

Neurodivergence and the Criminal Justice System in England and Wales: A Critical Analysis of John's Case

By Maddison Morgan McCarthy

John's Background

- ▶ 35 year old man diagnosed with Autism Spectrum Disorder (ASD).
- ▶ Convicted of low-level offences: theft and public order.
- ▶ His Neurodivergence is not identified until after his initial criminal justice contact.

Challenges -

1. John struggled with communication and social cues - causing misunderstandings.
2. Sensory sensitivities made the prison environment overwhelming.
3. Heightened anxiety and behavioural issues were evident in custody.

Four Main Areas

1. Structural barriers neurodivergent people face.
 2. John's pathway into offending.
 3. Current reforms and gaps.
 4. Evidence-based recommendations that could support him.
-
- ▶ Central argument - John's involvement reflects the systematic failures in identification, support and adaptation, not that autism makes someone a criminal.

Autism and Criminality: Challenging Assumptions



- ▶ Autism (ASD) is a neurodevelopmental condition affecting social communication and sensory processing (National Autistic Society, 2020). It does not make an individual prone to criminality.
- ▶ Research demonstrates that autistic individuals do not offend at higher rates once co-occurring conditions are accounted for (King and Murphy, 2014; Woodhouse et al., 2024).
- ▶ Instead of asking “did autism cause John to offend?” we need to ask, “why his needs were not met before he became involved in the criminal justice system (CJS)”.
- ▶ Systemic factors, unmet support, exclusion and misunderstanding matter far more than the diagnosis itself.

Pathways to Offending

- ▶ Most awareness of ASD focuses on childhood diagnosis, leaving adults like John undiagnosed until crisis (Revolving Doors, 2022).
- ▶ Trevisan and Birmingham (2016) argue that conflict-based offences often come from misunderstanding rather than intent.

For example -

1. Misreading social cues (Gray, 2010).
2. Emotional dysregulation under stress.
3. Social naivety and exploitation.
4. Impulsivity from sensory overload.

- ▶ Early unmet needs like school exclusion can set Pathways for individuals like John into the CJS.
- ▶ For John, punitive responses to behaviours stemming from unrecognised Autism may have reinforced marginalisation, illustrating how systematic failures not diagnosis, led to his offending.



MISUNDERSTANDINGS



Legal and Policy Context

- ▶ There are legal frameworks in place to protect people who are neurodivergent, including:
 1. Equality Act 2010 - requires reasonable adjustments.
 2. Autism Act 2009 - national strategy for adults with autism.
 3. PACE 1984 - safeguards for vulnerable suspects, including appropriate adults.
 4. The Bradley Review 2009 - highlighted people with mental health and developmental needs are often sent to prison instead of receiving appropriate support.

- ▶ Research - Neurodivergent people remain overrepresented in the CJS (Revolving doors, 2022).

- ▶ The problem isn't a lack of law; it's the inconsistent implementation across agencies. John's experience illustrates this policy-practice gap.



Failure of Identification

- ▶ The Ministry of Justice (2021) reports widespread under-identification of neurodivergence across the criminal justice system.
- ▶ Screening is inconsistent and screening tools often lack sensitivity to autism. Diagnosis alone does not improve outcomes without environmental adaptations (Kirby et al., 2021).



**Ministry
of Justice**

Failure of identification continued-

- ▶ Mandatory early neurodiversity screening at prison reception (National Autistic Society, 2023)
- ▶ There are many benefits of consistent screening for example:
 1. Reducing violence and distress-related incidents.
 2. Enabling proactive support and planning across health care, safer custody, and programme teams.
 3. Providing data to justify specialist staff and services.
- ▶ Issues with current screening tools:
 1. Reliance on self-report questionnaires- could be difficult for those who struggle with communication.
- ▶ The RAADS-14 (Eriksson, Andersen and Bejerot, 2013) has demonstrated good sensitivity and specificity in psychiatric and forensic settings.
- ▶ For John, early screening could have:
 1. Triggered reasonable adjustments sooner.
 2. Prompted referral for formal specialist assessment.
 3. Informed suitable offending behaviour programmes.
- ▶ Screening improves safety wellbeing and proactive service planning reinforcing that systematic failure not diagnosis drives justice involvement.

