Autism and the criminal justice system

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Background

- **Concern across Government, Health, Justice**
  - Prevalence, behaviour, legal aspects, police, Courts, prisons, high-secure hospitals; offending and risk
- **Concern from the autistic/autism community**
  - Rights, vulnerability, stigma - ‘demonising’, victimhood
- **Media interest**
  - Sometimes sympathetic – usually speculative and sensational

Questions

Q.1. Is autism associated with a higher risk of law breaking?

Q.2. Are autistic people more likely to be victims of crime?

Q.3. What happens to autistic people in the justice system and what might help ?

Q.1
Is autism associated with a higher risk of law breaking?

High profile cases

Prevalence studies

What sort of offences ?

What is it about autism?

High profile individuals and the reported association of autism and crime

Gary McKinnon

Lauri Love

Tom Hayes

Graham Young

Anders Behring Breivik

Darius McCollom

Mohamed Abdulaziz Rashid Saeed-Alim
(Nicky Reilly)

Martin Bryant

Ted Kaczynski

Jeffrey Dahmer

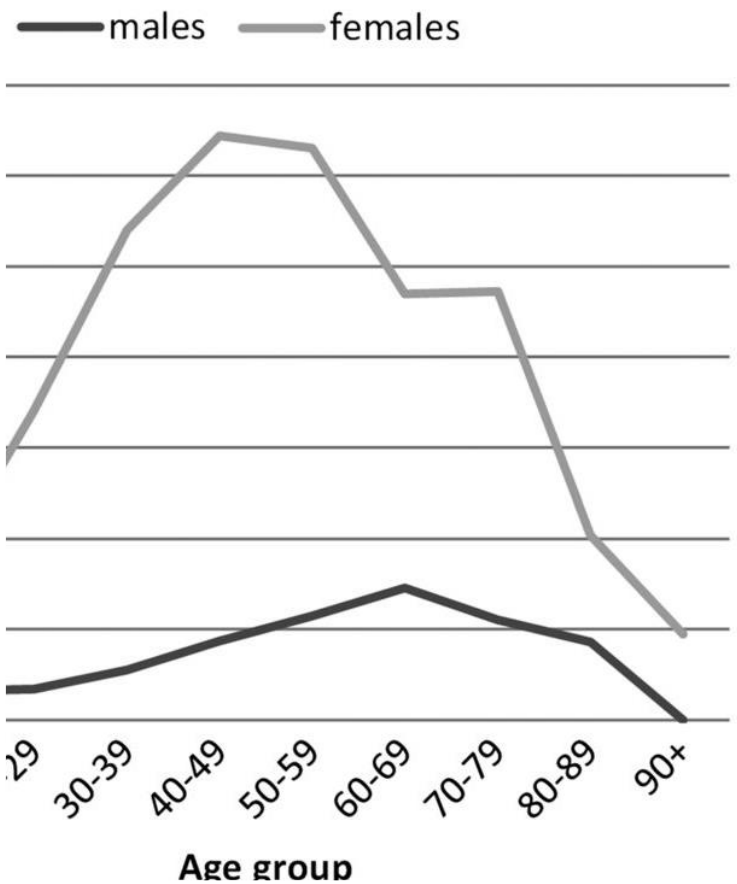
Adam Lanza

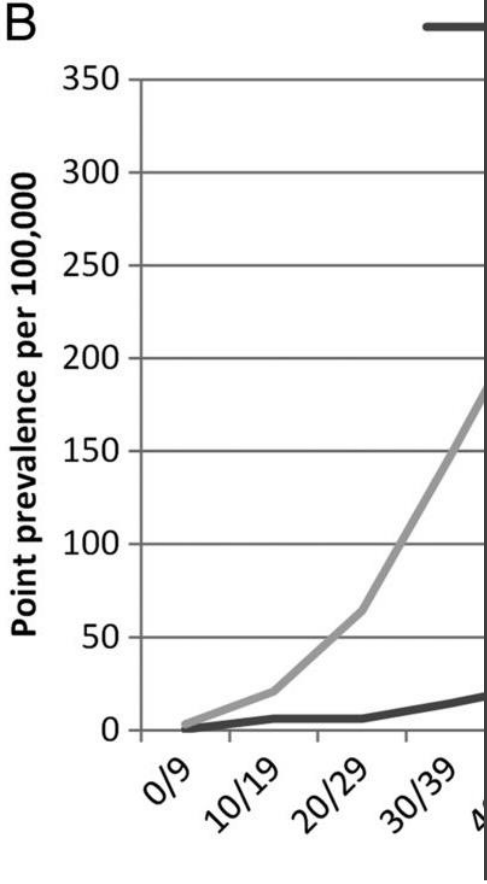
Saga Norén !

