

**STRATEGIES FOR  
INTERVIEWING  
INDIVIDUALS WITH  
COGNITIVE AND INVISIBLE  
DISABILITIES**

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**BRIEF BACKGROUND**

- Post-doctoral study, U.S.C. Institute of Psychiatry and Law.
- Staff Psychologist, Fernald School, UCLA (1982-86).
- Los Angeles County Superior Court 730 Panels (Criminal, Delinquency, Competency, Dependency – Since 1982
- Expert witness in cases across California.
- Evaluated many youths with developmental disabilities for the L.A. County Competency Panel (2011- present)

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**GOALS**

- TO UNDERSTAND COMMUNICATION ANOMALIES IN PAROLE AND CRA INTERVIEWS
- TO UNDERSTAND HOW A DEVELOPMENTAL DISORDER CAN AFFECT NEGATIVE BEHAVIOR

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TO USE THIS INFORMATION TO STRUCTURE RECOMMENDATIONS



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**NEURODEVELOPMENTAL  
DISORDERS ["NEURODIVERSITY"]**

VS. NEUROCOGNITIVE DISORDERS

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**Interview Questions to Assess for a Disability**

- Do you know if your birth had any complications? [e.g., umbilical cord around neck, trouble breathing, dramatically underweight?]
- Do you know when you started talking? Did your mother consider you to be similar to your siblings, or possibly slower to meet milestones?
- Did you have health problems as a child? [Asthma, high fevers, epilepsy, head injuries....?]

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- Tell me about your early memories of school? 1<sup>st</sup> grade, 2<sup>nd</sup> grade, 3<sup>rd</sup> grade...Problems paying attention? Problems with behavior?
  - Were you bullied? What was that for?
  - Did you have an I.E.P.? When did that start, if you remember? What was the label that qualified you? Specific Learning Disability? Emotional Disturbance? Other Health Impairment (ADHD).
  - Were you in Special Day Class?
  - Have you attended multiple elementary and middle schools? How about high schools?
  - How were your academics in high school? Still an I.E.P.?
  - What was the last grade you completed?
  - Did anyone in your family have a disability?

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#### For Immigrants who grew up in other countries (Mexico, El Salvador, Guatemala, etc.)

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- Did you go to school in your home country.
- What was the last grade you attended there?
- Was your ability to learn similar to your siblings?
- Did you attend school when you arrived in the U.S.?
- If you remember, how long did it take you to learn English?
- At your trial, did you understand the spoken English?
- Did you have an interpreter?

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#### The Common Disabilities (DSM-5)

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- Intellectual Disability
- Communication Disorders
- Autism Spectrum Disorder
- Attention Deficit Hyperactivity Disorder (ADHD)
- Specific Learning Disorder

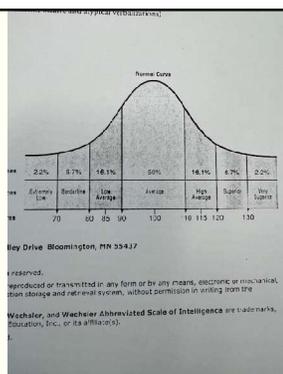
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#### Intellectual Disability

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- Deficits in intellectual functions, such as reasoning, problem-solving, planning, abstract thinking, judgment, academic learning, and learning from experience, confirmed by both clinical assessment and standardized intelligence testing.
- Deficits in adaptive functioning that result in failure to meet developmental and sociocultural standards for personal independency and social responsibility.
- Onset of intellectual and adaptive deficits during the developmental period. [Cognitive deficits from head injury fit elsewhere.]
- Mild, Moderate, Severe, Profound

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#### Mean IQ Scores for Incarcerated Men

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- Texas gives an IQ test to every new prisoner and publishes the average IQ scores for their population every year. The number bounces around an IQ between 91 and 93.
- Pennsylvania, similar data. Mean 90. Inmates above 100 were rare compared to the general population.
- A meta-analysis published in 2009, of over 30 studies conducted between 1945 and 2008 found the average IQ of prisoners to be 92. The mean for the general population in the US. Was 97.43.
- California has the third lowest IQ score of all American states.
- Education and socioeconomic status an affect I.Q.

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THE CUTTING SCORE FOR ID IS TWO STANDARD DEVIATIONS OR MORE BELOW THE POPULATION MEAN (100), PLUS OR MINUS THE ERROR RATE. THIS MEANS THE CUTTING SCORE FOR ID IS IQ 65-75. BUT INDIVIDUALS IN THE 80'S MAY ALSO HAVE SIGNIFICANT DEFICITS.

