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**Police Interaction With Autistic Persons:
The Need For Training**

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What is Autism?

[Autism](#) is a disability, the prevalence of which may have increased significantly in recent years, although there is much debate as to whether this is actually so or whether diagnostic and reporting patterns have simply gotten more efficient. While there is clearly a genetic basis for it, there is also debate about the causes of the disorder and the possible role that environmental factors may play.

Autism is characterized as a brain development disorder that results in impairment in communication and social interaction. Autistic individuals frequently engage in restricted and repetitive behavior. They are often most comfortable with routines—sometimes very rigidly, becoming easily upset by a new situation, the presence of an unknown person, loud noise, or unanticipated surprises. Often, their “response” may be a “meltdown,” acting out, ritualistic behavior, inappropriate verbal statements, or other actions that may be viewed by some, mistakenly, as an indication of hostility, criminal intent, alcohol or drug intoxication, etc.

[Autism Spectrum Disorders](#) (ASD) include autism and related conditions [Asperger syndrome](#) and [PDD-NOS](#) (Pervasive Developmental Disorder – Not Otherwise Specified). The prevalence is currently estimated at 6 persons per thousand in the population. For some reason, there are four times as many males as females with these disabilities. Those with

Asperger's may have fewer problems with linguistic and cognitive development, but have limited empathy with others and may be physically clumsy. PDD-NOS is often milder than autism, with some, but not all, of the same symptoms.

From a third to a half of all persons with autism have such stunted speech development that they cannot meet their ordinary daily communication needs. Some may repeat others' words. Unlike mute persons, the difficulty is not physical inability to make sounds, but a neurological and cognitive problem. Some autistic persons have difficulty making and maintaining eye contact with others. A police officer may mistakenly interpret this as "suspicious," having something to hide, or defiance, when in reality it is not being able to or not knowing how to respond appropriately, or even fear from what, to many, would be a routine social encounter. The result has sometimes, unfortunately, been rapid escalation of the encounter, with ensuing injury or death.

The purpose of this article is to briefly examine some of the circumstances in which police have and will encounter autistic persons in the community. It does not focus on "theories of liability" for unfortunate consequences that may result from such encounters. A small number of court decisions, however, are used as examples. Instead, the focus here is on bringing needed attention to a problem, and hopefully, helping to create awareness of some possible solutions.

Encountering Autistic Individuals

Whether or not there actually are more persons with autism today than formerly, it is clear that police officers are much more likely to encounter them out and about in the community than in earlier years. Students with intellectual disabilities such as autism, for one thing, are increasingly "mainstreamed" in the same schools and even classrooms as their non-disabled peers. An increasing number of them do wind up employed in various jobs, living independently, or living in somewhat structured and supervised environment. Far fewer of them than in earlier years wind up institutionalized, and many, as adults, may live with family members, such as parents or siblings.

In the case of [Bates v. Chesterfield County, Va.](#), #99-1663, 216 F.3d 367 (4th Cir. 2000), police encountered a young autistic individual who appeared to be acting strangely.

The incident began at about 6 p.m. in a residential area. A man went outside his house to play with his sons. He observed a "tall, skinny, shirtless teenager" on the street, standing at the end of his driveway. He did not know the youth, who was 17-year-old Brian Bates, who lived about two miles away. Bates had been autistic since birth.

While the father spoke to his sons, Bates started to walk up the driveway, and the father instructed his sons to go inside.

Bates entered the garage and walked up to a cage filled with kittens. The homeowner noticed that Bates was talking in an “incoherent” manner to the kittens, as well as reaching into the cage and making animal noises. Twice he asked Bates if he could “help” him, but got no response at all. He then stated, “Look, I’m asking you a question. Talk to me.” There was still no response, and no response to a request for Bates’ name. Replying to an inquiry about where he lived, Bates stated where he lived. Bates stated “Death Valley, California,” subsequently amending that to. “In Hell.”

While the father was finally able to get the youth out of his garage and down his driveway, further attempts at communication were unavailing, and only resulted in Bates yelling out the names of professional wrestlers. Bates then ran into some nearby woods, and the homeowner called 911, reporting what happened to a dispatcher.

A police officer who arrived on the scene was told, by a neighbor who witnessed the incident, that “I don’t know if this boy is on drugs or drunk but he is acting weird or crazy and just went running through the woods.”

