



Children's Hospital
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Autism Spectrum Disorders: Issues within the Justice System

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Presentation Objectives

- Basic diagnostic criteria of ASDs in youth
- Aspects of ASD that may be risk factors for criminal behavior: core deficits, setting or situational factors
- Aspects of ASD that increase vulnerability to behave inappropriate &/or place at risk of victimization
- Special emphasis on risks/vulnerabilities regarding sexual offenses

Core ASD “Negative Symptoms” = *Skill Deficits in...*

- Social reciprocity, social relatedness, ability to understand social rules
- Perspective-taking, empathy
- Social communication (verbal/nonverbal)
- “Theory of Mind” (ToM)

** Impairment/behaviors must significantly impact the ability to function successfully in day to day academic, educational, vocational, social life.*

Core ASD “Positive Symptoms” = *Skill Deficits in...*

- Perseverative actions, interests, ideas, behaviors and/or beliefs; often narrow &/or atypical for culture or situation
- Repetitive behaviors
- Rigid routines, habits, behaviors, beliefs

** Impairment/behaviors must significantly impact the ability to function successfully in day to day academic, educational, vocational, social life.*

Autism Spectrum Disorder (ASD)

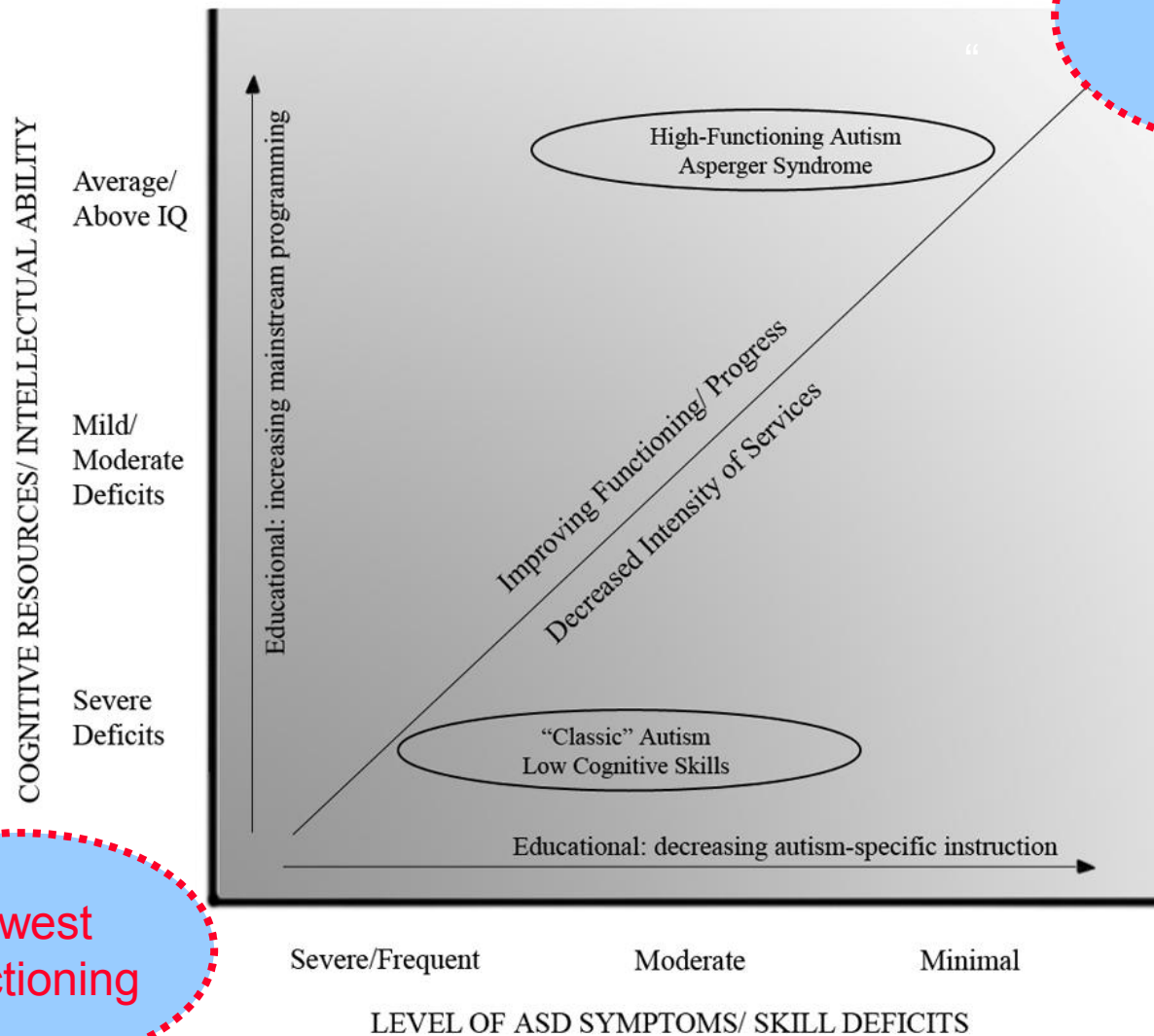
- DSM-IV: Pervasive Developmental Disorders
 - Autism (including high functioning autism/HFA)
 - Asperger's Disorder/Asperger Syndrome (AS)
 - PDD- Not Otherwise Specified (PDD-NOS)
- DSM-V: Autism Spectrum Disorder (ASD)
 - Varying levels of functioning
 - Varying levels of impairment
- Justice System: AS, HFA, PDD-NOS, broadly viewed as higher functioning "ASD" (rarely full autistic disorder)