IQ tests are influenced by education. However, those who have been diagnosed with Intellectual disability are met criteria that support their significant intellectual deficit.

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### Formal Testing

■IQ: Wechsler Adult Intelligence Test (WAIS-IV), or any of the Wechslers.

■Adaptive Functioning: Vineland Adaptive Behavior Scales (Vineland-3), or Adaptive Behavior Assessment System (ABAS-3).

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### CASE-RELEVANT DEFICITS IN ID

- Thinking is concrete and simplistic. Will have problems understanding more abstract concepts.
- May not understand your questions or Parole Board questions
- May not be able to have developed "insight" about their crime. Developing insight requires abstract thought.
- May answer Parole Board question simplistically.
- May not be able to explain problematic prison behavior to the Board's satisfaction.
- May seem immature, even as an older person.
- Is often gullible—can be manipulated by other prisoners or led to say things that are not true [i.e., a high proportion of those who make false confessions have ID.]

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### COMMUNICATION DISORDERS

- LANGUAGE DISORDER
- SPEECH SOUND DISORDER
- CHILD-ONSET FLUENCY DISORDER (STUTTERING)
- SOCIAL (Pragmatic) COMMUNICATION DISORDER.

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### LANGUAGE DISORDER [DSM-5]

- Persistent difficulties in the acquisition and use of language across modalities (i.e., spoken, written sign language, or other) due to deficits in comprehension or production that includes.
  - Reduced vocabulary.
  - Limited sentence structure
  - Impairments in discourse
- Not attributable to Intellectual Disability or Global Developmental Delay
- Onset is early developmental period.
- Functional limitation in effective communication, social participation, academic achievement, or occupational performance.
- Inmate should have received school interventions.

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IN THE PAROLE BOARD MEETING, OR IN THE CRA MAY NOT BE ABLE TO EXPRESS THEMSELVES. THIS MIGHT BE MISUNDERSTOOD AS EVASIVENESS.

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### Autism Spectrum Disorder – Diagnostic Criteria

Persistent deficits in social communication and social interaction across multiple contexts, manifested by the following.

- Social Communication Deficits.
  - Deficits in social-emotional reciprocity, such as normal back-and-forth conversation, reduced sharing of interests, emotions, or affect, or failure to respond to social interaction.
  - Deficits in non-verbal communication behaviors used for social interaction, such as abnormalities in eye contact and body language, or deficits in understanding and use of gestures, to a total lack of facial expressions and nonverbal communication.
  - Deficits in developing, maintaining, and understanding relationships, ranging from difficulties adjusting behavior to suit various social contexts, to difficulties making friends.

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### Autism Spectrum Disorder, DSM-5 (Cont'd)

- Restricted, repetitive patterns of behavior, interests, or activities, by at least two of:
  - Stereotyped or repetitive motor movements, use of objects, or speech (such as echolalia, or idiosyncratic phrases)
  - Insistence on sameness, inflexible adherence to routines, ritualized patterns of verbal or nonverbal behavior
  - Highly restricted, fixated interests, abnormal in intensity or focus.
  - Hyper- or hypo-reactivity to sensory input.
- Can be with or without Intellectual Disability

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### Statistics/Patterns

- ASD disproportionately affects males at approx. 3 times the rate of females.
- ASD is more evident in males because they show more externalizing behaviors.
- By age 21, 1 in 5 youths with ASD have been stopped and questioned by police.
- Almost 1 in 20 youths with ASD have been arrested by age 21.
- They are also at higher risk for school disciplinary action and psychiatric hospitalization.



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### What features of ASD make these individuals vulnerable to arrest? [Other than odd behavior]

- Difficulty inferring/understanding the thoughts, emotions, and behaviors of other individuals. [This is often called "Theory of Mind."]
- Difficulty with moral reasoning, i.e., about the personal responsibility of individuals to behave morally, thinking about right and wrong.
- Difficulties with emotional regulation, which includes modulating dysfunctional emotion and controlling impulses.
- Sensitivity to stimulus overload.
- A history of being bullied, heightening their sense of threat from others
- Difficulty expressing empathy for others.
- Lack of insight because of difficulty thinking abstractly.
- Flat affect or blank facial expression may appear threatening.
- Difficulty expressing remorse for how their actions may have caused harm.

