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Title	“Cardboard Gangsters”; “In Crowd” and “No Control” : a case study of Autism Spectrum Disorder in the prison environment
Authors	Allely, CS and Wood, A
Publication title	Journal of Intellectual Disabilities and Offending Behaviour
Publisher	Emerald
Type	Article
USIR URL	This version is available at: http://usir.salford.ac.uk/id/eprint/63260/
Published Date	2022

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“Cardboard Gangsters”; “In Crowd” and “No Control”: A Case Study of Autism Spectrum Disorder in the Prison Environment

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Abstract

Purpose: Prisoners with autism spectrum disorder (ASD) need to be identified in order that they are given the necessary and appropriate support and safeguards. It is increasingly recognised that, for individuals with ASD, prison can be more challenging. This can be due to ASD traits which can make problems occur in everyday life. Some of these ASD traits include: obsessions, compulsions, difficulties in communicating with others. There is increasing recognition that adults with ASD who are in prison are more vulnerable to bullying, social isolation, sexual victimisation; exploitation confrontations with other prisoners. Given this, more research is warranted in this area highlighting the specific needs and challenges of individuals with ASD in the prison.

Methodology: This paper is a case study of Mr C.T., a British Citizen, who is currently serving a life sentence (discretionary). Mr C.T., has spent more than 10 years in prison. At the time of completing the questionnaire for the present study, Mr C.T. was 51 years of age. Pled guilty to charges of (1) lewd, indecent and libidinous practices and behaviour; (2) making an indecent photograph contrary to s52(1)(a) of the Civic Government (Scotland) Act 1982; and (3) possession of indecent photographs contrary to s52(A)(1) of the Civic Government (Scotland) Act 1982. Mr C.T. was convicted of Lewd, Indecent and Libidinous Practices and Behaviour and 2 x Civic Government (Scotland) Act, Section 52 (1) (a) and was sentenced to Life Imprisonment with a punishment part of 6 years.

Findings: The case study discussed in this paper clearly raises a number of issues and concerns that urgently need attention in our criminal justice systems.

Originality: There is relatively little research exploring the experiences and challenges faced by individuals with ASD. This paper will add to the existing body of research in this limited field.

Keywords: Autism spectrum disorder; Asperger's syndrome; prison; prison officers; ASD; criminal justice system; imprisonment.

Autism spectrum disorder

Autism spectrum disorders (ASD) are early onset, pervasive, and lifelong neurodevelopmental disorders. They are characterised by impairments in social communication and repetitive, restricted behavior patterns and atypical response to sensory stimuli (DSM-V, American Psychiatric Association, APA, 2013). In their study investigating the prevalence of ASD in adults, Brugha and colleagues (2011) estimated of ASD to be 1% in the general population. In the general population, the male–female ratio for ASD prevalence is between 4 and 5:1 (Fombonne, 2009). The fifth edition of The Diagnostic Statistical Manual (DSM-V, American Psychiatric Association, APA, 2013) characterises two core domains of impairment in ASD: (1) “persistent deficits in social communication and social interaction” and (2) “restricted, repetitive patterns of behavior, interests, or activities” (APA, 2013).

Prevalence of ASD in the Criminal Justice System

As highlighted by Loureiro and colleagues (2018), there have been studies which have indicated that there is an over-representation of individuals with ASD across various forensic settings (including in the criminal justice system) (e.g., Scragg & Shah, 1994; Bates, 2016; Fazio, Pietz, & Denney, 2012; Ashworth, 2016). The exact prevalence of ASD in prisons is unknown (Robinson et al., 2012). There are a number of explanations for this. For instance, the substantial heterogeneity which exists across studies (King & Murphy, 2014). Additionally, as previously pointed out by Chaplin and McCarthy (2014), in the United Kingdom there is no routine screening for ASD as part of the prison screening process. Another explanation is the lack of suitable assessment tools for individuals with ASD. Across all stages of the criminal justice system the lack of screening presents as a significant problem (Cooper & Allely, 2017). It is also important to consider that there will be significant variations in the rates of ASD found in prison depending on its type. For instance, whether the population under investigation is remanded or sentenced, high-secure, medium-secure, low-secure or derived from mainstream prisons (Underwood et al., 2013). In their study, Underwood and colleagues (2016) found, in a group of male prisoners in an adult male prison in London in the United Kingdom (UK) high levels of unrecognised traits of ASD. Of the 186 adult males they approached on the prison wings, 10% were found to screen positive for ASD and 2% met the diagnostic criteria for ASD.

It has been suggested that individuals with ASD may be caught and convicted more frequently for their offending behaviour which may be a potentially explanation for the higher prevalence of individuals in the criminal justice system compared to the prevalence in community samples (Woodbury-Smith & Dein 2014; Loureiro, Machado, Silva, Veigas, Ramalheira, & Cerejeira, 2018).

ASD and Sexual Offending Behaviour

There are a growing number of studies which suggest that when compared to the general populations, individuals with ASDs are not more likely to engage in offending behaviour (e.g., Ghaziuddin, Tsai, & Ghaziuddin, 1991; Hippler, Viding, Klicpera, & Happé, 2010). In fact, there have been some studies which have found that individuals with ASD may actually be *less* likely to engage in offending behaviour when compared to the general population (Mouridsen, Rich, Isager, & Nedergaard, 2008; Woodbury-Smith, Clare, Holland, & Kearns, 2006). Moreover, studies indicate that individuals with ASD are far more likely to be the victims of offending behaviour than the perpetrator (e.g., Modell & Mak, 2008). Weiss and Fardella (2018) found that in adulthood, compared to neurotypicals, individuals with ASD reported higher levels of teasing and emotional bullying as well as sexual victimization. Individuals with ASD were also more likely to be robbed, physically assaulted, teased and ridiculed and sexually harassed when compared to neurotypicals. Lastly, it has been suggested by Lindsay and colleagues (2014) that ASD may, at least in some cases, act as a protective factor against offending behaviour. Specifically, they argue that individuals with ASD exhibit an ‘adherence to social rules’ which is completely inflexible which prevents them from engaging in offending behaviour in more simplistic moral contexts (see also Grant et al., 2018).