When the officer encountered Bates a short distance away, Bates, without permission, sat sideways on the officer’s motorcycle, which he had dismounted. Bates later briefly pushed the officer and walked away.

An altercation ensued, during which Bates resisted being handcuffed. Additional officers arrived and successfully subdued Bates, although he continued to do such things as kick.

When the youth’s parents arrived, they informed the officers that he was autistic. Bates spun around to face his stepfather and the officers forced him to the ground and allegedly started beating him.

Bates eventually calmed down after a family member brought and administered his medication. Bates was charged with assaulting an officer, but released to the custody of his parents.

A lawsuit was brought on Bates’ behalf against the officers, but the court ultimately found that the officers’ action in detaining him was a proper investigatory stop, as well as finding that the ensuing confrontation and arrest did not violate either the Fourth Amendment or various disability discrimination statutes.

The court rejected the argument that the force used was excessive because of the youth’s autism:

“Bates makes much of the officers' use of force in light of his mental disability. It is undisputed, however, that Bates never told the officers he was autistic. Moreover, in the midst of a rapidly escalating situation, the officers cannot be faulted for failing to diagnose Bates' autism. Indeed, the volatile nature of a situation may make a pause for psychiatric diagnosis impractical and even dangerous.”

“Even after the officers were informed of Bates' autism, the force used by the officers was reasonable in light of all the circumstances. For example, the police reacted with force when, in Bates' own words, he ‘spun around’ to face his stepfather. In light of Bates' previous resistance to police -- his scratching, spitting, biting, and kicking -- the officers acted reasonably by forcibly restraining him. Knowledge of a person's disability simply cannot foreclose officers from protecting themselves, the disabled person, and the general public when faced with threatening conduct by the disabled individual. We do not underestimate the difficulties that an autistic individual may face in dealing with law enforcement officers. At the same time, that fact cannot set aside an officer's responsibility to uphold the law and ensure public safety.”

In [Champion v. Outlook Nashville, Inc.](#), #03-5068, 380 F.3d 893 (6th Cir. 2004), rehearing denied, 2004 U.S. App. Lexis, cert. denied, 544 U.S. 975 (2005), on the other hand, a federal appeals court upheld a \$900,000 jury award to the family of an adult non-verbal autistic man who died after officers seeking to restrain him allegedly continued to use pepper spray and to lay on top of his body after he was handcuffed, hobbled, and laying on his stomach on the ground, no longer resisting. The continued use of such force at that point, the court ruled, violated clearly established law, and jury's award was not excessive.

This case involved a 32-year-old autistic man, completely lacking the ability to care for himself, who was unresponsive and unable to speak. He was in the care of a company that provided care for developmentally disabled individuals. He was taken by one of its employees to a store, along with the employee's three-year-old son, and after departing, began to have a “behavior” in the van, moving around, because he was not seat-belted in, and hitting himself in the face as well as biting his own hand, and slapping the top of the employee's head.

The employee stopped the van, and she and the autistic man exited the vehicle. The employee believed that she had lost control of the man, and called 911, after locking herself in her van. An officer arrived on the scene, and was told that the man was mentally ill, but apparently was not told that the man was nonverbal and non-responsive.

The officer approached the man, asking him to state his name and to explain the reason for his agitation, as he kept hitting and biting himself. The man kept advancing toward the officer, who walked backwards about 50 feet through the parking lot, retreating from him, until he grabbed her shirt. The officer pushed his hand away and delivered a short burst of pepper spray to his face. He then walked into the store, and the officer followed him in and ordered him to leave.

The man obeyed, giving the officer the false impression that he actually understood her, and as the two exited the store, another officer arrived. Both officers attempted to arrest the man outside the store, but a struggle ensued. A third officer arrived, and the officers decided to take the man to the ground in the entrance foyer of the store.

They allegedly did so, but laid on top of him and sprayed him with pepper spray even after he was immobilized both with handcuffs and a hobbling device on his feet. They allegedly continued to apply pressure to his back as he lay on his stomach while restrained. The man died en route to the hospital shortly after the incident.

A federal civil rights lawsuit by the man's surviving family resulted in a jury award of \$900,000 in damages for the man's physical and mental pain and suffering prior to death. The trial court denied motions for a new trial, reduction of the damage award, or qualified immunity for the defendant officers. A federal appeals court upheld this result.

The court ruled that this use of force violated the decedent's Fourth Amendment rights. The court noted that the officers had been trained in the use of pepper spray, and taught that it was excessive force to spray a suspect after they were incapacitated. Accordingly, they were not entitled to qualified immunity.

