options available in making a decision.
  - Determine which decisions can be made individually and which would require support from others.
  - Identify the short- and long-term impact of various decisions on self
  - Identify the short and long term impact of various decisions on others
  - Arrange problems by importance.
  - Follow through with a plan or modify the plan to meet goals.
  - Voluntarily accept responsibility for one's own behavior without making excuses.
  - Politely decline unreasonable requests.
2. X will improve his perspective taking by identifying how thoughts can influence emotions and how two people can feel very differently about the same situation because of their thoughts in 4 out of 5 real and contrived scenarios across 10 probe sessions. .
3. Given real and contrived situations X will accurately identify how thoughts and the resulting emotions then influence his behaviors and can result in engaging in behaviors that hurt more than they help. **Mastery Criteria:** In 4 out of 5 situations across 10 probe sessions.
4. X will define the meaning of core beliefs and list the core beliefs that he currently holds.

### **Socialization: 1:1 goals**

1. When given scenarios of social conflicts, X will demonstrate problem solving skills by identifying the problem and generating two solutions appropriate to the situation  
**Mastery Criteria:** in 4/5 trials, across 5 data probes.
2. When presented with a video or other visual support, X will generate possible outcomes to a social situation or problem and determine which outcome would be most positively received by OTHERS for the situation and why. **Mastery Criteria:** in 4/5 trials, across 5 data probes.

### **Socialization: Group Goals:**

1. X will work cooperatively with peers in small group settings (ex., share ideas, allow peers to share different thoughts) without using disparaging language. **Mastery Criteria:** in 4/5 trials, across 5 data probes.
2. X will develop insight regarding others' perspectives, as well as his own during group by:
  - a. Inferring why a group member may say, feel or do the things they do in a particular situation.
  - b. Identifying and expressing what he might say, feel or do in a similar situation.

**Mastery Criteria:** in 4/5 trials, across 5 data probes.

**Vocational:** X will adhere to grooming and hygiene standards of his prospective employer and complete a job application and interview with Community Integrated Services for the opportunity of competitive employment in his area of interest.

### **FAMILY:**

1. Given an activity that X participated in, he will be able to describe two positive aspects of the experience **Mastery Criteria:** in 100% of instances during his conversations with his parents. .
2. X will invite his mother and father to a shared meal at the halfway house that he has prepared for them OR invite his mother and father to accompany him on one of his community outings or volunteer activities.

### **Reinforcement Menu for Phase III:**

Using a visual schedule, X will have free time built into his daily schedule. In addition to the Reinforcement choices from Phase I and Phase II, X will have access to approved items from his reinforcement assessment. Using a reinforcement menu, X earns or he doesn't earn. The onus is on him.

X may work for:

1. Exercise: Supervised visits to the local recreation center
2. Grocery Shop- Supervised visit to the local grocery store
3. **Spiritual:** Attend a church Function- Supervised
4. Visit a museum- Supervised
5. Watch a pre-approved movie on a streaming service

### Important Notes:

1. Absolutely NO unsupervised access to the internet, computers, smartphones.
2. No contact with current or former staff of The New School.
3. X will need to have concrete, explicit explanations of the consequences of what would happen if he:
  - Breaks any of the rules
  - Avoids participating in therapy
  - Attempts to flee
  - Attempts to access the internet unsupervised
  - Attempts to contact or accept contact from current or former staff of The New School. Inquiries will be made to determine if the judge can order this to protect X from intermittent reinforcement of cognitive distortions.

At the beginning of therapy, X will be provided with a list of layman friendly goals that we are working on together to increase the social validity of treatment.

### Strategy for Re-integrating X into his family.

Dear Mr. Y

X, a person with autism, is nearing the end of his time at the Residential Re-Entry Center. As his treating therapist I would like to see the following step down schedule applied to X to gradually transition him back into his home.

#### January: Weekends

- Friday Jan 13 5pm- Sunday Jan. 15 5pm
- Friday Jan. 20 5pm - Sunday Jan. 22 5pm
- Friday Jan 27 5pm- Sunday Jan. 29 5pm

#### February- Hybrid weeks home

- Sunday February 5th- Time 7:30 am - Sunday February 12<sup>th</sup> 9:30 am
- Sunday February 19th- Time 7:30 am - Sunday March 5<sup>th</sup> 9:30 am

## **March**

- March 5<sup>th</sup> Returns to the RRC Sunday March 5<sup>th</sup> at 9:30 am
- Released on March 9th to home.

This gradual step-down process ensures the most seamless and successful transition for Mr. Gulick, his parents and younger siblings.

Thank you for your consideration.

Laurie Sperry

Laurie Sperry, Ph.D., BCBA-D, MSc Forensic Psychology/Criminal Investigation

## **Outcomes:**

- Over 3 years, X had 100% attendance at therapy.
- He joined our young adult group and attended regularly
- He volunteered at his local parks.
- He completed his GED
- He enrolled in Community College and earned a Welder's Certificate
- He has worked full time as a contractor's assistant pouring concrete and as an environmental field agent collecting and analyzing soil samples
- He purchased his first car with his own money
- He has re-connected with his family and lives at home
- He successfully completed his parole.
- He has not re-offended in 3 years.