Sherlock Holmes

High profile cases

- Media interest – e.g. underlying narrative and terminology - ‘loners’
- Media speculation associating autism and offending- especially serious offending
- Academic speculation ‘linking autism and mass murder’ (Allely 2018) widely reported – widely condemned
- Is the autism association established – or are we seeing autism traits (AQ) not autism? Or other explanations ?
- What does the research say?





Prevalence studies

Autism and offending

Author	Population	n	Prevalence
Enayati et al 2008: Sweden	All offenders in Sweden 1997-2001 referred for forensic investigation	2,609	Autism; Male arsonists 1.3% Other offenders 0.3% Female Arsonists 0 % Female other 1% Asperger Syndrome Male arsonists 7.1% Male other 2.5% Female arsonists 3.4% Other female 2.6%
Hare et al 1999: UK	Patients in the three high secure hospitals UK	1,305	2.4% definite ASD 2.4% equivocal
Kumagami & Matsura 2009: Japan	All juvenile cases in four family courts in one year	428	3.2% PDD courts A B C 18.2% PDD Court D
Robinson et al 2012: UK	Population of 12 prisons in Scotland. 40% prison pop.	2458	Overall prevalence (excluding equivocal cases) 4% (screening)
Scragg and Shah 1994 UK	Population of one high secure Hospital	392	1.5.% Asperger Syndrome (2.3 % inc equivocal cases)
Siponmaa et al 2001: Sweden	YP (15-22 years) forensic psychiatric service over 5 yrs	130	PDD 27% PDDNOS 17%
Soderstrom et al Soo4. Sweden	Court referrals for psychiatric investigation	100	Autism 5% Asperger 3% ASD (NOS) 10%

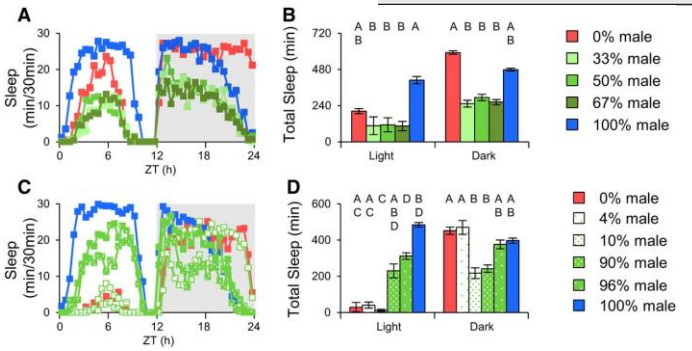
Author	Population	n	Prevalence
Allen et al 2008: UK	Adults with AS diagnosis in South Wales	126	26% engaged in offending behaviour
Brookman-Frazee et al 2009: USA	Stratified random sample all children in mh/ drug/ alc/ justice services (6-17 years)	3402	11% screened positive for ASD Fewer in justice than other services
Cheely et al 2012 USA	YP (12 -18) registered in South Carolina Autism and DD monitoring project	609 ASD	Offender rate 5.24%
Hippler et al 2010 : Austria	Archives of Hans Asperger cases (AP)	73 AP 104 AF	Offenders 2.74.% No difference from gen pop
Mourisden et al 2008: Denmark	Follow up PDD cases (1960-1984) 341 PDD (113 childhood autism -86 Atypical Autism 114 AS) 933 no PDD	113 CA 86 AA 114 AS	Offender 0.9% CA (18.9 control) 8.1 % AA (14.7% control) 18.4% AS (19.6% control)
Woodbury-Smith et al 2006: UK	ASD adults in one health district of UK . 102 Final sample 25	102	48% ASD self reported crime 80% comparison group reported crime

Other studies

- Mullen et al (2004); Post et al (2014)
  - Stalkers and victims –unclear rates of ASD (AS)
- Tromans et al (2018)
  - Report a general trend suggestive of an increased prevalence of ASD within inpatient psychiatric settings including forensic services
- . McCarthy et al (2016)
  - Neurodevelopmental disorders in prison –high rates of NDD : ASD difficult to detect

