

When Behavior is Also a Crime: The Intersection of Behavior & the Criminal Justice System with Students on the Spectrum

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In 2020, 424,000 arrests involving persons younger than 18

Youth accounted for 1 in 14 arrests for violent crimes

Youth violent crime is on the decline since 2000s

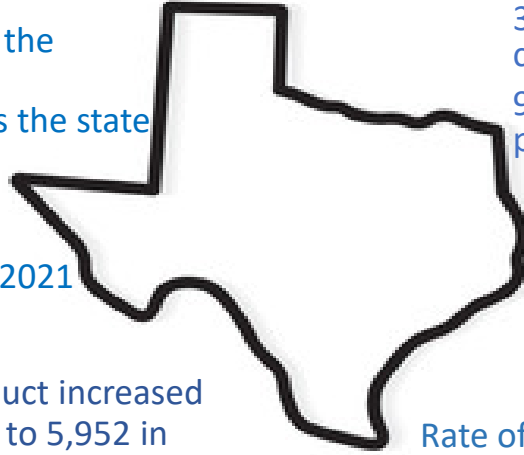
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In Texas....

42,485 Referrals to the Juvenile Probation departments across the state of Texas in 2022

44% increase from 2021

Violent felony conduct increased from 4,838 in 2021 to 5,952 in 2022, 23% increase



47% Class A or B misdemeanor delinquent conduct

39% felony delinquent contact

9% for violations of probation

Rate of recidivism 70-77% depending upon the type of program

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Autistic persons represent 1.7% of the population & 3.4% of population involved in the CJS

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Limitations of the Research



- Most research involves single case reviews
- Limited information about the nature and extent of the problem
- Unable to readily generalize findings
- Little scientific evidence and results published to date provide no basis for addressing whether an association exists between ASD and offending

(Mouridsen, 2012)

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Emerging
Themes:

Behaviors that can lead to
legal problems:

- Social cognitive deficits
- Rigid adherence to routines, restricted interests, and sensory hyper-sensitivity

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Defining Features of ASD

- Difficulties with social communication and social interaction across multiple contexts:
 - Deficits in social emotional reciprocity
 - Abnormal social approaches
 - Failure of back-and-forth conversation
 - Reduced sharing of interests, emotions, or affect
 - Failure to initiate or respond to social interactions

(APA, 2013)

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Defining Features of ASD (cont'd)

- Problems with the types of nonverbal communication that are used for social interaction, such as “poorly integrated verbal and nonverbal communication,”
- “abnormalities in eye contact and body language,”
- “trouble understanding and using gestures,”
- May include “a total lack of facial expressions and nonverbal communication.”

(APA, 2013)

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Defining Features of ASD (cont'd)

Deficits in developing, maintaining, and understanding relationships, can include

“difficulties adjusting behavior to suit various social contexts,”

“difficulties in sharing imaginative play or in making friends,”

And an “absence of interest in peers.”

Types of nonverbal communication that are used for social interaction, such as poorly integrated verbal and nonverbal communication

- Abnormalities in eye contact and body language
- Trouble understanding and using gestures
- Lack of facial expressions and nonverbal communication

(APA, 2013)

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The Abnormalities of Social Relatedness

- Underlying difference of understanding the mental states of oneself or others.
- This social cognitive deficit is sometimes described as a defect in Theory of Mind, or mentalizing.
- Theory of Mind deficits
 - Struggle to understand social cues
 - Struggle to appreciate another person’s perspective in situations that might be immediately obvious to people without ASD

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Stalking Behavior

- Stalking is a good example of how a disability in social cognition can lead to problematic behavior.
 - The person with ASD might fail to recognize either the nonverbal cues or even clear statements that someone is not interested in his/her social or romantic overtures,
 - And pursue the individual to the point that authorities get involved.

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Stalking and ASD

Stokes and Newton write:

“Many of the difficulties that individuals with ASDs encounter result from their frequent, eager and sometimes socially inappropriate attempts to make contact with others.”

(2004)

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Because of ToM deficits:

- May not recognize that the person at the focus of their attention feels anger or fear
- May be more vulnerable to manipulation by peers
- Hinder insight into the way in which their behavior might appear to others.

Stalking and ASD

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Another Core Feature of ASD

Restricted, repetitive patterns of behavior, interests, or activities:

- “stereotyped or repetitive motor movements, use of objects, or speech”
 - Disruption may lead to altercations resulting in police involvement

Ex:

Motor stereotypies can appear threatening

Repetitive movements of the whole body can strike another person

(DSM-V, APA, 2013)

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Second Subdomain

- “Insistence on sameness, inflexible adherence to routines, or ritualized patterns of verbal and nonverbal behavior;”

Could create a problematic situation

Rigidities could lead to altercations requiring police involvement

(DSM-V, APA, 2013)

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Third Subdomain

“highly restricted, fixated interests that are abnormal in intensity or focus.”

The case of Norman...

Note: Behavior is rooted in fixated interests versus desire to steal.

