

Royal Commission into Violence, Abuse, Neglect and Exploitation of People with a Disability

Criminal Justice System Issues Paper

Submission by Autism Spectrum Australia (**Aspect**)

February 2020

1. Introduction

[Autism Spectrum Australia \(Aspect\)](#) welcomes the opportunity to make a submission in response to the Criminal Justice System Issues Paper issued by the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (**Issues Paper**). Our submission does not address a specific question in the Criminal Justice Issues Paper. We have provided comments that relate to a number of key issues discussed in the Issues Paper; and specifically Questions 1 to 4 and how these relate to autistic people's vulnerability in the criminal justice system and supports that may assist.

2. Background

Aspect is Australia's largest service provider for people on the autism spectrum. Our specialised, evidence informed schools program is one of the largest in the world, with additional services that include information and advice, diagnostic assessments, behaviour support, parent and family support and adult programs.

Aspect also has a dedicated research centre, [the Aspect Research Centre for Autism Practice \(ARCAP\)](#), that conducts research into autism practice and applied research nationally and in partnership with international collaborators. ARCAP has conducted research relating to investigating autistic people's experiences of interacting with police in Australia, which is discussed in more detail below.

3. Autism and the Criminal Justice system

Aspect is not aware of any official record-keeping practices measuring the frequency or nature of contacts between autistic people and the criminal justice system being undertaken by law enforcement agencies. However, findings from a number of international research studies indicate an increased rate of involvement between autistic people and the criminal justice system compared to the non-autistic population (Crane et al. 2016; Gardner, Campbell and Westdal, 2018; Rava et al. 2017; Salerno & Schuller, 2019; Tint et al. 2017).

The key contribution factors include:

- (a) Autistic children and adults are at a higher risk of being victims of physical, emotional and sexual abuse compared to non-autistic peers (Brown, Pena, & Rankin, 2017;

Brown-Lavoie, Viecelli & Weiss, 2014; Carter, 2009; Mandell et al. 2005; Sullivan & Knutson, 2000; Weiss & Fardella, 2018).

- (b) The core indicators of autism i.e. difficulties with social communication and social interaction, preference for sameness, fixated interests and hyper- and hypo-reactivity to sensory stimulus (American Psychiatric Association 2013) likely contribute to the high rates of involvement with the criminal justice system.
- (c) Although there is no compelling evidence that autistic people are more likely to engage in offending behaviour than non-autistic individuals, there is some evidence that autism-related characteristics may be a contributing factor for the minority who do offend. Social naivety and difficulties with social understanding and perspective may result in inappropriate or aggressive behaviour, or increase the likelihood of being manipulated by others to engage in criminal behaviours. Research shows that disruption of routine, attempts to interrupt engagement in circumscribed interests or exposure to aversive sensory experiences may lead to aggressive or unpredictable behaviour that results in police involvement (Freckelton, 2013; King & Murphy, 2014).
- (d) Once involved in the criminal justice system, autistic people may also be more vulnerable. For example, autistic people will likely face difficulties in interview or interrogation situations due to anxiety, tendency towards compliance and difficulties with information processing, in particular with non-literal language such as sarcasm, humour and idioms. Anxiety arising from changes in routine, unfamiliar social situations or sensory overload may increase stress for autistic individuals in these situations. Communication and social difficulties can also be misinterpreted by police, court personnel or prison staff as evidence of belligerence, deceptive behaviour or lack of remorse, and if an autistic person serves a custodial sentence, they are at a higher risk of exploitation, anxiety, social isolation and bullying than non-autistic inmates (King & Murphy, 2014).

There is, therefore, considerable evidence in the research literature that autistic people are at higher risk of involvement with the criminal justice system and face heightened vulnerability once they enter that system.

4. Our experience

A recent study conducted by ARCAP (currently under review for publication) investigated autistic people's experiences of interacting with police in Australia. The findings indicated considerable dissatisfaction with the way police handled many of the situations, in particular frequent misunderstandings arising between police and autistic people due to social and communication differences. Many of the respondents reported being traumatised by their interactions with police and perceived that police had little knowledge of autism or how to adjust their communication in order to engage with people with disabilities. Our research indicates that this lack of knowledge of autism or how to communicate with people with disabilities are just some of the barriers that prevents people with autism from getting protection or justice from the police.

There is a growing awareness amongst the autism community and those that support them that the interactions between autistic people and the criminal justice system are an area that requires increased attention. To that end, the International Society for Autism Research

recently announced funding for the development of a policy brief in this area. A representative from Aspect will be participating in this year-long international summit of researchers and key stakeholders being led by Drexel University, USA. The aim of the policy brief is to synthesize all existing knowledge in this area and to use this information to develop protocols and resources to guide practice and to identify gaps for future research. The policy brief is due to be completed in September 2020.

