



Adults and Adolescents with Asperger's Syndrome

By: Sharon Patrick*

**Sharon Patrick is a Client Services Specialist in the Wisconsin Public Defender's Madison Appellate Office.*

Asperger's syndrome (AS) is a neurologically based disorder classified in the DSM as a Pervasive Developmental Disorder.¹ Individuals with AS are characterized by their obsessive routines and preoccupation with a particular subject, sometimes to the point of being pedantic. They usually are extremely literal in interpreting language and may express their thoughts quite openly, without regard to social customs. Frequently they are unable to accurately interpret and respond to social cues such as body language or facial expressions.²

Diagnosing Asperger's Syndrome

Experts disagree whether Asperger's Syndrome is a higher functioning form of autism or is completely distinguishable from autism. This controversy may cause experts to disagree on diagnosing an individual. An expert who believes AS is a higher functioning form of autism may be reluctant to diagnose an individual as having AS if the individual does not have the usual characteristics of autism, even if they meet the Asperger's criteria in the DSM.³ An advantage of classifying AS within the autism spectrum is to access funding for treatment and research which is more readily available for autism disorders. Autism and Asperger's are closely related but, unlike autism, AS is not characterized by cognitive or language delays, although people with AS often have difficulty using appropriate language in a social context.⁴ Like autistic individuals, people with AS have significant and sustained social and behavior impairments and frequently need financial and emotional support to reach their potential.

Asperger's Syndrome was added to the DSM in 1994. Because AS has only recently been recognized as a disorder, many individuals with AS, especially adults, are either misdiagnosed or undiagnosed.⁵ The prevalence of Asperger's syndrome is a topic of significant debate. While some experts estimate that 2 to 5 children in 10,000 have the disorder⁶, others suggest that 1 in 200 is a closer estimate.⁷ Experts agree that AS is more prevalent in boys than girls.

Asperger's Syndrome is difficult to diagnose. Individuals with Asperger's may exhibit a variety of symptoms, some of which may be present in individuals who do not have Asperger's. The diagnosis is reached because of the number of symptoms, the intensity of the symptoms and the duration of the symptoms. Asperger's is a "rule-out" diagnosis, that is, other explanations for the symptoms must be

considered and rejected before diagnosing AS.⁸

To further complicate reaching an accurate diagnosis for undiagnosed adults, some symptoms of Asperger's may lessen as a person ages. Undiagnosed adults who otherwise would have been identified as having AS when they were children may be still addressing the residuals of Asperger's, even with reduced symptoms. AS is a life-long condition and individuals do not recover from Asperger's but their symptoms may become more contained over their life span.⁹

Representing Clients with Asperger's Syndrome

Criminal defenders have the often difficult task to provide explanations for client behavior. Based on the number of children who are currently identified as having AS, it is highly likely that a significant number of clients in the criminal justice system have Asperger's syndrome. It is also highly likely most of these clients, especially those over the age of 25, are undiagnosed. Criminal defense attorneys need to recognize the symptoms of Asperger's syndrome and, in appropriate cases, request expert help in determining an accurate diagnosis.

Indicators for a possible AS diagnosis include:

- Impaired ability to identify and regulate social cues and convention, such as eye gaze, facial expressions, body language, gestures
- Lack of social and emotional reciprocity and empathy, appearance of self-centeredness and insensitivity
- Limited understanding of emotions
- Development of special interests that are unusual in their intensity and focus
- Strong preference for routine and consistency
- Inability to develop age appropriate friendships, often resulting in social isolation
- Marked difficulty in interacting with others
- Inappropriate response to sound or other sensory input
- Fascination with water, lights and reflections
- Spinning or twisting objects or self, or engaging in hand or finger flapping
- Lack of inflection in speech
- Laughing or giggling inappropriately
- Persistent preoccupation with parts of objects rather than the object as a whole
- blunt or tactless statements
- Defiant, argumentative, stubborn or belligerent behavior
- Impaired motor ability, clumsiness and poor posture
- Lack of understanding of humor, sarcasm or small talk
- Honest to the point of interfering with functioning
- Believes everyone knows what they know and everyone sees the world they way they see the world
- Disinterest in pleasing others or sharing experience with others

Indicators not usually associated with AS are

- Mental retardation
- Delay in developing language skills, self-help skills and curiosity about the environment
- Lack of desire to communicate
- Poor memory and poor concentration¹⁰

Caution must be exercised when attempting to identify individuals who have AS. Sometimes an individual who has AS is not easily distinguished from an individual who is simply eccentric. There is a tendency in our culture to categorize individuals who do not fit standard behavioral norms as having a mental disorder when in reality they are simply a bit odd.¹¹