(DSM-V, APA, 2013)

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Fourth Subdomain

“hyper- or hypo-reactivity to sensory input or unusual interests in sensory input or unusual interest in sensory aspects of the environment,”

Which can also be problematic.

The case of Wyatt...

(DSM-V, APA, 2013)

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Potential Legal Implications of ASD

A common theme that occurs in criminal cases that involve ASD is that the problematic behavior has an alternative root cause than the one that would normally motivate the response.

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“Counterfeit deviance”

The false assumption that the behavior is voluntary, subject to self-control, and serves some end, beyond a psychological one.

Therefore, courts must consider the skill deficit as the main contributing factor versus criminal intent

(Hingsberger, 1991)

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Taxonomy of Offenses

- From the research, five taxonomies/categories of offenses have emerged:
 - Crimes against persons
 - Property offenses
 - Status offenses
 - Drug law violations
 - Public order offenses

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Trends

- Because autistic persons often have deficits of executive function, least likely to engage in criminal acts that require planning, organizing and carrying out crimes, such as vandalism, robbery, or burglary
- In contrast, individuals are more likely to experience problem behaviors that occur due to spontaneous, unfamiliar, or unpredictable social interactions
- General lack of knowledge and understanding of consequences

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"Intercepts"



- o Community
- 1. Law Enforcement
- 2. Initial detention/Investigation
- 3. Courts
- 4. Prison/Jail/Confinement
- 5. Re-entry
- 6. Community connections

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0 – Community Intercept

- Predictors for CJS involvement
- Victimization

Implications:

1. Enhance available community services and supports with clear system navigation
2. Increase education on *preventing* justice system interactions
3. Increase public knowledge of ASD to prevent misunderstandings that lead to justice system involvement

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1 – Law Enforcement

- Prevalence of police interactions
- Autistic experiences with police
- Police training

Implications:

1. Improve and consistently implement police training
2. Develop stronger community series and supports to prevent offending
3. Provide non-police response to mental health crises
4. Create opportunities for ongoing collaboration between families and police
5. Prepare visible identification symbols for autistic individuals

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2 – Initial Detention & Investigation

- Interviewing autistic witnesses
- Initial detention

Implications:

1. Adapt questioning techniques when interviewing autistic witnesses
2. Consider using appropriate tools when interviewing autistic witnesses
3. Implement changes to custody processes to address sensory needs of autistic individuals

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3 – Courts

- Influence of ASD on jurors
- Influence of ASD on judges
- Personal experiences

Implications:

1. Increase ASD training and awareness for all legal professionals
2. Encourage disclosing an ASD diagnosis in court
3. Adapt and tailor court proceedings for autistic individuals

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4 – Prisons/Jails/Confinement

- Prevalence of autistic individuals
- Characteristics and experiences of confinement

Implications:

1. Promote access to mental health, disability services, and treatment options for detained individuals
2. Increase ASD training and awareness for all staff across all confinement settings
3. Institute processes to screen and diagnose individuals for neurodevelopmental disorders

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4 – Prisons/Jails/ Confinement

4. Enhance coordination of information and assessments across settings
5. Leverage developmental histories to prevent crime before it occurs to reduce future confinement
6. Adapt prison settings to the sensory needs of autistic individuals
7. Consider community options in place of incarceration

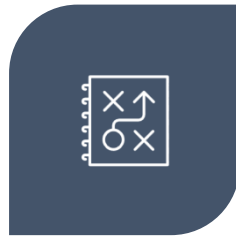
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5/6 – Re-Entry to Society & Community Corrections

- Treatment
 - Formal and informal supports
1. Expand availability of professional supports to prevent offenses
 2. For maximum benefit, design treatments around social rules and consequences
 3. Increase training for support staff and families

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Implications for Educators



PLAN, PLAN, PLAN

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Implications for Educators



PREVENTION



SKILL
DEVELOPMENT



TRAINING



COMMUNITY
PARTNERSHIPS



WRAPAROUND
SERVICES



FORMAL AND
INFORMAL
SUPPORT

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Prioritize Prevention

- Start with the end/next milestone in mind
- Parent training
- Individualized Education Program
- Address core features of ASD:
 - Social communication
 - Social interaction (across multiple contexts)
 - Verbal/nonverbal communication



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Skill Development

- Reference age-appropriate social norms
- Reference expected norms by setting
- Directly teach



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Training

- Teachers and paraprofessionals
- Parents
- Community
- Employers
- Key stakeholders



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Community Partnerships

- Youth programs
- Texas Workforce
- Churches
- Nonprofit organizations
- Mentors
- University training programs



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Wraparound Services

- MHMR
- Psychological Services
- Counseling
- Psychiatric/Medical
- I/Outpatient treatment
- CJS programs



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Formal and Informal Support

- Circle of Friends/Social groups
- Organized activities, clubs
- Development of interests and activities
- Volunteer experiences
- Paid employment
- Pre-employment training



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Thank you!

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