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### Autism and Criminal Conduct – Criminal charges can result from the specific impairments in Autism

- Difficulty interpreting social cues and understanding what others are thinking and feeling, and the emotional impact of their actions on others.
- Poor emotional regulation, with impulsivity, difficulty controlling strong emotions or urges and possible "meltdowns."
- Difficulty with moral reasoning. Individuals with ASD tend to be concrete in their reasoning.
- Intense restricted interests (fixations).
- Repetitive behaviors, compulsivity

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### Are individuals with ASD more likely to engage in criminal violence?

- Heeranum (2017), studying 295,000 individuals between 15 and 27, did not find individuals with ASD any more prone toward violent offenses than others.
- Much of the risk in individuals with ASD was attributable to concurrent attention deficit/hyperactivity (ADHD) or conduct disorder.
- Individuals with ASD who commit violent crimes tend to be male, have concurrent psychotics disorder, concurrent substance use disorder, or parental criminality.
- Im (2016) reviewed 73 mass shootings from published and on-line sources, covering the years from 1982 to 2015. He found that there was strong evidence of ASD in 8 percent of the cases and some indication of ASD in 21% of the total sample. He noted that the ASD individuals had other risk factors such as physical or sexual abuse, making them different than the typical ASD individual.
- Several studies have found that persons with ASD are over-represented in custody.

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## Individuals with ASD tend disproportionately to commit certain categories of offenses

- Arson
- Computer offenses
- Stalking offenses
- Sexual offenses
- Dishonesty offenses

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## ▪ Arson

- Siponmaa, et al (2011) reported that 63% of the crimes of arson they investigated had been committed by subjects with diagnoses of AD or ASD.
- Alley (2019) reviewed 11 published papers on firesetting by persons with ASD. She found a higher prevalence of individuals with ASD in convictions for arson.
- Dynamics could be as simple as a fascination with fire, but...
- William Cottrell was a student at CalTech, described as brilliant. With friends who were part of a small group of eco-terrorists, he was convicted of setting fires to destroy or damage sport utility vehicles and Hummers. At trial, his attorneys attempted to put on evidence that he had AD and was duped by his friends, but the Federal judge did not allow the testimony about AD. He testified and came across as arrogant and lacking empathy. He was convicted, but part of his conviction was overturned due in part to the omission of evidence about AD. He served 7 years in Federal prison.

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## ▪ Computer offenses

- Cyberspace provides to persons with ASD a safe and unthreatening environment in which they are able to explore their interests and act out their obsessions anonymously and on their own terms.
- Example: Gary McKinnon, a British subject, who between 2001 and 2002 gained unauthorized access to computers belonging to the U.S. Army, Navy, Department of Defense and the National Aeronautic and Space Administration. At one point, he took down the US Army's DC network, taking about 2,000 computers out of service for three days. He had been diagnosed with AD as a child. He said he did so to look for evidence of UFO's, about which he had been obsessed over the course of his life. His case became an international cause. The US sought extradition but the UK resisted, citing his emotional fragility.

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## ▪ Stalking

- ASD individuals may engage in stalking as a result of a failure to read or absorb and apply social cues and conventions. The tendency toward fixation may play out with a romantic interest, or some other fixation.

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## ▪ Sexual Offending

- These can result from the same dynamics as stalking: a failure to read, absorb, and apply social cues and conventions.
- This can be combined with computer offenses as when a person accesses child pornography.
- Example: MP, saw a woman on the train. When she got off, he followed her and touched her leg and buttocks. When detained, he told the police that he was trying to "get to know the woman."

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## ▪ Dishonesty Offenses

- Most commonly: Stealing objects
- This is usually related to the fixations or obsessions of the person.
- Example: MK and two accomplices entered a cemetery, and MK stole a skull and a memorial vase. On examination, it was discovered that he had been morbidly obsessed with bones and death. He had been diagnosed with ASD as a child, when he had exhibited an obsession with dead insects.

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### Vulnerabilities of Autism Spectrum Disorders During LE Interrogation

- Autism Spectrum Disorders are characterized by qualitative impairments in social communication and interaction and a restricted or repetitive pattern of behaviors interests, and activities.
- North, Russell & Gudjonsson studied 26 individuals with high functioning ASD and 27 controls, using measures of interrogative suggestibility and compliance as well as measures of anxiety, depression, fear of negative evaluation, and general suspiciousness.
- Those with ASD were more compliant than controls and they also had higher scores on measures of depression, anxiety, paranoia, and fear of negative social evaluation.
- Individuals with ASD may be more eager to please or to avoid conflict and confrontation than controls, and more prone to respond compliantly to requests and demands. More likely to give false confessions.