At the time of the conduct that led to the arrestee's death, he had stopped resisting arrest and posed no flight risk. At that time, using pepper spray against him and lying on top of him while handcuffed and hobbled was clearly improper. This, the evidence showed, created asphyxiating conditions because it put substantial pressure, the officer's body weight, on the arrestee's back, which may have resulted in positional asphyxia.

The appeals court also rejected the argument that the jury's \$900,000 award was excessive or shocking in light of the psychic pain stemming from anxiety and fear that the decedent could have experienced while gasping for breath.

Beyond the differing ultimate results as to law enforcement liability growing out of these two incidents, what lessons can be drawn about police encounters with autistic persons?

In a recent law review article, after examining a number of such instances, one of which resulted in the shooting death of a youth who did not immediately respond to commands to drop a knife, the real difficulty was summarized in this manner:

“One characteristic of ASD poses a particular problem in encounters with law enforcement. ‘Escalation,’ or meltdown, describes the response of a person with ASD under stress or in an unfamiliar situation. Overwhelmed by the barrage of sensory information, a person with ASD may attempt to flee the uncomfortable situation, ...become combative, or simply shut down. The individual may ‘cover[] his or her ears and shriek[], not knowing how or where to get help.’ This expression of fear, frustration, and confusion frequently appears like a child's tantrum that has ‘escalated’ out of the control of adult caregivers.”

”Unfortunately, the presence of police--lights and sirens, uniforms, loud and unfamiliar voices, barking dogs--often makes a difficult situation worse by contributing to the individual's sensory overload. Traditional law enforcement techniques for controlling and containing such a situation are ineffective and may provoke further escalation or a violent physical outburst by the person with ASD.”

“Paradoxically, the more force a police officer applies to gain control over the situation, the more dangerous and out of control the situation likely becomes. Instead, calmness, patience, and geographical containment, as opposed to physical force, will usually lead to a de-escalation of behavior within a few minutes. A police officer unprepared to recognize the signs of ASD and respond appropriately not only places the person with ASD at unnecessarily greater risk of the use of force but also creates a more dangerous situation for the officer.”

From “What Happened to ‘Paul’s Law’?: Insights on Advocating for Better Training and Better Outcomes in Encounters Between Law Enforcement and Persons with Autism Spectrum Disorders, by Elizabeth Hervey Osborn, 79 Univ. of Colorado Law Review Issue 1, 333 (Winter 2008).

As a practical matter, commands may need to be repeated a number of times to be understood and responded to. Tone of voice and manner of approach may also be important. The autistic person may be acting inappropriately. But their intent may be simply to see or pet the kittens in the cage or see how it feels to sit on the seat of the motorcycle.

The comment of the court in the Bates case discussed above, that officers should not be faulted for failing to make a diagnosis of an autistic person’s disorder in the midst of a rapidly developing confrontation is true. And yet, officers who have some familiarity with

autism, its symptoms, and how autistic persons respond to stimuli might be better able to recognize autistic person they encounter, and attempt a different approach to gaining compliance and calming them down, instead of swiftly escalating the encounter towards a violent or even deadly conclusion. Further, even if officers are informed, by a person themselves, or by family members or neighbors, that an individual is autistic, without prior training and familiarization with autistic persons, the officers may not know how to most effectively act.

That does not mean, of course, that all such confrontations can be successfully avoided or deescalated. But perhaps some can, avoiding injury or even death for autistic persons, bystanders, and officers themselves.

Some Suggestions

All training, of course, takes time, money, and effort. But a number of governmental entities have increasingly recognized the area of interaction between autistic persons and law enforcement as worthwhile. At the conclusion of this article, there is a relatively long list of resources, some online and others fairly readily available, that can be helpful in such training efforts. Advocacy organizations for autistic persons have produced a variety of informative materials directed at law enforcement, which may be useful in this context.

In the resource list are such items as a guide to interaction of law enforcement with autistic persons from the Illinois Attorney General's office, a link to new legislation in Indiana mandating training on the subject, and an article from the FBI Law Enforcement Bulletin on the topic.