Studies indicate that individuals with ASD are not at increased risk of offending (e.g., Mouridsen et al., 2008). However, there has been research which has identified the ways in which certain ASD symptomology can contribute to different types of offending behaviour (e.g., Baron-Cohen, 1988; Everall & Lecouteur, 1990; Chesterman & Rutter, 1993; Barry-Walsh & Mullen, 2004; Schwartz-Watts, 2005; Mouridsen et al., 2008; Ledingham & Mills, 2015; Allely & Creaby-Attwood, 2016; Lazaratou, Giannopoulou, Anomitri, & Douzenis, 2016). Therefore, there are a number of individuals with ASD whose offending behaviour, rather than being due to any malice, was driven instead by symptoms which are inherent to ASD (see Mogavero, 2016). Allely and Creaby-Attwood (2016) found a small number of studies which identified some of the key ASD symptomology that can contribute to sexual offending behaviour including: “obsession or preoccupation with certain things (e.g., women’s underwear), failure to conform to social conventions, impaired ToM [Theory of Mind], impaired ability to decode language and social gestures and a limited repertoire of appropriate behaviour” (Allely & Creaby-Attwood, 2016, pp. 47, see also Murrie et al., 2002). ToM refers to the ability to explain and predict the behaviour of other people by identifying mental states (e.g., others’ intentions, beliefs, desires, or emotions) (Gallagher & Frith, 2003). Other core features of ASD which may contribute to sexual offending include an impaired ability to appropriately interpret the negative facial reactions of their victims (e.g., of fear and distress) in response to their sexual advances (Freckelton & List, 2009).

Innate vulnerabilities in some individuals with ASD charged with an Indecent Images of Children (IIOC) related offence

A number of innate vulnerabilities have been identified in many individuals with ASD who are charged with an Indecent Images of Children (IIOC) related offence (Allely & Dubin, 2018; Allely, Kennedy, & Warren, 2019). The internet may be used by individuals with ASD for the purposes of sexual education or to satisfy their sexual needs due to a lack of sexual outlets with peers/friends (e.g., Attwood et al., 2014). Many individuals with ASD have average or above average intelligence while their social maturity can be that of someone who is much younger. Therefore, they may be more interested and comfortable in making friends with individuals who are younger than they are chronologically but who are, socially and emotionally, at a similar level as them (Cutler, 2013). They may also be not aware that their actions were a criminal offense which may be due to their impaired ability to recognise the facial expressions in the images or videos of the children which is consistent with the literature (e.g., Uljarevic & Hamilton, 2013). Some individuals with ASD may view IIOC inadvertently as a result of their impaired ability to correctly guess the age of the individuals in the images or videos. This is further complicated by the fact that often the boundaries or distinction between an adult and a child is blurry (Mahoney, 2009; Mesibov & Sreckovic, 2017).

The desire for this material can end up being particularly excessive and compulsive in some individuals with ASD, as with many things that are of interest to them (Mesibov & Sreckovic, 2017). For an individual with ASD, the obsessive collecting and categorisation of the material can be appealing. It is not necessarily evidence that they are more likely to act on their sexual interests. Currently used risk assessment do not consider this ritualistic component of ASD. It is considered that the more images you have the more ‘risky’ you are believed to be against minors (Mahoney, 2009). A complete lack of awareness of the broader issues regarding IIOC materials (such as, where and how they got those files or images, who else might be able to access them and what the consequences are for the minors in the images – recognition that the minor in the material is an unwilling participant, a victim) can be found in some individuals with ASD (Mesibov & Sreckovic, 2017). They may also have a literal view of the world. This would make them not consider the possibility that something that is so freely available on the internet would be illegal (Mesibov & Sreckovic, 2017). There has been no empirical research which has suggested that extreme sexual content is predictive of dangerousness (Osborn, Elliott, Middleton, & Beech, 2010) nor is it always indicative of deviant sexuality. Rather it can more accurately be described as being “counterfeit deviance” (or naïve curiosity) in some individuals with ASD (Hingsburger, Griffiths, & Quinsey, 1991; Mahoney, 2009).

Present Case Study

Allely (2015a, 2015b) and Robertson and McGillivray (2015) have previously highlighted that there has been a significant amount of research which has investigated offending behaviour and ASD. However, there has been relatively little research investigating the experience and difficulties which are faced by individuals with ASD in the prison environment (Haskins & Silva, 2006; Lewis et al., 2015). In the present case study we have chosen not to use the term ‘child pornography’. Instead, we use the legal terminology of ‘Indecent Images of Children (IIOC)’. However, in the literature the term child pornography is most often used in relation to ASD. The reason why the term child pornography is not favoured by some is that it fails to capture that the child is a victim and not a willing participant.