Police Contact and Procedural Fairness

- ▶ Under PACE 1984, safeguards such as an appropriate adult only work if vulnerability is recognised - John was not.
- ▶ Research shows that autistic adults may appear non-compliant under stress (Maras and Bowler, 2012).
- ▶ Behaviours like delayed responses, avoiding eye contact or literal interpretation of questions can be misread as dishonesty (Gudjonsson et al., 2016). These misinterpretations can influence charges, plea decisions and case outcomes.
- ▶ For John, a lack of recognition at the police stage could have limited his access to safeguards, which undermines procedural fairness and why screening needs to be used accurately.
- ▶ This demonstrates how the system and not autism can disadvantage neurodivergent people.

Prison as a Risk Multiplier

- ▶ Prison environments often exacerbate autistic distress (being loud, bright, unpredictable and socially complex).
- 1. Sensory hypersensitivity is linked to increased anxiety (Robertson and Simmons, 2015)
- 2. Behaviours perceived as non-compliant may be distress responses (Kirby et al., 2021).

Recommendation

- ▶ Minor environmental changes can make significant differences (CJJI, 2021) for example: dim lights, quieter spaces, consistent layouts, sensory rooms and scheduling movements during quieter periods.
- ▶ Individual supports could be ear defenders, weighted blankets, seamless clothing, tinted glasses, sensory tools and alternative food options.

...continued

- Some prisons have brought in positive interventions like dedicated neurodivergent wings.

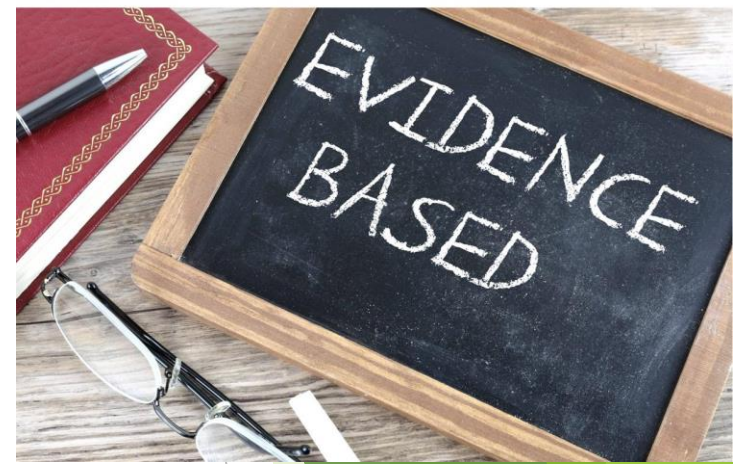
Pros - low cost, improves safety and wellbeing.

Cons - dependent on staff awareness, some items are restricted by security.

- For John, punitive responses to distress-driven behaviour likely increased anxiety and risk, showing again that the environment, not the diagnosis, drives harm in custody.



Evidence Led Individual Recommendations



- ▶ Specialist Autism Assessment to understand sensory and executive function (Lever and Geurts, 2016).
- ▶ Adapted CBT to improve emotional regulation (Spain et al., 2015).
- ▶ Sensory friendly environments to reduce distress (Mills, 2019).
- ▶ Social skills training (Gantman et al., 2012).
- ▶ Employment support for routine identity and independence (Uggen, 2000).

System Level Reform

- ▶ Training is central to reform.
- ▶ Only 28% of police/probation and 24% of prison staff report neurodiversity training (MoJ, 2021) which could be why John was struggling to communicate with staff.
- ▶ Poor data sharing and limited autism expertise remain (MoJ, 2021).
- ▶ Liaison and diversion can reduce remand, but access varies by location (NHS England, 2019).
- ▶ Without awareness, communication fails, behaviours are misinterpreted, and resources are underused.
- ▶ Evidence based interventions exist, but practical application is key

For John trained staff could have:

- ▶ Recognised communication differences, avoided misinterpreting behaviour, used toolkits effectively and prevented escalation.
- ▶ Pros - improves emotional regulation reduces conflict promotes dignity.
- ▶ Limitations - resource dependent, training gaps, waiting lists.

Desistance and Structural Justice

- ▶ Desistance theory emphasises identity change (Maruna, 2001) but autistic identity may prioritise routine and structure.

For John supporting desistance requires:

- ▶ Autism informed probation, routine and structured activities, sensory aware environments, social inclusion and employment.
- ▶ Supervision alone is inefficient.
- ▶ Neurodivergence only becomes criminal when institutions fail to accommodate difference.
- ▶ A neuro-informed system is not preferential it is about fairness, equality and human rights.