Clients with Asperger's should be held accountable for their behavior. However, some behavior lies outside of their control and this should be recognized by the criminal justice process. Because individuals with Asperger's are susceptible to sensory overload, any contact with law enforcement may cause problems. For example, the flashing of a red light on a patrol car may cause a person with Asperger's to flee. They may be very sensitive to touch and any attempt to restrain them may cause them to strike out. Because of a lack of social awareness, they may not recognize the authority of the police and may not follow their directives. Interrogation techniques of police may result in a false confession. Individuals with Asperger's frequently feel isolated and may agree with just about anything a friendly interrogator asserts, resulting in false confessions.¹²

Court appearances are outside of their normal routine and, even though individuals with Asperger's commonly are of average intelligence, the courtroom setting may cause an individual with Asperger's to appear incompetent. Understanding the plea is not likely to be a problem for an individual with Asperger's but the setting in which the plea is taken may be. Further, some individuals with Asperger's are painfully honest and may translate the plea so literally that it is difficult to complete the colloquy. Although the person with Asperger's may be guilty of committing an offense, he or she may not have intended to commit the offense. Offenses such as making threatening statements, telephone stalking, inappropriate sexual advances, being an accomplice to false friends and disorderly outbursts are often committed because they misinterpret social situations.¹³

In making recommendations for appropriate sentences for individuals with Asperger's, defense attorneys should focus on prevention of future behavior rather than strict punishment for the crime. The usual sentences based on confinement with many others, such as jail sentences, are simply not appropriate for a person with Asperger's.¹⁴ More appropriate dispositions might use their strengths, such as their intelligence level, and should be designed to minimize the requirement for interaction in social or communal settings. In some cases, community service involving computer work may be a successful form of punishment. Defenders should be aware that individuals with AS often do not appear to be remorseful. This does not mean that they are callous or have a disregard for others, but expressing remorse to a decision maker with accuracy may be very difficult for them.¹⁵

What can a defense attorney do to better represent an individual who may have Asperger's Syndrome?

1. If possible, obtain an assessment from an expert in Asperger's Syndrome. If no funding is available and your client is under the age of 22, the school district may provide an assessment. If your client is over 22, you might ask the developmental disability board to provide the assessment, if you are unable to hire your own expert.
2. In interviews with the client, be patient and attempt to appreciate your client's view of the world. Dr. Hugh Johnston from the University of Wisconsin Medical School said he finds his Asperger's clients "wonderfully delightful", perhaps a description difficult to appreciate during a frustrating interview, but a worthy goal to keep in mind.
3. Reduce sensory input as much as possible by conducting the interview in a quiet place with soft lighting. Ideally, the interview room should be large enough to allow the client to move or pace if necessary.
4. Allow your client to hand-flap, especially if your client is stressed. Hand flapping may bring routine to the situation for your client.
5. Use a quiet or moderate tone of voice.
6. Do not touch your client without asking. Light touches may be particularly painful for people with AS.
7. Do not use metaphors such as "Don't pull my leg" or phrases like "hard time." Asperger's clients are very literal in their interpretation of language.
8. Avoid using pronouns as much as possible.
9. Do not expect your client to respond to any body language, such as checking your watch or rolling your eyes.
10. Do not interpret lack of eye contact as deceit or disrespect.
11. Understand that you may need to repeat questions or ask the questions in a different way. Do not use statements such as "I would like you to tell me what happened" to elicit information. Your client may not respond because in effect you are telling him what you would like, rather than asking your client to tell you what happened.
12. For the most accurate response, ask open ended questions. Leading questions will sometimes produce incorrect answers.
13. Address one issue at a time. Try not to ask compound questions.
14. Shorter interviews are usually better. This may require more than one interview but it is likely to produce more satisfying results.¹⁶

Locating Resources for Clients with Asperger's Syndrome

Although information on adults with Asperger's is somewhat scarce, several websites offer information for experts and others who have contact with individuals with AS. The Autism Research Centre at the University of Cambridge in London has an Adult Asperger Assessment Tool (AAA) available on-line, along with an article describing the tool. Their website is <http://autismresearchcentre.com>. This tool may be helpful to attorneys for assessing whether a client may have AS.

The Autism Society of Wisconsin, www.asw4autism.org, has a useful website that includes links to local chapters with names of local experts. The Autism Society of Wisconsin is located in Two Rivers and the toll free number is 888-4-autism.

The Department of Health and Family Services maintains a website that includes information on living arrangements for individuals with disabilities. Their website is <http://www.dhfs.state.wi.us/Disabilities/Physical/ILCs.htm>.

The Online Asperger Syndrome Information and Support (OASIS) website located at www.udel.edu/bkirby/asperger/ provides links to materials that explain AS including essays of individuals who have Asperger's.