Case Study

The case study in this paper is of Mr C.T., a British Citizen, who is currently serving a life sentence (discretionary). Mr C.T., has spent more than 10 years in prison. At the time of completing the questionnaire for the present study, Mr C.T. was 51 years of age. Pled guilty to charges of (1) lewd, indecent and libidinous practices and behaviour; (2) making an indecent photograph contrary to s52(1)(a) of the Civic Government (Scotland) Act 1982; and (3) possession of indecent photographs contrary to s52(A)(1) of the Civic Government (Scotland) Act 1982. Mr C.T. was convicted of Lewd, Indecent and Libidinous Practices and Behaviour and 2 x Civic Government (Scotland) Act, Section 52 (1) (a) and was sentenced to Life Imprisonment with a punishment part of 6 years. The victim was a girl aged between seven and eight years old at the time of the offences and was known to Mr C.T. Mr C.T. was 37 years old at the time of the offending. As mentioned above, the Civic Government charges relate to Mr C.T.’s having indecent photographs or pseudo-photographs of children in his possession. This also included the same victim when she was eight years old. Mr C.T. pled guilty to these charges although he stated that he had not done many of the behaviours they included but had wanted to prevent his victim being put through the trauma of trial. He said that he had not been in possession of IIOC. [In more recent communication in 2022, Mr C.T. has stated that he admitted taking photos his victim “*but emphatically denied the images that were recovered from a zip disk that was brand new and still sealed in its security cellophane wrapping when it was seized by police*” also he states that “*he did not find any pornographic images arousing regardless of their nature*”]. Given the charges (such as the taking indecent photos of a minor which Mr C.T.), exploring how certain features of ASD may provide the context of vulnerability to engaging in indecent images of children will be covered in this paper].

In prison, Mr C.T. has been adjudicated once. He has never spent time in segregation or been restrained. He also has no history of self-harm although he has attempted suicide but not within the prison environment. He did not use drug or alcohol prior to coming to prison. He also does not receive visits from friends or family members. On the Child Empathy Test (CET), Mr C.T.’s responses did not show any indications of significant ‘deviance’ or ‘fake sensitivity’ responses. On the Explicit and Implicit Sexual Interest Profile (EISIP), the key finding is that there is consistency between Mr C.T.’s

primary sexual preference for adult females and the two objective measures, which indicate the same. This is not therefore a primary paedophilic profile. Ethical approval for this case study was granted by the Scottish Prison Service (SPS). Ethical approval was also granted by the ethics committee at the University of Salford. The following documents were consulted for this case study:

- Psychological Report
- Supplementary Psychological Report
- Second Supplementary Psychological Report
- Two applications for Civil Legal Aid
- Two Scottish Prison Service (SPS) Governors and Managers Action Reports
- One Individual intervention based on Moving Forwards: Making Changes. Post Programme Report, SPS
- Four corresponding email responses to letter sent by Mr C.T. from SPS Headquarters.
- Two responses Freedom of Information (FoI) requests made by Mr C.T. One from the Risk Management Authority (RMA) and one from the SPS.
- One Equality Impact Assessment (Full Assessment Form). Scottish Criminal Cases Review Commission.
- One letter from the Scottish Government Legal Directorate Litigation Division. Scottish Government.
- Two of Mr C.T.'s Applications to the Scottish Criminal Cases Review Commission (one 38 pages in total and the other eight pages in total).
- Two responses from the Scottish Criminal Cases Review Commission.
- Letter from Mr C.T.'s Solicitor regarding legal aid funding.
- Five relevant media articles relating to autism in the criminal justice system.
- One correspondence to Mr C.T. from the deputy governor of HMP [redacted].
- An email and letter from Mr C.T.'s response to the supplementary psychology report (26 pages in total).
- One legal letter addressed to Mr C.T.
- Email containing the minutes to a Special DDA Case Conference (pertaining to Mr C.T. case).
- Personal corresponding letter addressed to the authors from Mr C.T. Electronic and not handwritten (27 pages in total).
- Fourteen miscellaneous but relevant letters or emails (for example, Mr C.T.'s request for psychological reports, email correspondence from the prison lawyer to Mr C.T., email correspondence from the Director of Healthcare, etc).
- Eleven personal letters to the authors from Mr C.T. (over the course of at least three years).

- Mr C.T.’s completed study questionnaire sent by the authors (21 pages in total).
- Mr C.T.’s completed follow-up questionnaire sent by the authors (electronic not handwritten, 35 pages in total).

Identification of ASD

Mr C.T. was diagnosed when he was 43 years of age. In one of Mr C.T.’s psychological reports it stated that: ‘adept and intelligent use of expressive language would not allow an unsuspecting observer to consider the presence of some of these more subtle qualities in his neurocognitive functioning. We believe this has been a significant stumbling block in more general recognition of the fact that [Mr C.T.] has an underlying disability, namely, Asperger’s Syndrome’.

Experience in the Criminal Justice System (CJS)

For some individuals with ASD, it has been stressed that the processes of arrest, investigation, trial and imprisonment are particularly difficult (Helterschou, Steindal, Nøttestad, & Howlin, 2018). Mr C.T. confirms this as he describes his experience of the criminal justice system as being stressful: “*My experience of the CJS generally has been stressful*”. In the section below, Mr C.T.’s experience of prison environment is explored.

Experience in Prison

It is increasingly recognised that, for individuals with ASD, prison can be more challenging. This can be due to ASD traits which can make problems occur in everyday life. Some of these ASD traits include: obsessions, compulsions, difficulties in communicating with others (Allely, 2015a, 2015b).

Bullying and Vulnerability within the Prison

As recently highlighted by Newman, Cashin and Graham (2019), there is increasing recognition that adults with ASD who are in prison are more vulnerable to bullying, social isolation, sexual victimisation; exploitation confrontations with other prisoners (English & Heil, 2005; Dein & Woodbury-Smith, 2010; Royal College of Psychiatrists, 2006; Lewis et al., 2015; Gómez de la Cuesta, 2010; Michna & Trestman, 2016) and, therefore, are more likely to be socially isolated when compared to other prisoners without ASD (Michna & Trestman, 2016). This is relatively unsurprising given the wealth of literature which has found that individuals with ASD are more vulnerable to manipulation and bullying in the general population. As highlighted by Van Roekel and colleagues (2010), one reason