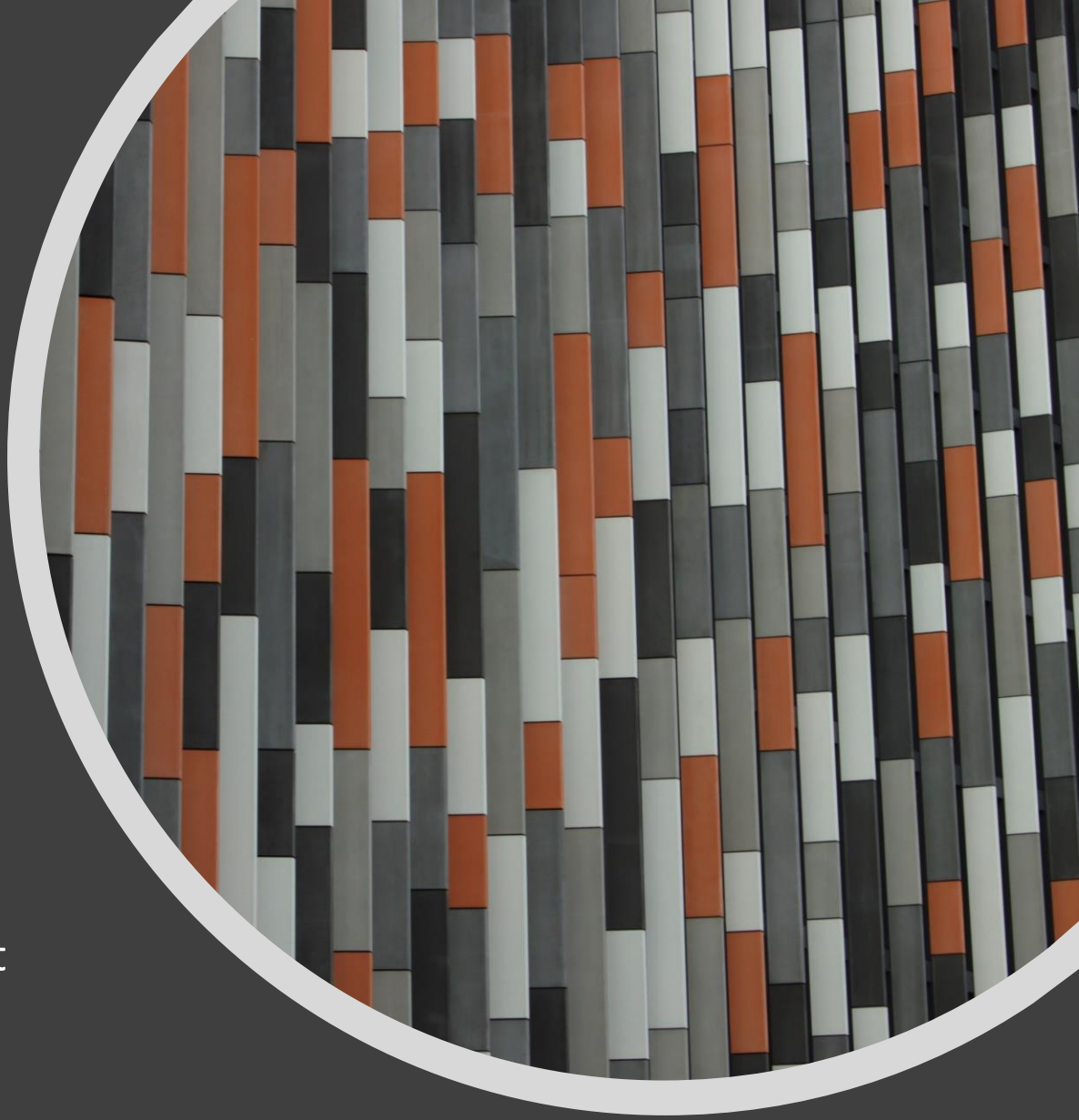
Identified Prevalence of Autism Spectrum Disorder
ADDM Network 2000 – 2012
Combing Data from All Sites

Surveillance Year	Birth Year	Number of ADDM Sites Reporting	Prevalence per 1,000 Children (Range)	This is about 1 in X children...
2000	1992	6	6.7 (4.5–9.9)	1 in 150
2002	1994	14	6.6 (3.3–10.6)	1 in 150
2004	1996	8	8.0 (4.6–9.8)	1 in 125
2006	1998	11	9.0 (4.2–12.1)	1 in 110
2008	2000	14	11.3 (4.8–21.2)	1 in 88
2010	2002	11	14.7 (5.7–21.9)	1 in 68
2012	2004	11	14.6 (8.2–24.6)	1 in 68



Summary

- Mixed evidence suggests between 2% and 4% of offender population autistic: Few high quality prevalence studies of offending
- Group with severe ID classified as ‘challenging behaviour’ with health rather than CJS options. Holland et al (2002)
- Weak or limited evidence that some categories of autism spectrum may be at higher risk (Asperger syndrome) Allen et al (2008) but no evidence to support over- representation in serious offending



What sort of offences ?

