



Autism Spectrum Disorder (ASD) and Competency to Stand Trial (CST): A Need for Greater Understanding and Further Research

By Jerrod Brown

Abstract

The rate of autism spectrum disorder (ASD) diagnoses increases somewhere between 10% and 17% each year (Baio, 2014), making this disorder the fastest-growing developmental disorder in the United States (Centers for Disease Control and Prevention [CDC], 2015; Van Naarden Braun et al., 2015). In fact, one out of 68 U.S. citizens has an ASD diagnosis (CDC, 2015). This disorder consists of social and communication deficits, cognitive rigidity, and behavioral sequelae, all of which can vary in presence and severity across individuals with the disorder. These symptoms increase the likelihood that an individual will become entangled in the criminal justice system and can have a devastating impact on an individual's capacity to participate in the legal process (Brown et al., 2016; Freckelton, 2012; Katz & Zemishlany, 2006; Mayes, 2003).

Although there is a dearth of empirical research on the topic, the deficits inherent to ASD—the social and communication impairments in particular—can have a negative impact on an individual's competency to stand trial (CST; Foster, 2015; Freckelton, 2013). The competency doctrine requires that defendants be able to factually and rationally understand their legal proceedings and assist in their own defense. It remains unclear how many of the 50,000 to 60,000 CST evaluations conducted each year in the United States involve a defendant with ASD (Morris & DeYoung, 2012; Pirelli, Gottdiener, & Zapf,

2011; Zapf, Roesch, & Pirelli, 2014), but experience suggests that a relatively limited number of forensic mental health professionals who perform CST evaluations have advanced training in the area of ASD. In fact, few if any advanced training and education options exist in the area of ASD and CST evaluations. This fact emphasizes the necessity of developing CST evaluators with expertise in this area, which could lead to more appropriate evaluation recommendations for these defendants through appropriate interviewing and assessment methods.

The purpose of this article is to promote a greater understanding of ASD and encourage further research related to the impact of ASD within the criminal justice system with an eye toward CST evaluations. Specifically, future research should (a) provide background information on ASD and CST evaluations, (b) review empirical research, case law, and popular media coverage of the impact of ASD on CST evaluations, (c) explain how ASD can impact a defendant's competency to stand trial, (d) discuss the difficulties that forensic mental health professionals must grapple with when evaluating the competency of defendants with ASD, and (e) identify tips and reminders to improve competency evaluations for defendants with ASD.

Biography

Jerrod Brown, Ph.D., is the Treatment Director for Pathways Counseling Center, Inc. Pathways provides programs and services benefiting individuals impacted by mental illness and addictions. Jerrod is also the founder and CEO of the American Institute for the Advancement of Forensic Studies (AIAFS), and the Editor-in-Chief of *Forensic Scholars Today* (FST) and the *Journal of Special Populations* (JSP). Jerrod has completed four separate master's degree programs and holds graduate certificates in Autism Spectrum Disorder (ASD), Other Health Disabilities (OHD), and Traumatic-Brain Injuries (TBI). Jerrod is certified as a Youth Firesetter Prevention/Intervention Specialist, Thinking for a Change (T4C) Facilitator, Fetal Alcohol Spectrum Disorders (FASD) Trainer, and Problem Gambling Treatment Provider.

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