While formal training on the topic can be most beneficial, simple distribution of informational material can be beneficial. The guide from the Illinois Attorney General's Office makes the following practical suggestions:

Identifying Autism

While an officer cannot be expected to diagnose autism, understanding the common characteristics of autism may help you respond to an incident involving someone with this disability. While each person with autism is different, common characteristics include:

- Limited or no ability to speak
- Lack of eye contact
- Insistence on sameness
- Obsessive attachment to objects

- Self-stimulating behavior including hand flapping, body rocking, or attachment to objects
- Inappropriate behavior, such as laughing during a serious situation
- No fear of danger
- Over- or under-sensitivity to pain
- Tantrums or escalated behavior for no apparent reason
- Preference to be alone

Responding to a Call:

To ensure the safety of all individuals involved, police officers responding to a situation involving someone with autism should:

- Make sure the person is unarmed and maintain a safe distance.
- Model the behavior you want the person to display.
- Use a quiet non-threatening voice.
- Use simple language.
- Avoid touching, if possible.
- Allow for delayed response.
- Turn off lights and sirens, if possible.
- Talk to people who know the person with autism, such as caregivers.
- Allow an agitated individual with autism to calm down without your intervention, if possible, and give them extra personal space.

Restraint

If you must restrain a person with autism, consider the following tips to maintain safety for both yourself and the person being arrested:

- [...] People with autism may have a difficult time supporting their airways during restraint due to underdeveloped chest muscles. Officers should turn the person on their side to ensure normal breathing.
- Keep in mind that many people with autism are prone to seizures.
- Be prepared for resistance. People with autism may not understand the futility of struggling even when they are restrained.
- Speak and act in a calm manner to encourage de-escalation.

Interviews

Whether you are interviewing a person with autism as a victim, witness, or offender, you should use the following tips to ensure a successful interview:

- Allow plenty of time.
- Avoid leading questions.
- Develop an understanding of the person's communication style before asking more critical questions.
- Plan questioning based on ability level.
- Do not take a lack of eye contact, the changing of subjects, or answers that are vague, evasive, or blunt as evidence of guilt.
- Ask questions that rely on narrative responses. “Yes” or “no” responses could be unreliable.

Resources

The following are some useful resources related to the topic of this article:

- Wikipedia article on [Autism](#).
- What Happened to “Paul’s Law”?: Insights on Advocating for Better Training and Better Outcomes in Encounters Between Law Enforcement and Persons with Autism Spectrum Disorders, by Elizabeth Hervey Osborn, 79 Univ. of Colorado Law Review Issue 1, 333 (Winter 2008).
- Autism Safety Techniques: [Assessing and Approaching Individuals With Autism](#).
- [Avoiding Unfortunate Situations](#). The focus of this site is on Autism and the Law Enforcement Community and how the two interact. Includes information on how to lessen the potential for negative police encounters and educational materials for law enforcement personnel.
- Autism Awareness Video for Law Enforcement/Community Service Personnel. This video produced by the Autism Society of America is designed to educate law enforcement officers and others about individuals with Autism and Related Disorders. For information on how to access a copy of this video visit the Autism Society of North Carolina Bookstore at www.autismsociety-nc.org
- “[Contact with Individuals with Autism](#),” by Dennis Debbaudt and Darla Rothman, 70 FBI Law Enforcement Bulletin, No. 4 (April 2001), pgs. 20-24. “Dealing with

individuals with autism and other developmental disabilities requires officers to have additional training to handle these situations.”

- [Autism Information for Law Enforcement and First Responders](#), Autism Society of America.
- [Autism Information for Paramedics and Emergency Room Staff](#)
- [Autism Specific First Responder Pocket Cards](#)
- [Available Disability Related Videos/DVDs](#)
- Autism Society of America [Website](#).
- [Autism 101 for Law Enforcement](#)
- [Law Enforcement Response to Autistic Individuals. Recognizing Autism and Reducing Associated Risks.](#)
- [Helping Police Officers Understand the Autistic](#) by Tina Kelley, NY Times Dec. 21. 2007
- [Autism: Law Enforcement Guide to Interacting with People with Autism](#). Illinois Attorney General.
- [New legislation](#) requires autism training for responding law enforcement professionals in Indiana.
- [Autism & Law Enforcement](#) Roll Call Briefing Handout, by David Debbaudt (2005).
- Video Review [Autism and Law Enforcement](#) (2005).
- Book: [Autism, Advocates and Law Enforcement Professionals: Recognizing and Reducing Risk Situations for People With Autism Spectrum Disorders](#) (Paperback), by Dennis Debbaudt. (2002).

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