Examples of “Fixations”

- “Routes”: bus, train, tractors, airline, maps
- Mechanical: water/sewage systems, vacuums, port-a-potties, sprinkler systems,
- Facts: sports figures/teams, presidents, animals
- High-Risk: explosives, firearms, serial killers, death row inmates, war (Civil War, Vietnam War, war/combat strategy), military

Overall ASD “Severity”: ASD Symptoms & Cognitive Resources

FIGURE 1



Highest
Functioning

Lowest
Functioning

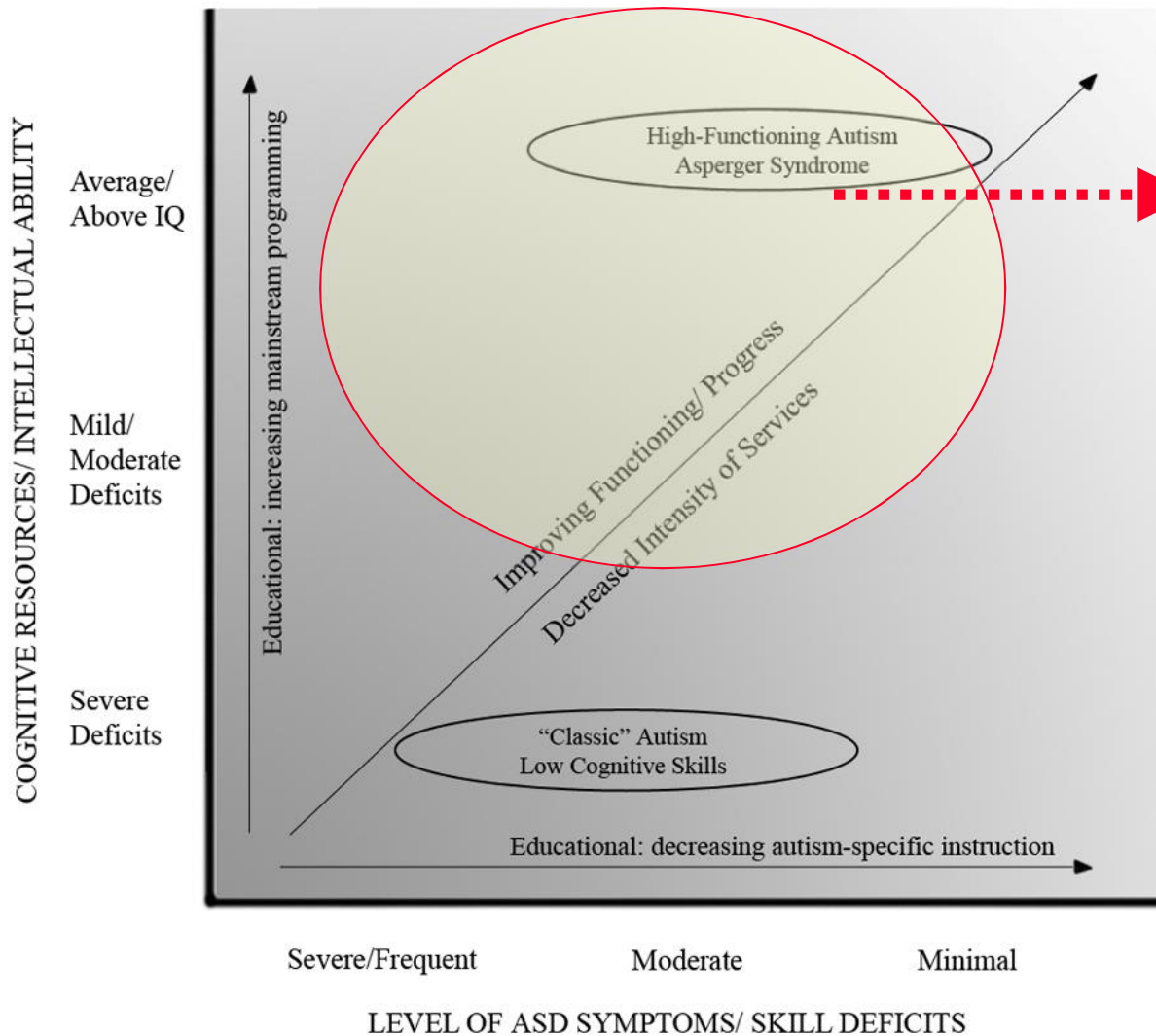
*Jensen VK & S Cain-
Spannagel, 2011, Jnl
Cont Psychotherapy*