why some adolescents with ASD may be at greater risk for being victimised is that they have deficits in developing and maintaining normal social interactions and relationships; deficits in understanding the behaviour and intentions of others (Frith & Hill 2004); impaired communication abilities and stereotyped behaviour and interests (Haq & Le Couteur 2004). Individuals with ASD may be housed in seclusion units in order to provide them with protection from bullying and victimisation from other prisoners (Newman, 2013; Robertson & McGillivray, 2015). For other individuals with ASD, isolation in a seclusion unit may be a form of behaviour management (Robertson & McGillivray, 2015; Newman et al., 2019). However, based on their experience, Lewis and colleagues (2019) have also found that individuals with ASD can be victims of bullying but can find it particularly difficult and challenging to communicate these negative experiences to prison staff which results in them not receiving access to relevant and necessary support (Lewis, Pritchett, Hughes, & Turner, 2015). A previous study carried out by Helverschou and colleagues (2018) found that the majority of participants reported that they did not feel confident with other prisoners who did not have a diagnosis of ASD and also reporting feeling different from them. One individual with ASD who had a preference to spend his time alone described being teased and receiving negative comments from the other prisoners (Helverschou, Steindal, Nøttestad, & Howlin, 2018).

Mr C.T. reported that: *“Unless prisoners (like prison officers) have had direct exposure to AS/ASD through family and friends typical AS traits/characteristics would tend to mark me out as different and that equates to ‘target’.”* Mr C.T. stated that: *‘The best way to do your time here is to mind your own business and have as little to do with other prisoners as possible’*. Mr C.T. agrees with the statement that ‘Certain prisoners run things on the wings in this prison’ stating also that: *“There is an “in crowd” who run shops, scams, etc but I have nothing to do with them. On top of that, there are “cardboard gangsters” who leave me alone (but bully others) because I am a useful source of information”*. He described how he has *“been asked for advice on legal matters relating to grounds of appeal or applications to SCCRC [Scottish Criminal Cases Review Commission] by various prisoners including those regarded as ‘gangsters’, and as such it may well have a protective effect. I am also frequently asked for help/advice on dealing with psychologists and with the prison disciplinary process”*.

In 2003 when he was first imprisoned, Mr CT found the prison environment he was in “horrendous”. He states that “he did not feel safe at any time whilst I was there and experienced high anxiety”. He said that he “...experienced a number of attacks, threats of violence and psychological intimidation” whilst at this first prison. This is important to note. However, such experiences are relatively common across the whole of the prison population (which is even more the case with certain offenders such as sex offenders), not necessarily those with ASD. However, individuals with ASD may find such experience. Mr CT describes two serious incidents during the early years of his imprisonment. Both these incidents were reported by Mr CT as having “had a significant psychological impact” on him. The first incident was “when a group of prisoners entered my cell when I was in bed, with the door

‘snibbed’ from the inside. Prisoners were given privacy keys to their cells and the previous occupant of mine had retained his. Those prisoners had weapons in the form of razor blades embedded in toothbrushes and I was able to roll under my bed, protected by my duvet. The duvet was shredded and I received several cuts”. In the second incident when he was returning to his cell by an officer following a legal visit: “A prisoner appeared from a cell with a kettle in his hand which he tried to throw over me but the accompanying officer pushed me out of the way”.

Isolation and Prisoner Politics

Mr C.T. reports he spends much of his time in isolation in his cell: *“I generally remain in my cell reading (especially non-fiction – AS, aviation, politics, international affairs), writing, working (e.g. on education and other projects; litigation (now completed)), listening to radio or watching TV.”* Individuals with ASD spending time in isolation when imprisoned have been found in previous studies (e.g., Helverschou, Steindal, Nøttestad, & Howlin, 2018). Helverschou and colleagues (2018) found in their study that one of the six individuals with ASD who had been in prison, preferred to spend his time in isolation the majority of the time, but the others described that they enjoyed activities with other inmates such as sports, watching movies, playing games and cooking. It has been suggested that the social and communication impairments that individuals with ASD who are imprisoned experience may ‘promote’ their social isolation (Newman et al., 2019). Fear of social interaction within the prison environment may lead an adult with ASD to self-isolate (Gómez de la Cuesta, 2010).

Additionally, Helverschou and colleagues (2018) found that in five of the six individuals who had been in prison described having some interaction with the other prisoners but only the ones who had been selected by the prison authorities. These specially selected prisoners were those who were calm, quiet or also had a diagnosis of ASD or AS (Asperger’s Syndrome). Similarly, Mr C.T. also sought relations with prisoners who screened positive or had a diagnosis of ASD. He states: *“I seek to maintain cordial relations with everyone (prisoners and staff), although there are only two people here that I would regard as friends: who subsequent to the commencement of our friendship screened positive or have been diagnosed with AS”*.

Mr C.T. says that he steers clear of ‘prisoner politics’: *“I avoid ‘prisoner politics’ and in particular unlawful/illegal activities e.g. operating ‘shops’ or being involved with the supply or distribution of drugs or mobile phones”*. Instead, Mr C.T. has sought out other inmates who he feels comfortable with and who share similar backgrounds and interests. Specifically, he states that: *“...there are half a dozen acquaintances I would spend time with. These tend to be prisoners who have similar career/educational backgrounds or interests. I also tend to associate more with foreign national prisoners – especially those from Africa where I spent much of my life. I also have several ‘pen pals’ who I correspond with”*. Consistent with this is a previous study by Paterson (2008) which explored the experiences of two adults with ASD imprisoned in the United Kingdom found that they faced challenges

in understanding the complex formal and informal social hierarchies of life within the prison. They also faced challenges accepting unfamiliar or nonpreferred rituals and routines in the prison. Paterson also found that both cases functioned poorly within the prison which eventually led to them both being placed in modified solitary confinement. This isolation was for their own safety (Paterson, 2008).