5. Addressing barriers in accessing the criminal justice system

From our research and experience of working with people on the autism spectrum, it is clear that as a first step autism training should be provided to all frontline police officers and other staff such as public prosecution services and prison officers. A number of jurisdictions in the US, UK and Canada have introduced, and in some cases, mandated autism awareness training for police but very limited steps have been taken here in Australia.

Aspect recently developed a 30 minute online training module for police (funded by the Federal government via an Information, Linkages and Capacity Building grant) and this has so far been made available to ACT police, NSW police and Victorian police for trialling, with the initial feedback from all participating States suggesting that the module is extremely helpful for police working in communities and on the frontline.

Aspect strongly believes that it is important that autistic people receive the same protections and are as safe as others when they are out in the community or involved with the criminal justice system.

References

- American Psychiatric Association. (2013). *Diagnostic and statistical manual of mental disorders: DSM-5* (5th ed.). Washington, D.C: American Psychiatric Publishing.
- Brown-Lavoie, S. M., Vecili, M. A., & Weiss, J. A. (2014). Sexual knowledge and victimization in adults with autism spectrum disorders. *Journal of autism and developmental disorders*, 44(9), 2185-2196. doi:10.1007/s10803-014-2093-y
- Brown, K. R., Peña, E. V., & Rankin, S. (2017). Unwanted Sexual Contact: Students With Autism and Other Disabilities at Greater Risk. *Journal of College Student Development*, 58(5), 771-776. doi:10.1353/csd.2017.0059
- Carter, S. (2009). Bullying of Students with Asperger Syndrome. *Issues in Comprehensive Pediatric Nursing*, 32(3), 145-154. doi:10.1080/01460860903062782
- Crane, L., Maras, K. L., Hawken, T., Mulcahy, S., & Memon, A. (2016). Experiences of autism spectrum disorder and policing in England and wales: Surveying police and the autism community. *Journal of Autism and Developmental Disorders*, 46(6), 2028-2041. doi:10.1007/s10803-016-2729-1
- Freckelton, Ian. (2013). Autism Spectrum Disorder: Forensic Issues and Challenges for Mental Health Professionals and Courts. *Journal of Applied Research in Intellectual Disabilities*, 26(5), 420. <https://doi.org/10.1111/jar.1203>

Gardner, L., Campbell, J., & Westdal, J. (2019). Brief Report: Descriptive Analysis of Law Enforcement Officers' Experiences with and Knowledge of Autism. *Journal of Autism and Developmental Disorders*, 49(3), 1278-1283.

King, C., & Murphy, G. (2014). A Systematic Review of People with Autism Spectrum Disorder and the Criminal Justice System. *Journal of Autism and Developmental Disorders*, 44(11), 2717–2733. doi.org/10.1007/s10803-014-2046-5

Mandell, D. S., Walrath, C. M., Manteuffel, B., Sgro, G., & Pinto-Martin, J. A. (2005). The prevalence and correlates of abuse among children with autism served in comprehensive community-based mental health settings. *Child Abuse & Neglect*, 29(12), 1359-1372. doi:10.1016/j.chiabu.2005.06.006

Rava, J., Shattuck, P., Rast, J., & Roux, A. (2017). The prevalence and correlates of involvement in the criminal justice system among youth on the autism spectrum. *Journal of Autism and Developmental Disorders*, 47(2), 340-346. doi:10.1007/s10803-016-2958-3

Salerno, A., & Schuller, R. (2019) A mixed-methods study of police experiences of adults with autism spectrum disorder in Canada. *International Journal of Law and Psychiatry*, 64. doi.org/10.1016/j.ijlp.2019.01.002

Sasson, N., Morrison, J., Pinkham, K., Faso, E., & Chmielewski, A. (2018). Brief Report: Adults with Autism are Less Accurate at Predicting How Their Personality Traits are Evaluated by Unfamiliar Observers. *Journal of Autism and Developmental Disorders*, 48(6), 2243-2248. doi: 10.1007/s10803-018-3487

Tint, A., Palucka, A. M., Bradley, E., Weiss, J. A., & Lunsy, Y. (2017). Correlates of police involvement among adolescents and adults with autism spectrum disorder. *Journal of Autism and Developmental Disorders*, 47(9), 2639-2647. doi:10.1007/s10803-017-3182-5

Weiss, J. A., & Fardella, M. A. (2018). Victimization and perpetration experiences of adults with autism. *Frontiers in Psychiatry*, 9, 203. doi:10.3389/fpsy.2018.00203