ASD and Criminal Behavior

- Low rates criminal behx for individuals with autistic disorder/autism (Mouridsen et al 1996)
- HFA/AS criminal behx rates similar to base rates (Mouridsen et al 1996)
- Relatively high incidence (1.5-4.8%) HFA/AS among inmates in max prisons (Landon 2009)
- Adults with HFA/AS > incidence of arson specifically (Mouridsen et al 1996)
- Most with ASD and co-morbid disorders NOT diagnosed prior to incarceration (Hare et al, 2000)

Risk for Legal Involvement by Severity of Symptoms and Cognitive Assets

FIGURE 1



Cognitive: ability to plan, carry out behaviors but may be concrete, misses subtle “rules”

ToM: weak empathy or impact on others, misses “big picture”

Obsessions: problem behx often linked to obtaining, continuing fixations/obsessions

Jensen VK & S Cain-Spannagel, 2011, Jrnl Cont Psychotherapy

ASD Offenders: Predisposing Factors

- Impaired Theory of Mind (ToM), lack of empathy, failure to understand unwritten social norms/expectations; poor estimation of the experience of another/impact of own behavior
- Obsessive/perseverative thoughts, interests, behaviors take priority (e.g., over consequences)
- Difficulty with abstract reasoning, imagining or considering future impact of behavior

ASD and Police Involvement

- Minimal understanding of potential outcome of saying too much
- Overly truthful/compliant
 - “Just tell me you did it and this will be over...”
 - “Yes, I was speeding & not watching the road”
 - “Do you take drugs?”
- Lack of appropriate response to authority
 - Viewed as “cocky”, challenging authority
 - Lack of appearance of remorse/distress

ASD in Justice System

- Unknown incidence/prevalence; anecdotal information suggests increasing rates
- Lack of awareness of diagnosis (within the “system” & among professionals/parents)
- Concerns regarding exploitation/bullying within detention/correctional settings
- Ability to understand fully and informatively participate in their defense
- Ability to engage in/benefit from treatment in correctional settings

Caveats

- Disclosure: treating expert and expert witness both for defense and prosecution
- Case examples
 - Actual cases with some details altered to protect privacy (especially for minors)
 - Cases used for illustrative purposes only; not to be presented elsewhere/for any other purpose
- Handouts will not include case data

Tim S: Age 17

- Tim requested appointment (“bad thoughts”); disclosed obsessive sexual/violent thoughts/fantasies (nonconsensual sexual activity in light of negative social experiences)
- Depressed; frustrated by lack of girlfriend; sexual fantasies regarding younger girl; no suicidal/homicidal ideation
- Irrational/illogical thinking, misinterpretation of other’s behavior, ? delusional thinking
- Talked with mother; rec tx and med consult

Tim S: Legal Involvement

- 1 week later incident at “mini-mart”
- Logic: wanted girlfriend which required money which required job which could not find; thus...
- Charges: armed robbery, possession of weapon; threat to charge as adult
- Juvenile detention center (“no exceptions”)
 - Compliant, good interaction w/staff
 - Tim found DH safe/predictable

Tim S: Recommendation & Disposition

- Recommendation
 - Remain in juvenile given ASD issues
 - Focus on treatment rather than correctional facility
- Disposition
 - Continue in juvenile system
 - Initiated “cluster”: court, mental health, DD, school, treating psychologist, parent to combine funding
 - Residential placement in autism treatment program
- Significant factors in judge decision
 - Tim’s report that he “made friends for the 1st time”
 - Learned much from new friends “If a girl says no....”