The Waisman Center in Madison conducts research on Autism Spectrum Disorders and has a clinic for people with developmental disabilities. The DD Clinic provides diagnostic and treatment assessments to adults with a variety of disabilities, including autism. For residents of Dane County, the Waisman Community TIES (Training, Intervention and Evaluations Services) program provides therapeutic interventions for children and adults with disabilities with about 30% of autistic individuals representing their caseload. The Waisman Center is located on the campus of the University of Wisconsin and their phone number is 608-263-5940.

While clients who have Asperger's can be quite challenging, they also deserve to be understood and treated fairly by the justice system. They should not be punished for behavior that is out of their control. An accurate diagnosis of Asperger's Syndrome may explain the basis for the criminal behavior, with future behavior being more adequately controlled through access to community treatment programs. With appropriate punishment for the behavior and support to address their issues in the community, clients who have Asperger's syndrome can lead productive crime-free lives.

According to the DSM-IV-TR, diagnostic criteria for Asperger's Disorder are:

- A. Qualitative impairment in social interaction, as manifested by at least two of the following:
 - (1) marked impairment in the use of multiple nonverbal behaviors such as eye-to-eye gaze, facial expression, body postures, and gestures to regulate social interaction
 - (2) failure to develop peer relationships appropriate to developmental level
 - (3) a lack of spontaneous seeking to share enjoyment, interests, or achievements with other people (e.g., by a lack of showing, bringing, or pointing out objects of interest to other people)
 - (4) lack of social or emotional reciprocity
- B. Restricted repetitive and stereotyped patterns of behavior, interests, and activities as manifested by at least one of the following:
 - (1) encompassing preoccupation with one or more stereotyped and restricted patterns of interest that is abnormal either in intensity or focus

- (2) apparently inflexible adherence to specific, nonfunctional routines or rituals
- (3) stereotyped and repetitive motor mannerism (e.g., hand or finger flapping or twisting, or complex whole-body movements)
- (4) persistent preoccupation with parts of objects
- C. The disturbance causes clinically significant impairment in social, occupational, or other important areas of functioning.
- D. There is no clinically significant general delay in language (e.g., single words used by age 2 years, communicative phrases used by age 3 years).
- E. There is no clinically significant delay in cognitive development or in the development of age-appropriate self-help skills, adaptive behavior (other than in social interaction), and curiosity about the environment in childhood.
- F. Criteria are not met for another specific Pervasive Developmental Disorder or Schizophrenia.¹⁷

Endnotes

1. Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (DSM-IV-TR), American Psychiatric Association, 299.80.
2. John T. Neisworth and Pamela S. Wolfe, The Autism Encyclopedia, (Baltimore: Paul H. Brookes Publishing Co. 2004), pp. 13-14.
3. Jan Blacher, Bonnie Kraemer, Monica Schalow, “Asperger Syndrome and High Functioning Autism: Research Concerns and Emerging Foci,” *Current Opinions in Psychiatry* 16(5) 2003 pp.535-542.
4. The Autism Encyclopedia, pp. 13-14.
5. Mary Muscari, “How Should I Evaluate an Adult for Possible Asperger’s Syndrome?” available on the internet at www.medscape.com/viewarticle/531750.
6. Eric Frombonne, “Epidemiological studies of pervasive developmental disorders.” In Volkmar, Klin, Cohen, eds., Handbook of Autism and Pervasive Developmental Disorders, 3rd Ed. (New York: Wiley), 2005, pp. 42-69.
7. Scott, Baron-Cohen, Bolton, Brayne “Prevalence of autism spectrum conditions in children aged 5-11 years in Cambridgeshire, UK” *Autism*, 6(3), pp. 231-237.
8. Mary Muscari, “How Should I Evaluate an Adult for Possible Asperger’s Syndrome?” available on the internet at www.medscape.com/viewarticle/531750.
9. Ibid.
10. Simon Baron-Cohen, Sally Wheelwright, Janine Robinson and Marc Woodbury-Smith, “The Adult Asperger Assessment (AAA): A Diagnostic Method,” *Journal of Autism and Developmental Disorders*,

2005. Available on the internet at <http://autismresearchcentre.com>

11. Howard Markel, "The Trouble with Asperger's Syndrome," available on the internet at www.medscape.com/viewarticle/529208, posted 4/13/2006.

12. Dennis Debbault, *Autism, Advocates, and Law Enforcement Professionals*, (London: Jessica Kingsley Publishers) 2001, pp. 107-112.

13. Dennis Debbault, "Beyond Guilt or Innocence," in *Developmental Disabilities Leadership Forum*, 4(1), 2004.

14. Dennis Debbault, 2001, pp. 108-109.

15. Ibid p. 107.

16. Dennis Debbault, 2004.

17. Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (DSM-IV-TR), American Psychiatric Association. ■