- Full picture unknown
- Of the known offender population
  - Low rates of acquisitive offending
  - Mixed evidence on violent and sexual offences
  - Association with specific offences e.g. Stalking, Harassment, Arson, Cyber …

…….Is this true?

Cybercrime

- High profile cases –some definite ASD
- Global law enforcement report higher rates of suspected ASD . Ledingham and Mills (2016)
- Follow up study showed high autism traits and high tech skills significant risk factors but not ASD Brosnan et al (in press)
- Young age profile (12 -13 yrs plus) – almost exclusively male

Concerns and speculation

Questions have been asked about over-representation of ASD in specific offences

Offence	Evidence
Cyber dependent offending	
Acquisitive offences (theft and fraud)	
Sexual offences	
Terrorism related	
Stalking and harassment	
Arson	
Violent offences including homicide	

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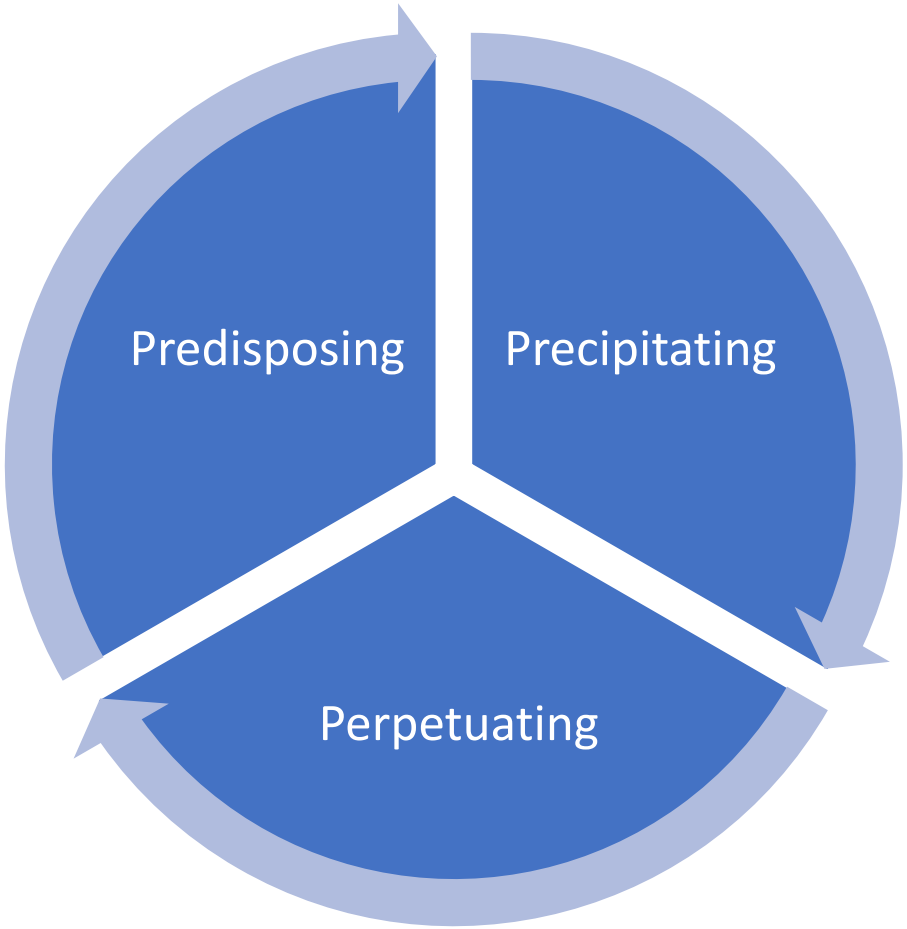
Risk factors

Inter-relationship of social, psychological, psychiatric, autism and other factors