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### Misunderstandings and More Accurate Thoughts about the Inmate with Autism

#### The inmate...

- Lacks insight
- Lacks empathy
- Seems a-social/isolative/hostile
- Has problematic fixations
- Might seem like they have Antisocial Personality Disorder

#### The inmate

- Has a documented diagnosis of Autism Spectrum Disorder
- The criminal charge was the result of a misunderstanding of a social situation (or a result of a fixation).
- The defendant was gullible and manipulated by others.
- The inmate is not hostile towards others, just has very poor social skills.
- His ASD causes a deficit in social understanding, which may look like he lacks empathy.

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### Attention Deficit Hyperactivity Disorder (ADHD) – DSM-5

- A persistent pattern of inattention and/or hyperactivity-impulsivity.
  - **Inattention:** 6 or more of
    - Fails to give close attention to details; makes careless mistakes
    - Difficulty sustaining attention, school, work, socially.
    - Doesn't seem to listen when spoken to
    - Does not follow through on instructions
    - Difficulty organizing tasks and activities, poor time management.
    - Avoids tasks that require sustained mental effort.
    - Loses things necessary for daily functioning.
    - Easily distracted
    - Forgetful

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### ADHD (Cont'd)

- **Hyperactivity/Impulsivity:** 6 or more of the following:
  - Fidgets/squirms
  - Can't stay in seat
  - Pervasively restless
  - Often acts as if "driven by a motor"
  - Often talks excessively.
  - Often blurts things out inappropriately.
  - Difficulty waiting his/her turn.
  - Interrupts or intrudes on others
  - Impulsive decisions
- *Several symptoms in each category present before age 12.*

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### Ways to Understand Negative Behavior

- School failure was likely due to ADHD.
- ADHD was a factor in substance abuse.
- The crime was impulsive
- Prison sojourn was impacted by impulsivity.
- Failure to program consistently was caused by impulsivity.
- Inmate might have improved with maturity

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SOME INDIVIDUALS WITH ADHD AS YOUTHS WILL HAVE BIPOLAR DISORDER AS ADULTS

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## THE IMPULSIVITY OF ADHD MAY HAVE BEEN ONE IMPORTANT CAUSE OF THE OFFENSE AND MAY DRIVE BEHAVIOR PROBLEMS IN PRISON

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### Specific Learning Disorders - Generic

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- Dyslexia
  - Problems with accurate or fluent word recognition, letter reversals, poor de-coding, and poor spelling. Some dyslexic individuals don't get much beyond a 4<sup>th</sup> grade reading level. This impairs academic advancement and can create a sense of failure
- Dyscalculia
  - Problems surrounding numbers and mathematics
- Strong genetic loading.
- High risk of school failure
- High risk of co-morbid disorders

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### Ways to Understand Negative Behavior in Individuals with SLD

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- Inmate had school failure because of dyslexia or dyscalculia.
- Inmate developed low self-esteem and was propelled towards negative peers.
- Inmate avoided additional education before and during incarceration.
- Because his/her reading is poor, he/she is poor at expressing his/her ideas.
- Emotionally, he/she tends to be self-defeating and anticipates failure.

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### NEUROCOGNITIVE DISORDERS

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- Brain Injury (e.g., football injuries, child abuse injuries, falls, peer assaults, car accidents).
- Alzheimers and other dementias
- Other brain insults from medical causes: e.g., Multiple Sclerosis, Cerebral Palsy
- ASSESSMENTS IN THE INMATE'S FILE SHOULD CLARIFY THE NATURE OF THE BRAIN IMPAIRMENT.

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## NEURODEVELOPMENTAL DISORDERS MAY BE CO-MORBID WITH PSYCHIATRIC DISORDERS

E.G., INTELLECTUAL DISABILITY WITH MAJOR DEPRESSIVE DISORDER  
ADHD WITH POSTTRAUMATIC STRESS DISORDER

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### Special Features of Inmates with PTSD

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- After years of incarceration, the inmate will most likely be in the "Avoidant" stage of PTSD but might respond to triggers that signal threat.
- In the Avoidant stage of PTSD, the individual has likely
  - Worked to suppress emotion and vulnerability
  - May seem cold
  - May isolate
  - May seem paranoid because of their fear of future danger
- May have a high level of anxiety and sleep disruption.
- Aggressive acts in prison may be in response to a trigger which signals threat.

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Documents That Support Disabilities

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- School Records/ IEP Plans
- Medical Records/Neurologist's Reports
- Mental Health and Therapy Records
- Dependency Court Records, if any.

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QUESTIONS

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