Conclusion

- ▶ A neuro-informed justice system ensures that legal protections are meaningful in practice:
 1. Equality under the Equality Act 2010.
 2. Compliance with the Autism Act 2009.
 3. Procedural fairness under PACE 1984.

- ▶ Johns case highlights failures in:
 1. Early screening.
 2. Staff training.
 3. Environmental adaptation.
 4. Consistent diversion.
- ▶ Neurodivergence becomes a risk only when institutions fail to adapt.
- ▶ A neuro-informed system is therefore not an adjustment but a requirement for justice ensuring fairness, dignity and justice for all.

References

- ▶ Autism Act 2009 (2009). London: The Stationery Office. Available at: <https://www.legislation.gov.uk/ukpga/2009/15/contents> (Accessed: 5 February 2026).
- ▶ Bradley, K. (2009) *The Bradley Report: Lord Bradley's review of people with mental health problems or learning disabilities in the criminal justice system*. London: Department of Health. Available at: <https://depositedpapers.parliament.uk/depositedpaper/2263131/files> (Accessed: 6 February 2026)
- ▶ Criminal Justice Joint Inspection (2021) *Neurodiversity in the criminal justice system: A review of evidence*. Available at: <https://www.justiceinspectorates.gov.uk/cjji/wpcontent/uploads/sites/2/2021/07/Neurodiversity-evidence-review-web-2021.pdf> (Accessed: 5 February 2026)
- ▶ Eriksson, J.M., Andersen, L.M.J. and Bejerot, S. (2013) 'RAADS-14 Screen: validity and reliability of a screening tool for autism spectrum disorder in adult psychiatric patients', *Molecular Autism*, 4(1), 49. Available at: <https://link.springer.com/article/10.1186/2040-2392-4-49> (Accessed: 7 February 2026)
- ▶ Equality Act 2010 (2010). c. 15. London: The Stationery Office. Available at: <https://www.legislation.gov.uk/ukpga/2010/15/contents> (Accessed: 7 February 2026)
- ▶ Gantman, A., Kapp, S.K., Orenski, K. and Laugeson, E.A. (2012) 'Social skills training for adults with autism spectrum disorder', *Research in Autism Spectrum Disorders*, 6(2), pp. 1092–1103. Available at: <https://doi.org/10.1007/s10803-011-1350-6>
- ▶ Gray, C. (2010). *The new social story book*. Future Horizons.
- ▶ Gudjonsson, G. H., Singurdsson, J. F., Sigfusdottir, I. D., Asgeirsdottir, B. B., Gonzalez, R.A. and Young, S., (2016) A national epidemiological study investigating risk factors for police interrogation and false confession among juveniles and young persons. *Social Psychiatry and Psychiatric Epidemiology*, 51 (3), pp. 359-367. Available at: <https://doi:10.1007/s00127-015-1145-8>.

King, C. and Murphy, G.H. (2014) 'A systematic review of people with autism spectrum disorder and the criminal justice system', *Journal of Autism and Developmental Disorders*, 44(11), pp. 2717–2733. Available at: <https://doi.org/10.1007/s10803-014-2046-5>

Kirby, A.V., et al. (2021) 'Autism in prison settings: A review', *Advances in Autism*, 7(2), pp. 89–102. Available at: <https://doi.org/10.1108/AIA-06-2020-0025>

Lever, A.G. and Geurts, H.M. (2016) 'Psychiatric co-occurring symptoms and disorders in young, middle-aged, and older adults with autism spectrum disorder', *Journal of Autism and Developmental Disorders*, 46(6), pp. 1916–1930. Available at: <https://doi.org/10.1007/s10803-016-2722-8>.

