

Autistic defendants are being failed by the criminal justice system

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The criminal justice system (CJS) is failing autistic people, argue researchers at the Autism Research Centre, University of Cambridge, after a survey of lawyers found that an overwhelming majority of their

clients were not provided with adequate support or adjustments.

This comes on the back of an Equality and Human Rights Commission report in June 2020 that warned that the CJS is failing those with learning disabilities and autistic people. However, there is almost no research investigating how autistic defendants are being treated within the CJS.

The team set out to fill this gap by conducting a survey of 93 defence lawyers about autistic people they have represented in the last five years to find out about their defendants' experiences of navigating the CJS. In their study, published today in *Autism Research*, the researchers found the CJS is failing autistic people.

The study found that only half of autistic people (52%) were considered by the [police](#) to be vulnerable adults, even though the law recognises all autistic people as vulnerable.

Over a third (35%) of autistic defendants were not given an 'appropriate adult' during police investigations, even though their diagnosis was known to police, and despite all autistic people being entitled under the law to have an appropriate adult present when being interviewed by the police. A further 18% did not have an 'appropriate adult' present because their diagnosis was not known to the police.

Appropriate adults act to safeguard the interests and rights of vulnerable defendants by ensuring that they are treated in a just manner and are able to participate effectively during an investigation.

Only a quarter (25%) of autistic people were given 'reasonable adjustments', with 38% not given any even though lawyers stated that this would have been beneficial. This is despite all autistic people being entitled to reasonable adjustments under the law. A further 33% did not

receive any adjustments because their autism diagnosis was unknown at the time. Of the autistic people whose case went to trial, more than one in five (22%) were not given any reasonable adjustments even though their lawyers stated that this would have been helpful.

Reasonable adjustments, such as using visual aids to assist with communication and allowing extra time to process information, can be made by the police to assist the detainee.

Dr. Rachel Slavny-Cross, who led the study, said: "Our research shows quite clearly that autistic adults are not receiving fair treatment within the [criminal justice system](#). Without reasonable adjustments or support, this could place them at a significant disadvantage."

In just under half of the cases that included a trial by jury (47%), the jury was not informed that the [defendant](#) was autistic. 59% of prosecution barristers and 46% of judges or magistrates said or did something during the trial that made them concerned that they did not have an adequate understanding of autism.

Dr. Carrie Allison, a member of the research team, said: "It's vital that jurors are provided with information about a defendant's autism and its implications, otherwise they are likely to misinterpret atypical behaviour exhibited by the defendant in court. Similarly, judges may fail to take into consideration mitigating factors that might otherwise influence sentencing."

The study found that lawyers were more likely to be concerned that their autistic clients would engage in self-harm behaviours, compared with their non-autistic clients, and were more likely to report that their autistic clients experienced 'meltdowns' as a result of their involvement in the CJS.

Dr. Sarah Griffiths, another member of the research team, said: "Autistic adults are particularly vulnerable to [mental health problems](#), such as stress and heightened anxiety, with many autistic people experiencing meltdown and shutdown as a result. This is likely to have shaped their interactions with the criminal justice system and their ability to cope with the stress of being subject to criminal proceedings."

The study also found that those working within the CJS may be unaware that an individual is autistic, or of the implications of an autism diagnosis. They found that many autistic people do not disclose their diagnosis at the point of police contact or are themselves unaware they are autistic. However, as the study shows, even autistic defendants who disclose their diagnosis are failing to receive reasonable adjustments.

However, a positive finding was that, in cases where their client was found to have committed a crime, 60% of judges saw the defendant's autism as a mitigating factor, and in these cases the majority of [autistic people](#) were given a suspended or reduced sentence.

Professor Sir Simon Baron-Cohen, Director of the Autism Research Centre at Cambridge and a member of the research team, added: "There's an urgent need across the criminal justice system for increased awareness about autism. The police, lawyers, judges and jurors should be given mandatory training to be aware of how [autism](#) affects an individual's behaviour, so that autistic defendants are treated fairly within the criminal justice system."

More information: Rachel Slavny-Cross et al, Autism and the criminal justice system: An analysis of 93 cases, *Autism Research* (2022). [DOI: 10.1002/aur.2690](https://doi.org/10.1002/aur.2690)

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