Risk factors

Mostly static



Mostly dynamic

Static and dynamic

Crocombe 2005

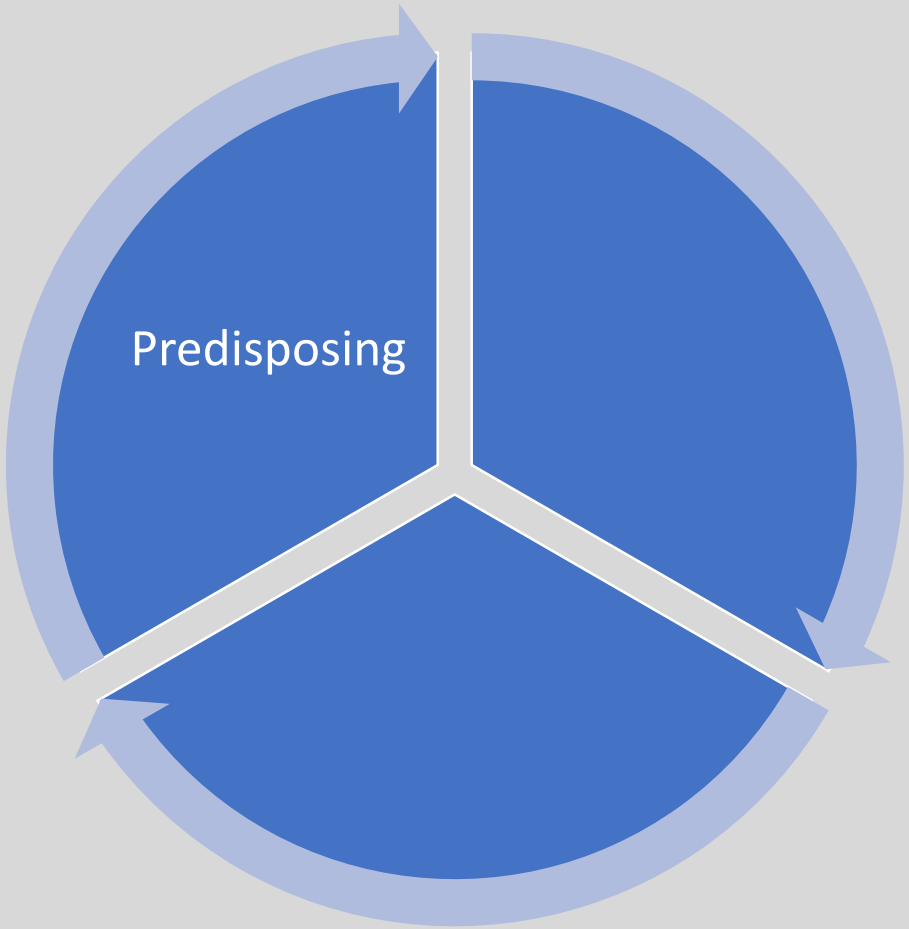
Predisposing factors

- Cognitive features e.g. ‘autistic thinking’

  e.g. Misinterpreting social rules , misunderstanding intentions of others ; unaware of how behaviour seen by others e.g. police may interpret gaze avoidance as suspicious.

- Autistic features :