Disruption to prison routine

The constraints of the prison environment can prove problematic for some individuals with ASDs. Newman and colleagues (2019) highlighted a qualitative study carried out in Norway which found that although the prison routine provides structure and predictability which has been considered as a positive experience for some individuals with ASD (Helverschou et al., 2018), the enforcement of the prison routine may lead to stress and anxiety for other individuals with ASD (Royal College of Psychiatrists, 2006; Newman, Cashin, & Graham, 2019). Within the prison environment daily life is dominated by rules and regimes. Within the prison environment, changes to these rules and regimes can frequently occur without any prior warning. For someone with ASD, such an environment is likely to be difficult to adjust to (Allely, 2015a, b). Movements to another area of the prison or completely different prison may also take place with no prior warning (e.g., Newman, 2013). For individuals with ASD, such instability and unpredictability would likely be a significant source of anxiety (Newman, 2013; Newman et al., 2015; Newman et al., 2019). Disruption to prison routine can be stressful and challenging according to Mr C.T. Specifically: *“Not so much the movement per se, but unanticipated events are stressful – e.g. not being required for work/education without explanation or being required unexpectedly. This is very much AS based - attributable to ‘concrete thinking’/Weak Executive Function”*. It is possible that Mr C.T. did not feel particularly stressed during movement because he does not feel significantly vulnerable due to what he can offer other inmates in terms of being able to provide advice on legal matters relating to grounds of appeal or applications to SCCRC as well as offer help/advice on dealing with psychologists and with the prison disciplinary process.

Sensory Sensitivities Experienced within the Prison Environment

Mr C.T. describes how the prison environment was a source of anxiety for him: *“The prison environment is a near-constant source of anxiety, with each event triggering the physiological release of cortisol. The cumulative effect of this is highly damaging to the body’s organs. Sources of anxiety triggers include unlocking and locking of cell doors – which is generally done with much noise and little consideration including that each event is an invasive of an individual’s personal space; strong odours from officers and other inmates including aftershave/perfume and other scents (usually only from officers) and body odour; and cell searches which take place at least quarterly. These are particularly stressful for individuals with an ASD. Sensory – especially aural – difficulties also trigger*

anxiety, such as the banging of cell doors, jangling of keys (producing a very sharp sound), high pitched alarms including personal and smoke alarms and cell emergency call alarms that are tested every day at evening lock-up”.

The prison environment would be experienced by anyone to be really noisy and some may find this too much. However, as pointed out by Mr C.T., for many individuals with ASD, the noise within the prison environment can be particularly overwhelming and distressing. Sensory hyper- and hypo-sensitivities are commonly reported in individuals with ASD and are now included as a criterion for the classification of ASD in the DSM-5 (APA, 2013). In individuals with ASD, a sensitivity to sounds is one of the most frequently reported sensory sensitivity (e.g., Kern et al., 2006; Jones et al., 2009; Haesen et al., 2011). Certain sounds may also be perceived as being more intense and extremely annoying by individuals with ASD (e.g., computer fan; sounds from overhead lights). Also, loud noises can be painful for some individuals with ASD (e.g., car horn; ambulance siren). Even more importantly for a busy prison context, sounds which are combined (such as numerous people talking to each) can be overwhelming for someone with an ASD (Robertson et al., 2015). It has been suggested that there is an impaired ability to get used to certain types of sensory stimuli in individuals with ASD in the way that individuals with no ASD appear to do – which is referred to as habituation (Robertson et al., 2015). Individuals who do not have a diagnosis of ASD may, over time, be able to habituate to the noise of the prison environment. However, individuals with ASD may not be able to do this, making the noise of the prison environment overwhelming (Allely, 2022). As pointed out by Green and colleagues (2016), studies have identified that 65–95 % of individuals with ASD report atypical responses to sensory stimuli (Lane et al., 2014; Leekam et al., 2007; Tomchek & Dunn, 2007; Zachor & Ben-Itzhak, 2014). It is also important to note that studies have found that altered sensory responsiveness is associated with anxiety (e.g., Lane et al., 2012; Ben-Sasson et al., 2008; Wigham et al., 2015) and depression (Bitsika et al., 2016).

Adjustment in Prison for ASD

Mr C.T. reports that for some time the Scottish Prison Service (SPS) did not recognise or make any adjustments for his diagnosis of ASD. Mr C.T. first sought referral for clinical assessment for AS through prison healthcare in 2005. SPS only formally recognised that he had AS and that he had a disability in 2015. [Note: that the recognition of ASD may have improved within the prison since this date]. This was followed by a comprehensive psychological assessment commissioned by SPS which confirmed a diagnosis of AS in 2008. He stated that between 2011 – 2012 he “*was required to share my single-sized cell due to operational reasons. Despite formal complaints and representations from MPs, MSPs, Prison Reform Trust, National Autistic Society, Scottish Autism, AS-Specialist Psychologists who had previously carried out clinical assessments and lawyers, management remain intransigent. This culminated in a hunger strike between 2011 and 2012. Despite making clear I was*

taking a pot of yoghurt weekly + fruit juice on medical advice and did not intend to commit suicide, I was placed on an ACT and put in an isolation cell. This was hugely stressful. Throughout the period my personal officer advocated for me, including standing up to management". Mr C.T. then goes on to highlight the need for prison staff to recognise possible ASD and how it can present in order to increase understanding and to avoid misinterpretations of behaviours, etc. Specifically, he states: "In particular, she [the personal officer] highlighted that I am very literal and that no subtext should be inferred from any of my statements. I had categorically stated that I was not suicidal and that this was a protest against the way I have been treated by SPS. However, because SPS managers regarded me from an NT [neurotypical] perspective, they made the fundamental error of believing I was 'acting out' for attention and trying to manipulate them – not appreciating individuals with AS are unlikely to do so because of impaired Theory of Mind ("ToM")". Lewis and colleagues (2015) have found, based on their professional experience, that the difficulties which individuals with ASD face resulting in distress or misunderstanding, etc, can be interpreted by prison staff as being deliberately disruptive or rude behaviour (Lewis, Pritchett, Hughes, & Turner, 2015). Lastly, Mr C.T. described how some staff would make an effort to advise him of any changes to routine. He stated that: "No adjustments made re movements, although individual officers who are aware of stress will make an effort to advise me of changes to plans, which is greatly appreciated". Mr C.T. suggests that it is "particularly important for prisoners with an ASD to be given a medical marker for a single cell in order that they can decompress from the stress of social interaction by being alone overnight".