Maras, K. and Bowler, D. (2012) 'Brief report: Suggestibility, compliance and psychological distress in adults with autism spectrum disorder', *Research in Autism Spectrum Disorders*, 6(3), pp. 1168–1175. Available at: <http://dx.doi.org/10.1016/j.rasd.2012.03.013>

Maruna, S. (2001) *Making Good: How Ex-Convicts Reform and Rebuild Their Lives*. Washington, DC: American Psychological Association. Available at: <https://doi.org/10.1037/10430-000>

Mills, R. (2019) 'The sensory needs of autistic prisoners', *Prison Service Journal*, 242, pp. 20–26. Available at: <https://www.crimeandjustice.org.uk/publications/psj/prison-service-journal-242> (Accessed: 10 February 2026)

Ministry of Justice (2021) *Neurodiversity in the Criminal Justice System: A Review of Evidence*. London: MoJ. Available at: <https://www.gov.uk/government/publications/neurodiversity-in-the-criminal-justice-system-review-of-evidence> (Accessed: 10 February 2026)

- ▶ National Autistic Society (2020) *Autism: A Guide for Criminal Justice Professionals*. London: NAS. Available at: <https://www.autism.org.uk/advice-and-guidance/professional-practice/criminal-justice> (Accessed: 5 February 2026)
- ▶ National Autistic Society (2022) *Police interviewing of autistic people*. London: NAS. Available at: <https://www.autism.org.uk/advice-and-guidance/professional-practice/police-interviews> (Accessed: 5 February 2026)
- ▶ National Autistic Society (2023). *Overlooked and overwhelmed: the impact of early neurodiversity screening in prisons*. London: NAS. Available at: <https://autism.org.uk/advice-and-guidance/professional-practice/early-neurodiversity-screening-in-prisons> (Accessed: 19 February 2026)
- ▶ NHS England (2019) *Liaison and Diversion: National Standard Service Specification*. London: NHS England & NHS Improvement. Available at: <https://www.england.nhs.uk/wp-content/uploads/2019/12/national-liaison-and-diversion-service-specification-2019.pdf> (Accessed: 16 February 2026)
- ▶ Police and Criminal Evidence Act 1984. (1984) c. 60. London: HMSO. Available at: <https://www.legislation.gov.uk/ukpga/1984/60/contents> (Accessed: 15 February 2026)
- ▶ Revolving Doors Agency (2022) *Exploring the links between neurodiversity and the revolving door of crisis and crime* (Policy briefing). Available at: <https://revolving-doors.org.uk/wp-content/uploads/2022/09/Revolving-Doors-neurodiversity-policy-position.pdf> (Accessed: 11 February 2026)
- ▶ Robertson, A.E. and Simmons, D.R. (2015) 'The sensory experiences of adults with autism spectrum disorder: A qualitative analysis. *Perception*. 44(5):569-86. <https://doi.org/10.1068/p7833> (Accessed: 18 February 2026)
- ▶ Rutherford, M., et al. (2021) 'Neurodiversity and criminal justice', *The British Journal of Psychiatry*, 219(3), pp. 473–475. Available at: <https://doi.org/10.1192/bjp.2021.28>

- ▶ Spain, D., Sin, J., Harwood, L., Mendez, M.A. and Happé, F. (2017) 'Cognitive behaviour therapy for social anxiety in autism spectrum disorder: A systematic review', *Advances in Autism*, 3(1), pp. 34–46. Available at: <https://doi.org/10.1108/AIA-07-2016-0020>
- ▶ Trevisan, D.A. and Birmingham, E. (2016) 'Criminal justice outcomes for adults with autism spectrum disorder', *Autism Research*, 9(6), pp. 666–675. Available at: <https://doi.org/10.1002/aur.1556>
- ▶ Uggen, C. (2000) 'Work as a turning point in the life course of criminals: A duration model of age, employment, and recidivism', *American Sociological Review*, 65(4), pp. 529–546. Available at: <https://doi.org/10.2307/2657381>.
- ▶ Woodhouse, E., Hollingdale, J., Davies, L., Al-Attar, Z., Young, S., Vinter, L.P., Agyemang, K., Bartlett, C., Berryessa, C., Chaplin, E., Deeley, Q., Freckelton, I., Gerry, F., Gudjonsson, G., Maras, K., Mattison, M., McCarthy, J., Mills, R., Misch, P., Murphy, D. and Allely, C. (2024) 'Identification and support of autistic individuals within the UK Criminal Justice System: A practical approach based upon professional consensus with input from lived experience', *BMC Medicine*, 22(1), 157. Available at: <https://link.springer.com/article/10.1186/s12916-024-03320-3> (Accessed: 20 February 2026)

I confirm that I have not used any AI tools in the research and creation of this assignment. I confirm that I have not presented any AI generated materials as my own work. I confirm I have copies of my drafts, notes, and other resources I used, which I may be asked to provide in evidence.

RESEARCH TIMELINE