  e.g. Interests and skills; repetitive routines; sensory processing



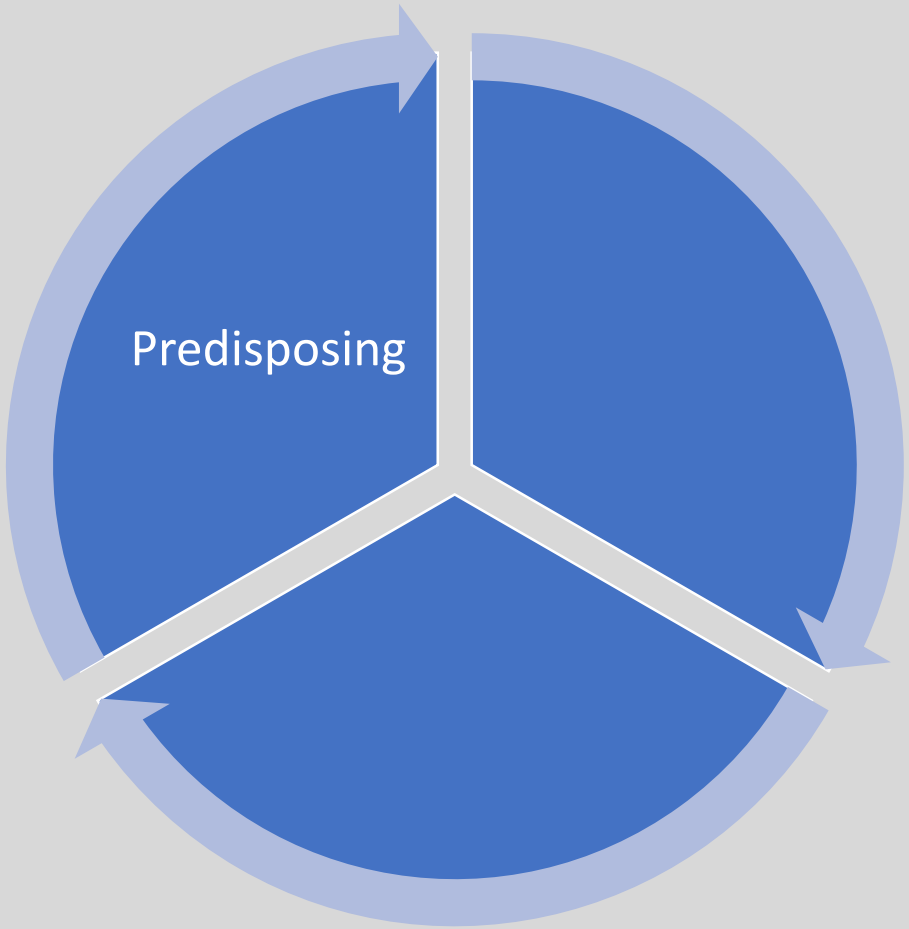
Predisposing factors

- Social factors:

e.g. Social isolation, interpersonal conflicts; perceptions of ridicule; bullying; stigma; anxiety

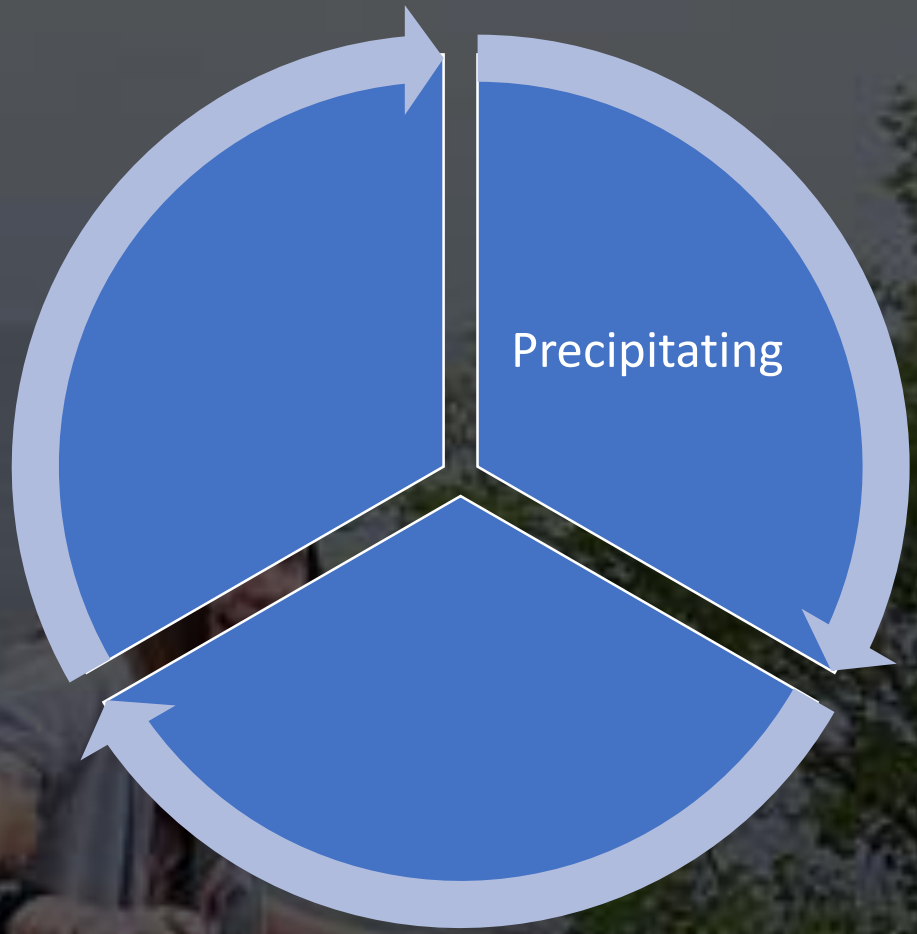
- Co occurring conditions

e.g. ADHD, psychosis, other mental health or neurological disorder, drug/alcohol problems