Experience of Prison Staff and Staff-Prisoner Relationships

When asked about the relationship between staff and prisoners Mr C.T. described that: *"Prisoners and staff are on first name terms. General level of morale of both prisoners and staff is high – in direct contrast with many English + Welsh prisons". He also states that "All prisoners are assigned a personal officer – the quality of which can be very variable". He also reported that: "Staff are seen as fair and pragmatic". He agrees that there is nowhere he can go in the prison where he can get away from being observed, assessed and evaluated by staff. This can cause significant levels of stress. He describes how: "... staff can come to cell at any time without warning (so stressful/no real privacy) – I spend far more time inside cell than out, which is my own choice (largely due to activities undertaken there)". He also acknowledged that "his previous business experienced equipped him to deal with prison staff".*

It has previously been highlighted that an individual with ASD will frequently interact with prison staff and other prisoners differently when compared to prisoners who do not have a diagnosis of ASD (Michna & Trestman, 2016). For instance, individuals with ASD may have difficulties in being able to read another individual's face which can very easily lead to confusion. Some individuals with ASD have difficulty with making and maintaining eye contact which can be perceived by others that

they are not interested, etc. They may try to compensate for this with a stare which can be particularly intense which others may perceive as aggressive. Individuals with ASD may interpret something that someone has said to them literally and have difficulties in being able to understand hidden meanings, metaphor, or sarcasm. Such difficulties can lead to negative consequences (both in relation to staff and other prisoners) if there is a lack of understanding of ASD, etc (Michna & Trestman, 2016). Clinicians and prison staff may misunderstand presenting behaviours as intentional misbehaviour if they do not have sufficient knowledge of ASD (Michna & Trestman, 2016). Moreover, individuals with ASD may engage in behaviours which are considered odd or bizarre or may make others uncomfortable because they do not understand the meaning behind the behaviour (Michna & Trestman, 2016). It has also previously been suggested that having a developmental disability is a potential risk factor for experiencing less empathy from prison staff (e.g., Glaser & Deane, 1999).

The Impact of an Indeterminate Sentence

Mr C.T. discusses the impact of being given a discretionary life sentence. He states: *“I was given a discretionally life sentence with a six year tariff (also known as the ‘punishment part’ – this is the period that the court determines must be served prior to a person being eligible for a person being eligible for release on life licence), expiring in 2009”*. *“Since that date, my continued imprisonment has solely been on the ground on ‘public protection’. That determination is based on participation on rehabilitative programmes and the results of generic risk assessment tools, neither of which were validated or appropriate for individuals with an ASD”*. Mr C.T. also states that: *“I am serving an indeterminate sentence, which has a significant negative psychological effect on me as I do not have a release date to aim towards”*. For someone with ASD, the uncertainty of a release date can be even more distressing and may increase the vulnerability to engaging in adverse or negative behaviours. As also highlighted in a later section, there are limitations with the clinical utility of currently used risk assessment with individuals with ASD. For instance, some individuals with ASD can appear to be much ‘riskier’ than they actually are because the symptomology of ASD is not considered in currently standardised risk assessments. This has obvious negative implication on whether that individual is considered eligible for release.

Treatment and Intervention

The rehabilitative coursework delivered by the Scottish Prison Service (SPS) that Mr C.T. fully participated in includes: Core Sex Offender Treatment Programme (SOTP); preparatory work for the Good Lives Programme (“GLP”); GLP and a modified version of the Moving Forward, Making Changes (“MFMC”). However, to date, there has been relatively little understanding surrounding which

treatment programmes are most appropriate and effective for those with ASD (de la Cuesta, 2010, see also Higgs & Carter, 2015). Conventional sex offender treatment is mainly based on group therapy. In group therapy there is a focus on the offender's understanding of his offending pattern, learning about thinking errors, practicing empathic responses to the victims, and stopping deviant thoughts and fantasies. Sugrue (2017) has pointed out that, for individuals with ASD, this approach in treatment is not appropriate (Griffiths & Fedoroff, 2009; Ray, Marks, & Bray-Garretson, 2004). Instead, individuals with ASD would benefit more from a tailored treatment which includes very explicit sex education as well as having a focus on learning 'specific responses to specific situations' (Griffiths et al., 2009). Additionally, the treatment program would have to include repetition in the content because of the challenges that some individuals with ASD can have in being able to understand and appreciate abstract concepts (Klin, Volkmar, Sparrow, Cicchetti, & Rourke, 1995).

Consistent with the potential issues with group intervention with individuals with ASD raised here, Mr C.T. described that *"The principal difference between the 2:1 delivery and the SOTP/GLP programmes was that the latter were delivered in a group environment where all the other participants were NT and the psychologists had either zero (SOTP) or only the most basic (GLP) information on AS and its impacts. This resulted in profound 'discommunication' between myself and them – neither side could relate to the others' cognitive processes, especially surrounding offending"*. As raised in one of Mr C.T.'s psychological reports: "People with Asperger's syndrome are not a homogenous group, and their capacity to benefit from an existing Sex Offender Treatment Programme will vary considerably. Few are likely to benefit without significant adaptations. The extent of such adaptations for any specific individual requires informed assessment and monitoring within the context of the programme itself" (pp 16).