Sexual Offenses: Predisposing Factors

- Similar to general ASD offenders:
 - Deficient empathy, impaired Theory of Mind (ToM), difficulty considering future impact of behavior
 - Obsessive/perseverative thoughts, interests, behaviors; restricted routines, etc.
 - Concrete reasoning/weak social understanding
- Additional Considerations:
 - Maladaptive sexual behaviors
 - *Possible* role of co-occurring paraphilias

Special Issues Regarding Pornography and ADS

- Lack of experience/success with sexual exploration in personal experience
- On-line “relationships” often more successful
- Pornography as rapidly developed fixation
- Porn message: relationships = sex acts
- Concrete thinking:
 - Looking for someone of the “same age”
 - If something is on internet, must be “ok”
 - If someone is on video, must be consensual

Child Porn & Social/Emotional Development in AS/HFA

- Literature suggests that up to age 19 these youth are at ~2/3 of chronological age (Hendrick et al 2005; US v Kameron 2007)
- Interests socially may be closer to social-emotional age rather than physical age
- Difficulty differentiating age of others
- Inability to see “viewing” as abusive (if on internet must be real and voluntary)

Child Porn: Counterfeit Deviance

- Topographically appears like paraphilia
- Without intensity, recurrence, social intent
- Differential diagnosis for paraphilia in Diagnostic Manual for Intellectual Disabilities
- Unlikely to recur/re-offend once understands the “rules” of behavior
- More likely to be “indirect” offender

Bob: Background

- 19 yo male; l/w adoptive parents & brother; bio fam hx of high intelligence, possible mental health problems
- Educ Hx: HS drop out (“rules”); GED; gifted musician since young (no involvement now)
- Psych Hx: intermittent since 5; adjustment to divorce, ADHD, ODD, Bipolar, depression, anxiety, social anxiety; Asperger’s raised/no formal dx
- Work: success at fast food x 2 years (until corrected new management); another job immediately

Bob: Arrest/Charges & Preliminary Expert Request

- Age 18: search warrant; 18 ½ charged with possession/distribution child porn; guilty plea
- IME: new dx of ASD, sexual abuse, poor coping (avoidance & escape/fantasy), impaired social fx; extremely gifted
- Preliminary request to extend sentencing (for further evaluation/treatment); granted 1 month
- Sexuality expert: no pedophilia, not at risk of harming children/others

Bob: Risks for Internet Porn

- No successful peer relationships other than in “structured” roles (e.g., work)
- Success in fantasy/internet role play world within “his” age range (15-20 years)
- Bisexual; search for “same age” sexual contact
- ASD: missed cues/“used” (yet cont involvement); rapid fixation with sex without awkwardness
- Willing to engage in “forbidden” acts to seek approval/connection

Bob: Sentencing

- Expert testimony: early hx sexual abuse; lags in social/emotional maturity; unlikely future criminal behavior; risk of exploitation or inadvertent confrontational behx in prison
- Benefit/support from treatment team; identified Very Superior IQ;
- “Recommended” sentence: 10-15 years; Mandatory Minimum: 5 years
- Judge’s sentence: 5 years

Child Porn: What We & They Need to Know

- In US, viewing child pornography (under 16 or under 18, by state) is illegal
- “Distributing” child porn is felony offense
- Accessing/downloading from “shared” or “peer to peer” networks = distribution
- Federal agents/agencies watch for offenders
- Legislation has increased prison time for offenders
- At times limited to no judicial discretion

ASD & Justice System: Take Home

- Overall risk of criminal behx no greater but behaviors specific to dx often linked to specific action:
 - Obtaining/continuing obsessions/fixations
 - Lack of empathy/understanding of impact on others
- Higher risk of victimization/exploitation:
- Special Issues in sex offenses/porn
 - Likely passive offender
 - Mandatory sentencing



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