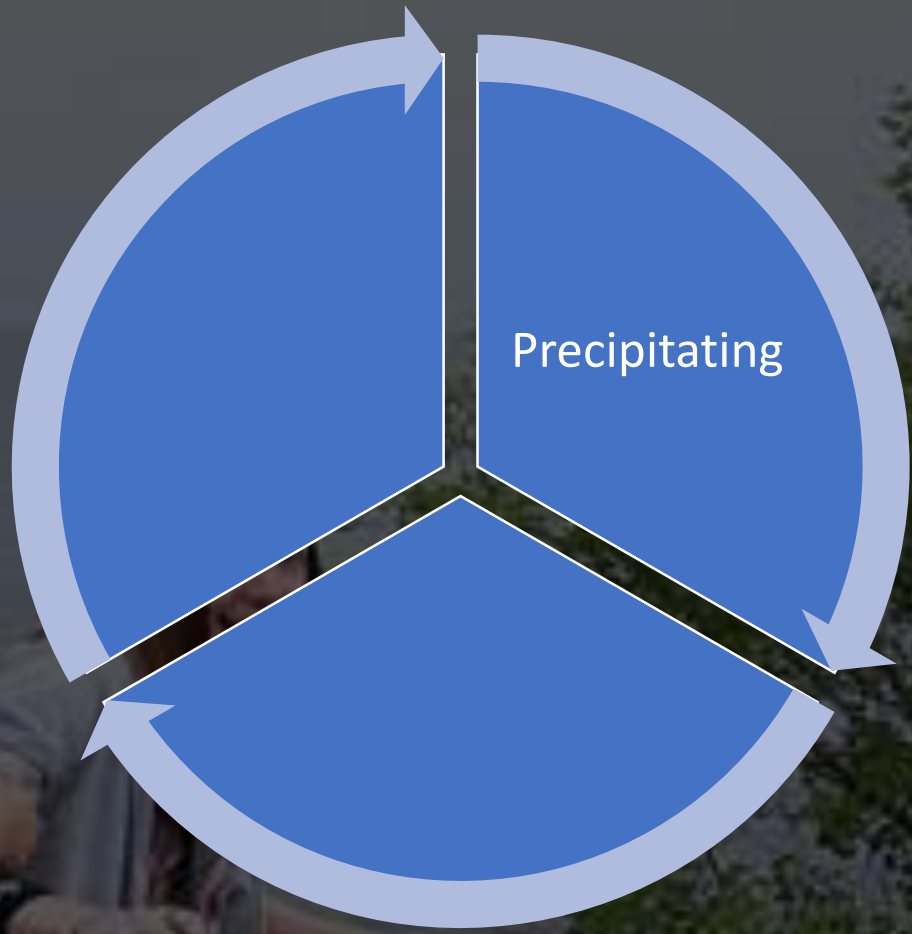
Precipitating factors

- From case reviews
  - Dislocation from routine/loss
  - Autistic thinking: strong pursuit of interest
  - Perception of slight/ridicule
  - Neurological phenomena, e.g. Tourette's, ADHD
  - Mental health issues, e.g. Psychosis; drug/alcohol , Anxiety/panic
  - Sensory reaction



Precipitating factors

- From case reviews
  - Bullying
  - Hostility to another (often family member)
  - Political beliefs /causes
  - Unaware behaviour illegal
  - Intellectual interest in the crime and effects
  - Escape from stress or demands



Perpetuating factors

From case reviews

- Vulnerability /offending not addressed
- Untreated psychiatric disorder e.g. psychosis, addiction, impulsivity
- Continued exposure to setting conditions (e.g. temptation, special interest, bullying, social isolation)
- Autistic thinking

Risk and vulnerability

- Related to
  - Social Isolation and community factors e.g. affiliation and engagement, employment, neighbourhood
  - Psychological factors : cognitive style e.g. ‘autistic thinking’, special interests and abilities , response to stress and anxiety
  - Other neurological conditions e.g. ADHD, seizure disorders