The Importance of Considering the Role of Co-Existing Psychiatric Disorders

It is important to highlight that Mr C.T. described experiencing depression during the time of his index offense and described his depression as being "a relevant context for the offending". Numerous studies have found that psychiatric factors contribute to offending behaviour in some individuals with ASD (e.g., Palermo, 2004). The majority of the studies on violent offenders with ASD that Newman and Ghaziuddin (2008) identified in their review indicated that these individuals also had a broad range of psychiatric comorbidities (e.g., conduct disorder, depression and schizoaffective disorder).

Risk Assessment

Features of ASD that would impact negatively on the outcome on a standard risk assessment protocols and assessments of treatment progress include: deficient empathy; restricted social networks;

relationship issues; poor problem-solving skills; rigid thinking patterns; identification with non-peer age groups; and proneness to negative mood states (such as anxiety and depression). Many of these general core deficits and other features apply in Mr C.T.'s case not as a robust indicator of his risk status, but rather because he is a person with Asperger's syndrome. There are limitations with current risk assessments when used with individuals with ASD (Sugrue, 2017, Westphal & Allely, 2019). For instance, current risk assessments are normed for individuals who are neurotypical – do not have a diagnosis of ASD. Most conventional formal risk assessments (e.g., the HCR 20) assess a variety of factors which have been identified as not being appropriate for individuals with ASD such as: the presence of delusions, hallucinations, compliance with medication and illicit drugs use. There is an urgent need for an 'ASD sensitive risk assessment guide' which consists of factors which may increase the risk in a subset of individuals with ASD to carry out a range of offending behaviours. Some of the factors which may increase this vulnerability include: impairments in communication; cognitive and sensory impairments; impaired social awareness; vulnerability; sensory sensitivities; preoccupations; unusual interests; the impact of situations which create high levels of anxiety and obsessions or compulsions. Such a "ASD sensitive risk assessment" should not only include the factors which may increase vulnerability in individuals with ASD to engaging in offending behaviours but also the protective factors (e.g., a structured and unambiguous immediate environment) (Murphy, 2010).

The use of current risk assessment is also potentially problematic when used with individuals with ASD who have been found guilty of violating IIOC statutes (see also, Allely & Dubin, 2018). Mark Mahoney (2009) has argued that for some individuals with ASD the internet, coupled with sexuality, can result in what he has described as a "lethal combination". Exploring sexuality on the internet through IIOC can be the only way for some individuals with ASD to learn about sex and relationships rather than being a precursor to sexual offending towards a minor. In some cases, the desire for this child exploitative material (CEM) can become particularly excessive and compulsive in individuals with ASD – as is the case with other things that they have an interest in (Mesibov & Sreckovic, 2017).

As was pointed out by Sugrue (2017) in the book *Caught in the Web of the Criminal Justice System*, it is widely assumed that there exists an association between the number of images/videos that the individual has collated (as well as the nature of the content of the images/videos) and their level of risk. The belief being that the more images the greater the obsession and ultimately the risk that the individual will act on their urges. However, there have been no findings from the peer-reviewed literature which provide any support for this widely-held belief (Stabenow, 2011, Mahoney, 2009). For neurotypical offenders, such an association is inappropriate and is potentially even more inappropriate for offenders with ASD. One of the key reasons for this is that this association fails to take into consideration the association between the volume of amassed CEM and the compulsive and obsessive features of ASD. There have been a number of cases involving individuals with ASD who have been convicted of IIOC frequently are found with thousands of images and/or videos, with the majority

unopened. There have been no empirical studies which has provided any evidence for there being an association between the predictive dangerous of an individual and the specific content of the images and/or videos (e.g., extreme sexual content being indicative of a greater risk of dangerousness) (e.g., Osborn, Elliott, Middleton, & Beech, 2010). Moreover, the viewing of extreme sexual material does not always indicate deviant sexuality. Rather in individuals with ASD is can be “counterfeit deviance”. The term “Counter deviance” is used to refer to naïve curiosity (e.g., Hingsburger, Griffiths, & Quinsey, 1991; Mahoney, 2009).

Discussion

This case study clearly raises a number of issues that need to be considered including:

- Issues with seclusion
- Issue of lack of routine screening for ASD within the prison environment (and all stages of the criminal justice system)
- The need for prison staff ASD training
- Limitations with current risk assessments for individuals with ASD (which has an impact on release)
- The need for increased recognition of the innate vulnerabilities in some individuals with ASD charged with an IIOC related offence

As highlighted earlier in this paper, individuals with ASD may be housed in seclusion units in order to provide them with protection from bullying and victimisation from other prisoners and/or to protect the potential target of their aggression (Newman, 2013; Robertson & McGillivray, 2015). For other individuals with ASD, isolation in seclusion unit may be a form of behaviour management (Robertson & McGillivray, 2015; Newman et al., 2019). However, as previously pointed out by Robertson and McGillivray (2015), despite the obvious benefits of seclusion there are negative consequences. For instance, seclusion may have a detrimental impact on their opportunity to work on their adaptive living skills or to engage in programmes in order to address their offending behaviour and other rehabilitation needs that they may have (Myers, 2004). As previously pointed out, “Given that eligibility for conditional release on parole often largely depends on reduction of assessed risk for reoffending through successful completion of intervention programmes and the demonstration of adaptive living skills, it appears likely that individuals who are subject to ongoing segregation from the general prison population may be more likely to be subject to longer periods of incarceration than their peers” (Robertson & McGillivray, 2015, pp. 729).

Recognising that an individual service user may have ASD can be challenging for prison staff, particularly given the heterogenous nature of ASD - no two individuals with ASD are the same (Powell, 2016). The identification of ASD in prisoners is further complicated given the high rate of physical and mental health disorders in this group. There is also an association between ASD and other conditions such as learning disabilities and learning difficulties (Dickie, Reveley, & Dorrity, 2018) – there are a number of overlapping features of impairment between ASD and learning disabilities. There is also a high co-morbidity between the two. Currently, there exists no implementation of routine, standardised screening, or assessment for ASD at any stage of the criminal justice process (Michna & Trestman, 2016). The importance of including screening processes in order to identify individuals with ASD, including those previously undiagnosed, who are entering prison has been previously highlighted (Archer & Hurley, 2013; McAdam, 2012; Woodbury-Smith and Dein, 2014; Underwood et al., 2013; Michna & Trestman, 2016; Newman et al., 2019).

To improve healthcare within the prison there is a need for increased recognition and understanding of ASD as well as the identification of comorbid mental health disorders or behavioural problems in this group (Underwood et al., 2016). As highlighted in the case in this paper, there is a clear need for universal training on ASD- (autism awareness training) for criminal justice professionals. We also recommend that all prison within the UK over the next decade (given financial costs and resources) obtain Prison Autism Accreditation from the National Autistic Society (NAS). Woodbury-Smith and Dein (2014) have emphasised the need for training to increase the ability of prison staff to recognise symptoms of ASD. Additionally, Freckelton (2013) has suggested that mental health staff could undertake an educational and consultative role with prison and court staff in order to improve the management and treatment of individuals with ASD. Robinson and colleagues (2012) also recommend that staff need to be given encouragement to raise any concerns regarding individuals who appear to be struggling in prison. There is also a need for increased understanding of the most effective and appropriate interventions within the prison for individuals with ASD. There is some work currently exploring this (e.g., Vinter, 2020; Vinter, Dillon, & Winder, 2020).

The case study presented in this paper also highlights issues with current risk assessments. Gunasekaran (2012) have recommended that any risk assessment conducted with individuals with ASD needs to take into considerations individual characteristics and also be informed by specialist assessments. Gunasekaran (2012) investigated the common themes from a secure inpatient setting with patients with a primary diagnosis of ASD and identified a number of themes which were underlying risk behaviour. These included:

- “Inability to seek appropriate course of action in response to perceived or actual difficulties caused by others and reacting to such difficulties by means of violence. This is exaggerated by a difficulty to seek solutions by meaningful negotiations.

- Passive aggression by refusing to cooperate, eat, speak, dress or attend self-care as a way of protest.
- Inability to appreciate social boundaries resulting in display of inappropriate behaviour, sometimes combined with inappropriate sexual or other unusual interests/preoccupations and deficient empathy” (Gunasekaran, 2012, pp. 316).

Mr C.T. notes that passive aggression can sometimes be an attempt for an individual with ASD to impose control upon their personal environment when everything else round them has become a state of flux/change/chaos. It is also recommended that documentation is made of the characteristics which are associated with violence in individuals with ASD such as: social awareness, vulnerability, sensory sensitivities, preoccupations, unusual interests, anxiety provoking situations, obsessions or compulsions, the level of communication and the level of self-awareness. The individual may also not be able to understand the larger consequences that their behaviours/actions may have on others and may feel that they are ‘righting a wrong’. Importantly, Gunasekaran argues that “these characteristics should not be seen as risk factors themselves when they are not associated with violence and are not thought to be factors predicting violence” (pp. 316). Many of these risk factors may be protective in some individuals with ASD autism spectrum (Gunasekaran, 2012). There is clear need to empirically investigate the way in which risk factors (as well as the types of risk factors) can actually be protective in some individuals with ASD. In sum, given the lack of validated instruments specifically developed and normed on individuals with ASD, clinicians and forensic practitioners are left with no option but to mainly rely on the research which is based on neurotypical individuals and then to extrapolate from this information based on the knowledge that they have of individuals with ASD (Sugrue, 2017; Westphal & Allely, 2019). In order for risk assessments (such as the HCR-20) to be appropriate and effective at assessment of risk in individuals with ASD it would need to include the following types of items in a separate category. Clinicians would then indicate whether the individual has problems with any of these historically or recently. These would all be rated according to what other items are rated. Specifically, using a No, Possibly or Partially, and Yes rating structure. Additionally, rating whether a risk factor is of Low, Moderate, or High relevance to understanding a person’s violence.

- Social communication or interaction impairments
- Cognitive and sensory impairments
- Impaired social awareness/social naivety
- Anxiety or depression comorbidities (and the presence of any other psychiatric comorbidity)
- Vulnerabilities
- Sensory sensitivities (which can be in either direction – hypo- or hyper-sensory sensitivities)

- Circumscribed interests or preoccupations
- Stereotyped behaviours
- Unusual interests
- Exploring particular situations which provoke anxiety
- Obsessive/compulsive type behaviours

Lastly, there is a need for increased recognition of the innate vulnerabilities in some individuals with ASD charged with an IIOC related offence (see Allely, Kennedy, & Warren, 2019; Allely & Dubin, 2019). One of the limitations with this paper is that it is based on a single case study. However, currently, there is a relative lack of research which has explored the contributory role of ASD symptomology to IIOC and the experience of individuals with ASD within the criminal justice system. Therefore, the aim of this paper is to highlight the importance of this area and hopefully drive the need for more understanding as well as the development of larger scale empirical studies.

Conclusion

Prisoners with ASD need to be identified in order that they are given the necessary and appropriate support and safeguards (Cashin & Newman, 2009; Allen, Evans, Hider, Hawkins, Peckett, & Morgan, 2008; Woodbury-Smith & Dein, 2014; Michna & Trestman, 2016). The case study discussed in this paper clearly raises a number of issues and concerns that urgently need attention in our criminal justice systems.

Acknowledgements

The authors would like to thank Mr C.T. for his time and dedication to completing the questionnaire upon which this paper was based.

Conflicts of Interest

The authors have no conflicts of interest to declare.

Funding

This case study project was unfunded.

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