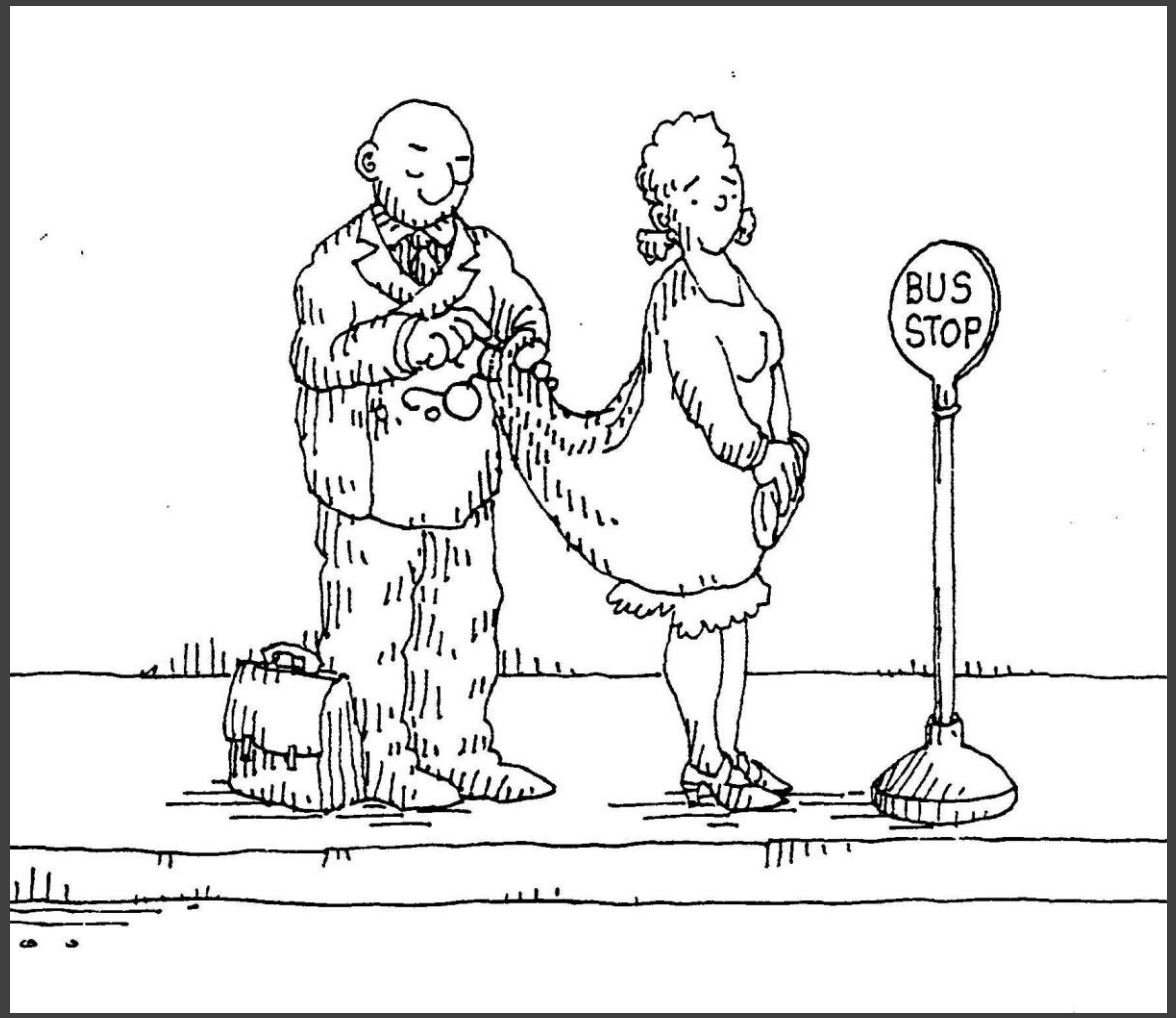
What is it about autism?

So what is it about autism?

- ‘Autistic thinking’
  - Differences in ‘instinctive’ social responses
  - Rigidity – literal communication
  - Increased difficulty in understanding other minds :
    - Intentions of others may be misunderstood
    - Judging the thinking of others
    - How ‘odd’ behaviour interpreted by others
  - Judging context : ‘context blindness’
  - Flexibility
  - ‘Autistic thinking style’ (autism traits) not confined to autism

Wing; Baron Cohen; Dewey; Frith; Vermeulen; Brosnan

Judging how behaviour may be seen by others



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1 2 3

if 1 is occupied - where do you stand ?

Judging how behaviour may be seen by others

Judging how behaviour may be seen by others

Case example Mr X

Case study, Mr X 24 years

- Admitted several counts of hacking into Google and Nintendo and developing malware and other related offences. $2 million damage to Google plus undisclosed damage to Nintendo.
- Second series of offences committed while on bail
- Exceptional coding skills. Diagnosis Asperger Syndrome
- Lost employment as a result of offences –lives with parents
- Pleaded guilty and appeared in Crown Court March 2019
- **Sentence ?**